

Legislative and Enforcement Trends in Medical Aesthetics: 2025 and Beyond

As the medical aesthetics industry continues to rapidly expand within the United States, state professional licensing boards, state attorney generals and state legislators are becoming increasingly interested in regulating the space. In fact, in the past year, approximately 17 states across the country have proposed legislation that would directly impact the medical aesthetics industry. In addition, a multitude of states have proposed regulatory guidance for medical spas or increased enforcement actions against medical spas operating inappropriately via investigations through their state's office of attorney general.

In this article, we aim to provide a high-level overview of some of the legislative trends we are seeing in various jurisdictions across the country that will impact the medical aesthetics industry in the year ahead and beyond. We will also discuss some other state board actions and guidance trends that medical aesthetics providers and management services organizations (MSOs) should keep an eye out for in their respective jurisdictions.

New Legislation

As mentioned above, a variety of new legislation has been introduced in the U.S. that will impact the medical aesthetics space. This legislation has focused on three primary areas, as described in greater detail below.

1. Provider Scope of Practice Expansion

A common trend in medical aesthetics legislation across the country is focused on either narrowing or expanding certain providers' scope of practice. For example, in New York, the state assembly attempted to further regulate the ability to provide certain laser hair removal services. Specifically, Assembly Bill A2623¹ would have created new licensure and scope of practice requirements for providing laser hair removal services. Currently, these services are specifically

exempted from the definition of the "practice of medicine" and do not require medical licensure.*

In other states, legislation has been proposed to expand certain providers' scope of practice. For example, New Jersey Assembly Bill 944,² which has been referred to the New Jersey Assembly Health Committee, would eliminate certain practice restrictions for advanced practice nurses. Another is New York Assembly Bill 2548,³ which would allow licensed estheticians and licensed cosmetologists to practice microneedling upon completion of a five-hour course.

2. Disclosure and Approval Requirements for Private Equity and MSO Investors

Over the past few years, a number of jurisdictions—including California, Connecticut, Delaware, Massachusetts, Nevada, New Jersey, Oregon, Rhode Island and New York—have enacted legislation that has increased oversight over certain healthcare transactions. For example, in 2023, Governor Kathy Hochul of New York signed into law an omnibus spending bill requiring certain healthcare entities to provide notice to the New York Department of Health prior to consummating certain "material transactions." These laws, which increase oversight over third-party investors, could potentially have a disparate impact on deal values or the overall interest of private equity and venture capital investors in the medical aesthetics space.

3. State Laws Banning Restrictive Covenants

While the Biden administration's attempt to ban non-competition agreements nationwide via Federal Trade Commission rulemaking was ultimately struck down earlier this year, several states have taken action to ban these types of agreements at the state level. For example, Pennsylvania's Fair Contracting for Health Care Practitioners Act limits the use

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of non-compete agreements for healthcare practitioners starting January 1, 2025. As non-compete agreements are utilized by many medical aesthetics businesses to protect their brand and patient base, stakeholders in states banning such arrangements should take immediate action to determine other legal means of protecting their business interests.

Increased Regulatory Scrutiny and Guidance From State Boards

In addition to the uptick in medical aesthetics legislation and state board guidance, we have also seen increased enforcement actions against medical spas and management services organizations. This is primarily due to concerns about unlicensed practitioners performing procedures like injections, intravenous (IV) therapies and certain cosmetic treatments, often without proper oversight from a supervising physician. Lack of oversight can lead to patient safety risks and regulatory violations at both state and federal levels. Actions include investigations by state medical boards and consumer protection agencies targeting medspas that may be exceeding the scope of their licenses. This heightened interest in preventing the improper practice of aesthetic medicine has also been echoed by state attorney generals in states such as New Jersey.⁴

In addition to increased scrutiny, other state agencies like the Rhode Island Department of Health have begun to release specific guidance documents for medical aesthetic and IV therapy businesses to help guide stakeholders through their state's specific regulatory requirements.⁵

Closing Thoughts

As the medical aesthetics sector continues to grow, we anticipate even more legislative, regulatory and enforcement changes in 2025 and beyond. Medical aesthetics businesses

should remain vigilant and keep careful track of state and federal laws that may impact how they operate, as well as their ability to enforce contractual provisions like non-competition agreements and the like.

References

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Editor's note: *At this time, Assembly Bill A2623 has not passed Assembly Committee.

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Brandon is an attorney in Frier Levitt's Healthcare Practice Group. He focuses his practice on representing healthcare clients, including medical practices, management services organizations (MSOs) and medical spas, among others. Brandon is heavily involved in Frier Levitt's Wellness and Anti-Aging Practice Group, where he advocates for a diverse range of stakeholders within the medical aesthetics space. He represents medical aesthetic entities in connection with mergers and acquisitions and offers compliance counsel to help medical aesthetic businesses navigate the U.S. healthcare regulatory environment.