

Use of Lasers and Other Modalities Affecting Living Human Tissue

The Board regularly receives questions relating to the use of lasers and other modalities affecting living human tissue. Questions include whether a physician must provide the treatment or if a licensed or unlicensed delegate may be used, if an initial examination may be conducted via telehealth, and whether some of the newer devices, such as CoolSculpting® and Exilis, come under these rules.

Who can provide treatments?

Board Rules, Chapter 540-X-11, Guidelines for the Use of Lasers and Other Modalities Affecting Living Tissue, address these questions. These rules do not apply to licensed chiropractors, dentists, occupational therapists, optometrists, or physical therapists when the device is used exclusively for the practice within the practitioner's scope of practice. They also do not apply to the practice of "body art" as defined by the Dept. of Public Health when it is not a part of patient treatment and is performed with equipment specifically manufactured for performing body art procedures.

The use of lasers/pulsed light devices, or any energy source, chemical, or other modality that affects living tissue, whether applied for surgical, therapeutic, or cosmetic purposes, is the practice of medicine. Ablative treatments must always be performed by a physician. Non-ablative treatments may be performed by the physician or a delegate of the physician.

There are two levels of delegates. Level 1 Delegates are Certified Registered Nurse Practitioners, Certified Nurse Midwives, and Physician Assistants who are authorized in a collaborative protocol or job description to use a specific device for non-ablative procedures and who have met the educational requirements stated in the rules. A Level 2 Delegate is a person other than a Level 1 Delegate who has met the educational requirements stated in the rules.

A Level 1 Delegate may perform treatments without the physician being on site when the delegate is approved for a "remote site" practice away from the physician. A Level

2 Delegate may only provide treatments when the physician is on site and readily available.

Initial examination and telemedicine

If a physician is capable of conducting a proper and sufficient examination via telemedicine, while adhering to the same standard of care as an in-person examination, then such examination via telemedicine would be permissible for the purpose of satisfying the Board rule concerning an initial examination. However, the requirement for the physician to be on site while the treatment is being provided still applies when using Level 2 Delegates.

Newer non-laser devices

If a device affects living human tissue below the stratum corneum, then treatments using the device should be provided in compliance with Board rules. The Board was specifically asked about CoolSculpting® and Exilis devices. The Board is of the opinion these devices affect living tissue, and the use of these devices is subject to Board rules.