New York State Board for Medicine

# Use of Energy Devices Including Lasers as the Practice of Medicine

The practice of the profession of medicine is defined as diagnosing, treating, operating, or prescribing for any human disease, pain, injury, deformity, or physical condition (New York State Education Law §6521).

On March 7, 2025, the New York State Board for Medicine (the Board) considered the use of energy devices, including lasers, and whether they constitute the practice of medicine. The Board concluded that the use of any energy devices, including lasers, which affect the basement membrane or deeper tissues (e.g., dermis, fat) to treat any "physical condition" constitutes the practice of medicine. Specifically excluded from this determination is laser hair removal. The New York State Education Department (the Department), relying on *People v. Lehrman* (251 A.D. 451, 296 N.Y.S. 580, N.Y.A.D. 1 Dept. 1937), has not acted on the Board's determination regarding laser hair removal. However, as to the treatment of all other physical conditions, the Department has adopted the Board's determination.

**Purpose and Scope:**

This document clarifies a set of treatments which constitute the practice of medicine. The Board endorses the tabular classification below to help identify treatments requiring medical oversight. It also outlines the qualifications and responsibilities of practitioners involved in these treatments.

**Key Findings:**

Entities or individuals engaged in the treatment of various physical conditions with energy devices, such as laser skin rejuvenation, tattoo removal, lesion removal, spider vein removal, and similar procedures, are engaged in the practice of medicine as defined by Section 6521 of the New York State Education Law.

The management of risk factors and potential complications associated with these devices requires the exercise of professional medical judgment. Therefore, treatments for the aforementioned conditions must be conducted by or under the order of a licensed physician, physician assistant, or nurse practitioner.

**Practitioner Guidelines:** All treatments with energy devices require an assessment of the patient's condition before, during, and after the procedure. Registered professional nurses are the only professionals, other than licensed medical practitioners, authorized to perform general patient assessments. These assessments and treatments must occur under the following conditions:

**General Supervision**: The supervising physician or nurse practitioner need not be physically present but must be available to provide guidance or intervene within a reasonable period, depending on the treatment rendered.

**Execution of Orders**: Only registered professional nurses, under the general supervision of a licensed physician, physician assistant, or nurse practitioner, may carry out orders for treatment involving energy devices.

**Energy Device Classification Table**

| Device Class* | Description | Examples | Level of Skin Affected | Practice of Medicine? | Who May Perform |
|---|---|---|---|---|---|
| **Class I** | Low-risk devices, often non-invasive | Elastic bandages, manual scalpels, handheld LED lights | Stratum Corneum (surface only) | No | Trained non-licensed professionals (e.g., aestheticians) |
| **Class II** | Nonablative devices with safety requirements | IPL devices, non-ablative lasers for hair removal | Epidermis | No | Trained non-licensed personnel under supervision |
| **Class IIIa** | Energy devices with minimal risk under normal use | Low-level laser therapy (LLLT) for hair regrowth | Epidermis | No | Trained non-licensed personnel under supervision |
| **Class IIIb** | Medium-powered devices for therapeutic purposes | Non-ablative skin lasers (e.g., Thermage), therapeutic lasers for pain management | Upper Dermis | Yes | Licensed medical professionals or supervised personnel |
| **Class IV** | High-powered devices capable of significant subepidermal tissue damage. | CO2 lasers for skin resurfacing, deep RF devices, laser lipolysis tools | Dermis and deeper | Yes | Exclusively licensed medical professionals |

*Device classifications are designated by the New York Board for Medicine according to the depth of treatments and risk of injury.

Class II devices read:
"Nonablative energy devices with safety requirements."

Class IIIa devices read:
"Energy devices with low risk under normal usage."

Class IIIb devices read:
"Medium powered energy devices used for therapeutic purposes."

Class IV devices read:
"High powered energy devices capable of significant subepidermal tissue damage."