

Support

- Protecting patients by allowing only qualified and trained physicians to perform ablative laser procedures i.e. those that are expected or intended to remove, burn or vaporize the live epidermal surface of the skin
- If non-ablative laser and energy-based procedures are delegated to licensed and appropriately trained non-physician providers written protocols are necessary
- On-site physician supervision of all non-physicians performing medical procedures¹

Oppose

- Unsupervised non-physicians performing any laser or energy-based procedures of any type

While lasers can be extremely safe and effective, they can also cause painful burns, permanent scars and other sequelae if used incorrectly. Board-certified dermatologists have spent years in medical school and residencies and are able to provide quality patient care. This includes evaluating a patient's needs and current condition, selecting an appropriate course of treatment and providing adequate information and follow-up care. When performing an ablative procedure, a physician's training includes recognizing and addressing any complications that may arise. Additionally, a laser or energy-based procedure that is capable of damaging living tissue and is used for cutaneous conditions is considered the practice of medicine by both the American Medical Association and the American College of Surgeons' definition of surgery.²

With a written protocol, physicians may delegate laser procedures that are not intended to remove, burn or vaporize the live epidermal surface of the skin. With multiple medical laser devices available on the market, and as more devices become available, it is critical to ensure that patient safety remains the primary objective. Non-ablative laser or energy-based procedures may be delegated to an appropriately trained medical provider if the delegating physician performs the initial assessment of the patient to determine if a laser procedure is appropriate. If the procedure is within the scope of the non-physician provider, it may be delegated through a written protocol. The protocol must identify the device and settings to be used; appropriate care and follow-up for common complications, including a plan for medical emergencies; a description of the treatment plan; and a quality assurance plan for monitoring care.³ A lack of any consistent state regulations on the use of lasers makes it imperative that protocols and safeguards are in place to protect patients.

The delegating physician must be on-site and immediately available to respond to any questions or emergencies that arise during the procedure. A study done by Vic A. Narurkar, MD, which reviewed 123 complications resulting from laser treatments received by non-physicians concluded that 82 percent of these complications occurred in facilities that had no on-site physician supervision.⁴ Although states differ in who can delegate and who can perform

¹ ASDSA Position Statement on Delegation. [http://asdsa.asds.net/uploadedFiles/ASDSA/Polycymakers/ASDSA-%20Delegation%20Position%20Statement\(4\).pdf](http://asdsa.asds.net/uploadedFiles/ASDSA/Polycymakers/ASDSA-%20Delegation%20Position%20Statement(4).pdf)

² Definition of surgery (2007). Retrieved Nov. 1, 2017. <https://policysearch.ama-assn.org/policyfinder/detail/surgery?uri=%2FAMADoc%2FHOD.xml-0-4317.xml>

³ ASDSA PULSE Safe Laser and Energy-Based Device Act Model Legislation. Retrieved Nov. 1, 2017. <https://www.asds.net/Portals/0/PDF/asdsa/model-bill-pulse.pdf>

⁴ Narurkar, V.A. M.D. (2005). Complications from Laser Procedures Performed by Non-Physicians. *Skin & Aging*, 13(9), 70-71.

laser procedures⁵, it is in the best interest of patients that only properly trained providers under the on-site supervision of a physician use laser or energy-based devices. Any non-physician who has not received adequate training or is not supervised should not be delegated the use of a laser for any procedure.

The percentage of medical malpractice lawsuits regarding laser procedures has steadily increased. A study done by Mathew M. Avram, MD, JD, showed that, in medical malpractice cases where lasers caused injury, the percentage of cases involving non-physician providers increased from just 38 percent in 2008 to 78 percent of lawsuits in 2011.⁶ A 2022 study further analyzed 69 cases of liability claims due to laser surgery from 2012 to 2020, finding that 71 percent of those case involved a non-physician provider. Both studies demonstrate that non-physician providers account for most cases of legal action related to laser surgery with an increasing proportion of cases being performed by non-physicians.⁷ Legal doctrine imposes liability on employers for the negligence of their agents (*respondeat superior*), making physicians the defendants of lawsuits where a laser procedure was delegated to a non-physician provider.⁸ Physicians who choose to delegate laser or energy-based device procedures to a trained non-physician providers should always remain on-site should any adverse events occur.

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⁵ DiGiorgio C, Avram M. Laws and regulations of laser operation in the United States, *Lasers Surg. Med.* doi:10.1002/lsm.22792

⁶ Jalian HR, Jalian, CA, Avram M. Increased risk of litigation associated with laser surgery by nonphysician operators. *JAMA Dermatol* 2014;150(4):407-11.

⁷ Khalifian S, Vazirnia A, Mohan GC, Thompson KV, Jalian HR, Avram MM. Causes of Injury and Litigation in Cutaneous Laser Surgery: An Update From 2012 to 2020. *Dermatol Surg.* 2022;48(3):315-319.

⁸ Jalian HR, Jalian CA, Avram M. Common causes of injury and legal action in laser surgery. *JAMA Dermatol* 2013;149(2):188-93.