

SOUTH DAKOTA

**BOARD OF MEDICAL
AND OSTEOPATHIC
EXAMINERS**

SDBMOE

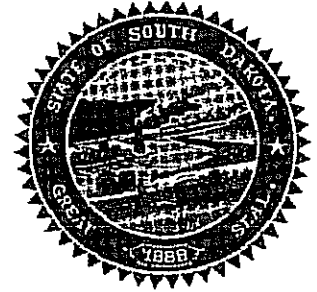
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In re: Laser delegation to nurse and requirement for physician assistant, certified nurse practitioner and certified nurse midwife.

Declaratory Ruling of the South Dakota Board of Medical and Osteopathic Examiners

Findings of Fact:

1. SDCL 36-4-8.2 Surgery constituting practice of medicine. Surgery constituting the practice of medicine includes the use of a laser or ionizing radiation for the purpose of cutting or otherwise altering human tissue for diagnostic, palliative, or therapeutic purposes.
2. The South Dakota Board of Medical and Osteopathic Examiners established a policy regarding lasers. Dr. Lornell Hansen requested that the Board review its delegation policy for lasers, including to whom physicians can delegate the use of lasers, and what training and continuing education is required.
3. The Board held its first Laser meeting on March 31, 2011, and requested comments and recommendations.
4. The Board held its next Laser meeting on June 22, 2011, and directed that an ad hoc committee be formed.
5. The ad hoc committee met on August 31, 2011. The participants in addition to SDBMOE Board staff included Gloria Damgaard and Linda Young, SD Board of Nursing; Dr. Lornell Hansen; Dr. Gregg Wittenberg; Jana Elwood, PA; and Tiffanie Van Eimeren, CNP. The committee drafted a Laser Policy.
6. The Joint Board of Medical and Osteopathic Examiners and Board of Nursing adopted the draft Laser policy on September 14, 2011.
7. The ad hoc committee was asked to address the question of delegation of laser procedures to nurses.
8. The committee was split on the recommendation on delegation of laser procedures to nurses.

9. The Board took testimony from Dr. Lornell Hansen at its meeting on March 28, 2012. Dr. Hansen proposed allowing nurses to be delegated the use of lasers and other light emitting sources and devices.
10. The Board then took testimony from Kelly Jerstad, MD, and Gregory Wittenberg, MD; Jessica Rachetto, PA; and Tiffanie Van Eimeren, CNP, who testified that the use of lasers and light emitting devices and sources was surgery and the practice of medicine.
11. The testimony from Kelly Jerstad, MD and Gregory Wittenberg, MD involved laser requirements for training and experience which physicians, certified nurse practitioners, certified nurse midwives and physician assistants possess, and that only these professions can safely identify and diagnose potential problems and alter the laser procedure during the actual treatment.
12. The Board found that the use of lasers and light emitting devices and sources is surgery.
13. ~~Surgery, by statute, is the practice of medicine and may only be performed by physicians, physician assistants, certified nurse practitioners and certified nurse midwives.~~

Conclusions of Law:

1. The Board held that the use of lasers, including other light emitting devices and sources, is surgery pursuant to SDCL 36-4-8.2.
2. In BMOE vs. Rocky Steinert, the court held that using lasers and other light emitting devices and sources is surgery and the practice of medicine.
3. The Board held that the overlapping scope of medicine may include the use of lasers and light emitting devices or sources according to the following guidelines:
 - The Certified Nurse Practitioner, Certified Nurse Midwife, and Physician Assistant must have an approved collaborative or supervisory agreement on file with the Board of Medical and Osteopathic Examiners and/or the Board of Nursing.

- Documentation must be made available upon request to support the following:
 - i. Successful completion of initial training conducted by a qualified practitioner/trainer skilled in the use of lasers.
 - ii. Demonstration of competency through the performance of the laser procedures under the direct observation of the practitioner/trainer.
 - iii. Demonstration of continued competence through continuing education and ongoing performance of the laser procedures.

4. The Board further held that physicians may not delegate laser procedures.

5. The South Dakota Board of Nursing defines the scope of practice for nurses. ~~This ruling in no way affects nurses, their scope, or their practice.~~

By: _____

Mary S. Carpenter, MD

Vice President, South Dakota Board of Medical and Osteopathic Examiners

Date: March 28, 2012