

**ARKANSAS  
STATE BOARD  
OF COSMETOLOGY**

**EQUIPMENT USE AND  
SCOPE OF PRACTICE  
COMMITTEE**

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MEETING REPORT

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JULY 17, 2007

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**EQUIPMENT USE/SCOPE OF PRACTICE COMMITTEE MEMBERS (PRESENT)**

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Jane Powell, President

Cathy Caver-Blade, Board Member

Kathy Wittum, Director

Erika Gee, Legal Counsel

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**COMMITTEE MEMBERS (NOT PRESENT)**

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*Vacant Cosmetologist Position*

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**OTHER PARTICIPANTS IN ATTENDANCE**

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Scottie Burchett, Board Member

Carla Jones, Arthur's Beauty Colleges

Susan Collins-Burrough, Board Member (arrived at 12:55 p.m.)

## Meeting Report

The Equipment Use and Scope of Practice Committee held its first meeting today to begin reviewing the Board's rules to make recommendations on revisions that are necessary for bringing the rules into compliance with recent law revisions. In addition, this Committee will recommend language to regulate equipment use within the cosmetology industry. The meeting was called to order at 12:35 p.m.

Cathy Caver-Blade was nominated for the Chairperson position for this Committee.

Legal Counsel Erika Gee stated it is her opinion the law and rules are vague concerning the use of equipment (laser and laser-like devices) in the cosmetology industry. President Jane Powell stated the scope of practice has never really been defined for the professionals in the industry that desire to use equipment. She also stated this Committee would be responsible for proposing rule changes on issues that were referred by the Legislative Committee. In addition, President Powell stated she would like for this Committee to review issues relating to theoretical instruction and the maximum number of hours a student must have prior to performing services on the clinical floor. She stated this issue needs to be clarified to ensure there is no mistaking the fact that it applies to all programs and not just to the cosmetology program.

Chairperson Caver-Blade stated as an aesthetician she uses a microdermabrasion machine and a skin-care machine that uses electrical currents. She stated she does not believe these machines are harmful to use unless the frequency is turned up too high. President Powell stated the skin-care machine appears to be similar to what an electrologist uses to create an effect on the skin.

Ms. Gee stated she believes one of the problems is that there are so many new types of machines on the market. Chairperson Caver-Blade and President Powell agreed with this statement.

Ms. Gee informed committee members that she spoke with the attorney who represents the Medical Board, as well as Dr. McGhee (an ophthalmologist) who is the Chairperson of the Medical Board's Laser Committee and the author of Regulation 22. She stated it appears they did not know equipment was being used in the cosmetology industry, except under the auspice of Regulation 22 and that persons using the equipment were properly supervised by a physician as Regulation 22 mandates. She stated we need to work in correlation with the Medical Board to ensure the public is protected and that someone is regulating those who use lasers and laser-like devices.

The Committee discussed the fact that the general public is unaware of persons using equipment after receiving very little training. They also discussed the fact that Regulation 22 makes it possible for a non-aesthetician to operate these machines. President Powell stated the Medical Board views even a toe-nail clipper as a medical device and there has been little interest in resolving the issue of equipment use in the cosmetology industry from their point of view. She stated the Medical Board's attorney, Bill Trice, has stated in the past that a licensed electrologist would be better suited to perform services in the medical arena; however, the medical industry was not receptive to that and developed Regulation 22 that allows them to hire and train anyone of their choosing to perform these services.

Ms. Gee stated the Medical Board's opinion on these issues will be relevant; however, the Cosmetology Board must make some basic decisions about who can do what and with what equipment. She stated the

Dr. McGhee offered to speak with this Committee or the Board to have open dialog about this issue. She stated he had no knowledge of these services being performed by aestheticians or unlicensed people and their use of lasers and laser-like devices.

The Committee discussed whether the Cosmetology Law prohibits anyone from using a laser or laser-like device (except for an electrologist) and Ms. Gee stated the law is vague in this regard. It was discussed if the use of “rays” in the definition allows the use of these types of equipment or would it open the door for people to begin using electrical devices. Ms. Gee asked the Committee if they believed the scope of practice for an electrologist included a laser. President Powell, who holds licenses as an electrologist and electrologist instructor, stated yes. Ms. Gee questioned if an electrologist receives training to which President Powell stated they do when the equipment is purchased but not in the school.

President Powell stated that classifications on equipment have been used in other states and the FDA guideline of Class I, Class II and Class III (being a medical device) is utilized in defining the scopes of practice for some states. She stated several years ago when the Board sought to place controls on equipment use and pursued legislation to do so, she was surprised to find the Medical Board did not support this move. She stated physicians and members of the medical society appeared before the legislators to speak against it on the basis that it would put people (aestheticians) out of work. She stated she does not know how the Cosmetology Board will be received when this rule revision goes through, but she believes there could be issues that will still need to be addressed without over-regulating the industry. Ms. Gee stated she appreciates the fact that there may be obstacles but something has to be done about this issue to provide guidance to the cosmetology industry.

Committee members agreed this is a complicated issue and there is no clear guidance from anyone on what equipment is safe for use by persons within the cosmetology industry. Ms. Gee stated her research of what other states are doing indicates they are leaning in the direction that anything that is potentially harmful falls under the jurisdiction of the Medical Board. She stated she looked at Texas, Florida and other bigger states. She state Florida has a special program for use of lasers by an electrologist, but it is a special endorsement that is under medical supervision.

President Powell commented about using certifications to acknowledge a person’s training on equipment versus incorporating this training in the school’s curriculum. She stated there are few people who want to teach aesthetics in schools right now and it would potentially pose a problem to increase the length of the education required for an aesthetics license.

Director Wittum commented about the National Coalition of Estheticians, Manufacturers/Distributors and Associations’ (NCEA) position that there should be an advanced level for aestheticians to achieve in order to use lasers and laser-like devices. Under this method, the basic aesthetics license would not allow the use of these types of equipment.

Chairperson Caver-Blade stated lasers can cause so much more damage than the equipment she uses in her practice and questions if insurance would cover someone using these harmful devices. President Powell agreed with this statement, but questioned the laser-like devices, such as an IPL. Ms. Gee reported that in her conversation with Dr. McGhee he indicated there is no distinction between these devices or their potential for harm, but she said the Cosmetology Board does have to decide if there will be a distinction for our purposes.

President Powell commented the Cosmetology Board needs to be ready for the equipment of the future.

Board Member Susan Collins-Burrough requested to comment from the floor and stated in the past persons using equipment had to present verification to the Cosmetology Board that they had received training on the equipment. She stated the equipment is very expensive. Ms. Gee stated that her research indicates this may not be completely true, as she had heard stories about people purchasing these type devices and only receiving a few hours of training. A discussion ensued over the level of training that would be appropriate and who should regulate and monitor the acquisition of training. Ms. Collins-Burrough stated that maybe the Board should focus on educating the public about the equipment and the training (or lack of training) a person may have when operating it.

Chairperson Caver-Blade stated she received little training on the microdermabrasion machine she uses. President Powell stated she believes someone properly trained in skin care services knows what is harmful to the skin and what is not. She questioned if we should concentrate on modes of current or if it should be types of treatment or opportunity for invasiveness. She stated the industry is going to use equipment whether training is incorporated in the curriculum or not.

Ms. Gee stated it is reasonable for the Board to be able to report to the public that we know a specific person has sufficient knowledge on how to operate a particular type of equipment. She stated it would be necessary to have periodic reviews of this issue as technological advances occur.

Committee members also discussed what defines a laser versus a laser-like device (i.e. is it the rays, light or what). Chairperson Caver-Blade and President Powell stated they were in agreement that aestheticians and cosmetologists should be allowed to perform microdermabrasion services. Ms. Gee suggested stating that failure to follow the manufacturer's instructions would be negligence. Committee members discussed having a provision specific to this issue to constitute gross malpractice, which would require disciplinary action when proven to be true.

Discussion also included the possibility to require aestheticians and cosmetologists to receive updated training when operating a microdermabrasion machine or any other type of equipment. Ms. Gee stated this is a viable option that does not close the door for the cosmetology industry's use, but it does provide better oversight. A requirement could be implemented for a practitioner to provide verification of the training upon renewing his/her license, and the authorization granted be incorporated into the computer system to enable inspectors to easily obtain this information during the inspections.

In the event that an inspector discovers equipment in a salon/spa and finds no practitioner there who is authorized to operate the equipment, then the salon/spa owner would be penalized for the violation. Committee members agreed that the owner assumes responsibility for the practitioner (and the equipment and its use) when he/she allows it onto the premises.

Director Wittum explained Colorado's policy that outlines the requirement for equipment to be registered with the FDA and the salon/spa owner must provide that verification at the time of inspection. Ms. Gee stated she would like to look at Colorado's policy.

Committee members returned to a discussion of certification of training and discussed how far we should go with this requirement since it is possible to fraudulently create a certification. Discussion included the issue of used equipment purchased and how the buyer would obtain training opportunities.

(A break was called at 1:40 p.m. and the meeting reconvened at 2:00 p.m.)

Committee members discussed obtaining more information about what other states are doing, as well as reviewing any information that may come available from the national conference.

From the floor, Ms. Burchett questioned if the discussion meant that a microdermabrasion machine would have to have a certification in order to be in a salon or school. She also questioned how the Board could require a certification when it is not necessary to have a certification to purchase it. Ms. Jones stated they had purchased three used machines and questioned how certifications would be obtained.

President Powell stated there is still much work to be done in researching this issue before any final decisions could be made. Director Wittum stated we also need to draw from the expertise of NCEA and the state member, Janet Pendleton, who are more familiar with how this issue is being handled in other states.

Ms. Gee asked if she should arrange for Dr. McGhee to attend the next committee meeting. Committee members agreed it would be helpful to have as much information as possible; therefore, he should be invited.

After no additional comments were forthcoming from participants, the meeting was concluded at 2:30 p.m.

\*\*\* End of Report \*\*\*

Report prepared by:

Kathy Wittum, Director