

# Assistants Raise Liability Issues

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pendently, said Dr. Goldberg, director of laser research at the Mount Sinai School of Medicine, New York.

In most practices, however, there is an agency relationship between the doctor and staff, in which the physician directs the salaried staff in their duties and thereby takes on a much greater liability if something goes wrong.

In cases such as those, one of the most important ways of keeping liability in check is by making sure to have an all-important scope of duty documents for workers.

"If you have people working in your office, you must have—in print—a detailed description of the scope of duties pertaining to those staff members," Dr. Goldberg stressed. "Not just for your sake, but for the physician extender's sake."

The document establishes not only what an assistant's duties are, but also what they are not. If a scope-of-duty manual indicates an assistant can perform laser hair removal, for instance, and the assistant arbitrarily does laser treatment for tattoos not included in the scope of duty and something goes wrong, the assistant can be sued, but the physician might not be liable, because the proce-

cedure was outside the scope of duty, Dr. Goldberg said.

While state legislation plays a significant role in determining which duties can and cannot be performed, conflicts can exist between what medical boards and nursing boards allow.

In New Jersey, for instance, only physicians as defined by the medical board can do laser treatments, whereas the nursing board says registered nurses can do laser treatment. Many cases are resolved, however, if the RN works in a physicians' practice, because the medical board ruling trumps the nursing board ruling in such circumstances.

Some of the most common complications in dermatologic procedures that result in lawsuits include erythema, hypopigmentation, infections, scarring, foreign-body reactions from fillers, and noneffective cooling in intense pulsed light treatment.

There is, of course, some element of risk in nearly all dermatologic procedures, but failure to inform patients of that potential for risk leaves the door wide open for a malpractice suit regardless of whether the physician was at fault, Dr. Goldberg said.

The advent of HIPAA throws a whole new set of patient-physician confidentiality regulations into the mix that pertain to physician extenders and cosmetic procedures. However, the ways the act will play out in the legal arena have yet to be seen, Dr. Goldberg said.

"We don't know what's required yet, because it's all going to be determined by case law," he said.

In addition to new HIPAA laws, physicians can expect to encounter a general increase in regulations as more extenders

become involved in procedures in the clinical setting and, particularly, outside the setting.

High-profile cases of complications in settings such as spas and laser clinics using unsupervised and inadequately trained staff will only result in tighter regulations, Dr. Goldberg said.

"The trend is there will be more physician extenders, resulting in more society guidelines and more state regulation."

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## Physician Assistants Help Fill Provider Gaps in Dermatology

BY MICHELE G. SULLIVAN

Mid-Atlantic Bureau

ST. LOUIS — Physician assistants are playing an increasingly large role in dermatology practices, providing both direct patient care and ancillary services that free the dermatologist to see more patients.

"Over the past 2 decades, we've seen substantial growth in the number of patients seeking dermatology care, but at the same time, the number of residents entering dermatology training programs has remained stagnant," Emily P. Tierney, M.D., said at the annual meeting of the Society of Investigational Dermatology. "PAs and [nurse-practitioners] have been well-poised to take advantage of these opportunities, as they are able to move into a dermatol-

ogy practice and with a couple of months of on-the-job training, see patients with limited physician supervision."

Dermatologists have been struggling for several years with their workloads, Dr. Tierney said. A 2004 study noted that one-third of practices were seeking one or more new associates, and of that group, one-third were seeking two or more new associates.

A 2002 study noted the impact these vacancies have on patient care. "The patient waiting time [for an appointment] was 53 days for dermatology practices with vacancies, compared to 28 days for those without vacancies—and the mean time to filling those vacancies was about 16 months."

PAs have been particularly useful in easing these provider shortages, said Dr. Tierney of Brigham and Women's Hospital, Boston. "They are popular because they are highly cost effective and work with dermatologists in a cooperative environment, where they are not competitors." The number of PAs in dermatology has increased by 49% over the past 2 years, while the number of medical doctors in dermatology has increased by only 2%. In 1993, there were only 6 PAs in dermatology practices; in 2004, there were more than 1,600.

"In 2003, PAs saw 2.9 million dermatology patients each year. That is equivalent to 1 in every 32 visits." PAs are seeing an

average of 22 patients per day, compared with 35-40 patients per day seen by dermatologists, she said.

The 2002 Dermatology Practice Profile Survey by the American Academy of Dermatology concluded that large and multi-specialty practices are most likely to use a PA as a physician extender. More than 51% of dermatologists in these practices re-

ported using PAs, while only about 35% of private solo practices or small groups employed them

These different practices also used PAs in different ways, Dr. Tierney said. "In larger practices, over 90% of the PAs are used to evaluate and treat medical dermatology patients. In the smaller practices, their primary function seems to be assisting with cosmetics, and ancillary and administrative duties, thus allowing the physician to see more patients."

The survey also contained information about another interesting trend, she said. Dermatologists are performing more and more cosmetic procedures in the office, and those who spend a lot of time on cosmetics are much more likely to hire a PA or NP.

"Among dermatologists who do 10 or more hours a week of cosmetics, 74% had a PA or NP, compared with only 26% of those who do less than 10 hours per week of cosmetics," Dr. Tierney said.

The number of noncosmetic procedures, like Mohs' surgery, wasn't affected by the presence of a physician extender, however.

"This implies that the physician extender is actually doing the cosmetic procedure, or that having one allows the dermatologist to leverage other treatments to the extender, so the physician can focus on the cosmetics," she said. ■

**'Among dermatologists who do 10 or more hours a week of cosmetics, 74% had a PA or NP, compared with only 26% of those who do less.'**

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