

Navigating Dental Spa Ownership and Operation in New York

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Bill Barrett is the CEO of the full-service law firm Mandelbaum Barrett PC, co-chair of the firm's National Dental Law Group, and an unparalleled dental dealmaker who has successfully closed hundreds of transactions nationwide. With two best-selling books, "Pain Free Dental Deals" and "The DSO Decision: Winning Answer from Every Angle," Bill's expertise extends beyond the written word, as he is also a nationally recognized speaker for events and dental study clubs throughout the country. Mandelbaum Barrett PC is a Corporate Friend of NYCDS.

Much Misinformation

A quick internet search reveals a plethora of advertisements by dentists or Dental Spas in the metropolitan area stating that you can: "Have Your Teeth Whitened & Eliminate Forehead Lines All in One Visit."

The major suppliers and distributors of Botox, Juvéderm, and Restylane all offer instructional courses and bulk purchase discounts for dentists to administer these pharmacologic injectables for purely cosmetic purposes for the faces and necks of their patients. These companies insist they have opinions from their attorneys that it is legal and within the scope of practice for dentists to provide these purely cosmetic services for their patients. But when we pressed one major company to provide this legal opinion, the silence of the response was deafening.

Because this is a scope of practice issue, it is very important for dentists to understand the regulatory limitations on their use of these pharmacologic injectables. One complaint from a dissatisfied patient to the New York State Board of Dentistry, (the "Board"), no matter how unjustified, is enough to place a dentist's license at risk for exceeding their scope of practice in using these injectables for purely cosmetic reasons.

Prohibition on Dentist Cosmetic Use of Injectable Pharmacologies

Paraphrasing the State Board of Dentistry, the scope of practice for dentists is limited to restoring and maintaining dental health in the oral and maxillofacial areas. In a 2008 written opinion, the Board stated that dentists can use Botox, collagen fillers, and other similar injectable pharmacologies only in the oral and maxillofacial area

and only "as long as it is related to restoring and maintaining dental health."

It is clear from this opinion that New York dentists are not permitted to perform any purely cosmetic procedures with these injectables, even within the scope of practice of the oral and maxillofacial area, unless the use of these injectables in this area is "related to restoring and maintaining dental health." Given this restriction, it is clear that dentists cannot perform any such cosmetic procedures anywhere else on the face, such as around the eyes and the forehead. Since this 2008 opinion, there does not appear to be any more recent pronouncement from the Board on this issue.

At least one dentist, admittedly 11 years ago, was disciplined by the Board for using Botox when it was not related to treating a dental condition within the scope of the practice of dentistry.

Dentist Use Of Lasers For Cosmetic Treatments

Twenty years ago the New York State Board of Medicine adopted a resolution stating that the use of lasers and intense pulsed light for purely cosmetic purposes constituted the practice of medicine and thus must be performed by a physician or under direct physician supervision. Notwithstanding this resolution, presently there is no statute, rule or regulation in New York that only licensed healthcare professionals are permitted to use lasers for cosmetic procedures and aestheticians, who are considered technicians not professionals, routinely use lasers for facial hair removal.

This current legal situation on the use of lasers for cosmetic procedures still does not permit dentists to perform these procedures. This is because the procedures which dentists can perform is still circumscribed by the statute which limits their scope of practice to restoring and maintaining dental health in the oral and maxillofacial areas.

ON THE LEGAL SIDE

Consequently, while dentists in New York State can use lasers for various dental procedures, they are prohibited from using them for purely cosmetic purposes, even within the oral and maxillofacial area. Stated bluntly; laser cosmetic treatments are totally unrelated to dental health and a dentist's legal scope of practice is limited to using lasers for procedures to restore or maintain dental health.

Limitations on Dentist Business Arrangement

New York has some of the strictest limitations on permitted business arrangements for dentists. A dentist cannot employ a dermatologist or any other physician and cannot be an owner, not even a minority owner, with such a physician in a practice who can perform these purely cosmetic procedures.

Advice of Dental Regulatory Attorney

According to a recent survey, as many as 5% of dental practices in the United States operate dental spas. Notwithstanding all the above-described regulatory restrictions, there still may be a regulatorily compliant business arrangement for a dentist to perform these dental spa cosmetic procedures in their practice. However, because there is no direction from the Board on this issue, advice of a dental regulatory attorney is highly advisable before a dentist considers providing dental spa services.

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Followed by a professional program:
The Weight is Over

led by Sarah R. Barenbaum, M.D.
Assistant Professor of Clinical Medicine, Assistant Attending
Physician at Weill Cornell Medical College

New York County Dental Society
622 Third Avenue, 9th Floor

Monday, April 29, 2024
Reception at 5:30pm
Presentation at 6:30pm

1 CE CREDIT GRANTED

