

SENATE BILL 2275

By Tracy

AN ACT to amend Tennessee Code Annotated, Title 63,
relative to outpatient cosmetic or aesthetic medical
procedures or treatments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-6-204(a)(1), is amended by deleting the period at the end of the subdivision and adding the following language “, or performs any cosmetic or aesthetic procedure or treatment.”

SECTION 2. Tennessee Code Annotated, Section 63-6-204(a), is amended by adding the following language as a new subdivision:

(4) “Cosmetic procedure or treatment” or “aesthetic procedure or treatment” means any procedure or treatment performed for the purposes of modifying or improving, either permanently or temporarily, the appearance of a physical feature, or the alteration of an irregularity or defect, through penetration or alteration of living tissue and is performed solely in order to alter appearance. “Any” includes, but is not limited to, the use of a chemical agent, mechanical agent, physical agent, energy agent or other device, or injection or insertion of foreign or natural substances. Those forms do not include tattoos, piercings, electrolysis, massage, tanning beds or other procedures which practitioners are specifically authorized by statute to perform.

SECTION 3. Tennessee Code Annotated, Title 63, Chapter 6, Part 2, is amended by adding the following language as a new section:

63-6-242

(a) All cosmetic or aesthetic procedures or treatments must be performed by a physician licensed under title 63, chapter 6, or delegated by such physician to a person under the supervision of that physician.

(b) The supervising physician shall ensure that written protocols are developed and updated annually between any person to whom cosmetic or aesthetic procedures are delegated and the supervising physician.

(c) A physician supervising cosmetic procedures and treatments shall ensure that for each patient, the following requirements shall be met:

(1) Prior to the initial treatment or course of treatments, an appropriate physical examination shall be conducted which shall include the taking of a proper medical history. The board shall have the authority to promulgate rules to specify exceptions for certain procedures;

(2) Patient gives written consent for each procedure or treatment, which includes notification of possible complications and reasonable expectations;

(3) Patient understands who the supervising physician is and how to contact the physician;

(4) If the supervising physician is not on site while the procedure is performed, that the patient is made aware; and

(5) That the supervising physician is immediately notified upon discovery of a complication.

(d) The board of medical examiners is authorized to promulgate rules, if any, including but not limited to:

(1) Establishing training or education requirements that a physician delegating cosmetic or aesthetic procedures must meet;

(2) Standards as to proper supervision by such a physician under this section; and

(3) Any notifications, including posting of a sign, required to be provided to patients prior to the provision of cosmetic or aesthetic procedures or treatments.

(e) Should the board choose to promulgate rules that require the posting of a sign which notifies patients of the supervising physician's background and training, such sign will be considered advertising and would subject the supervising physician to the standards for advertising established by the board in Rule 0880-02-13.

SECTION 4: Tennessee Code Annotated 63-6-214(b), is amended by adding the following language as a new subdivision (23):

(23) It shall be considered unethical and a conflict of interest for a physician to supervise a non-physician in the performance of cosmetic or aesthetic procedures or treatments if such physician is employed by or independently contracted with an entity not owned or controlled by a physician or group of physicians licensed in this state.

SECTION 5. Tennessee Code Annotated, Section 63-9-106(a), is amended by adding the following language “, or performs any cosmetic or aesthetic procedure or treatment” between the language “colleges of osteopathic medicine” and the punctuation “.”

SECTION 6: Tennessee Code Annotated, Section 63-9-106(a), is amended by designating the existing language as subdivision (1) and by adding the following as a new subdivision (2)

(2) “Cosmetic procedure or treatment” or “aesthetic procedure or treatment” means any procedure or treatment performed for the purposes of modifying or improving, either permanently or temporarily, the appearance of a physical feature, or the alteration of an irregularity or defect, through penetration or alteration of living tissue

and is performed solely in order to alter appearance. "Any" includes, but is not limited to, the use of a chemical agent, mechanical agent, physical agent, energy agent or other device, or injection or insertion of foreign or natural substances. These forms not include tattoos, piercings, electrolysis, massage, tanning beds or other procedures which practitioners are specifically authorized by statute to perform.

SECTION 7. Tennessee Code Annotated, Title 63, Chapter 9, Part 1, is amended by adding the following language as a new section:

63-9-119

(a) All cosmetic or aesthetic procedures or treatments must be performed by a physician licensed under title 63, chapter 9, or delegated by such physician to a person under the supervision of that physician.

(b) The supervising physician shall ensure that written protocols are developed and updated annually between any person to whom cosmetic or aesthetic procedures are delegated and the supervising physician.

(c) A physician supervising cosmetic procedures and treatments shall ensure that for each patient, the following requirements shall be met:

(1) Prior to the initial treatment or course of treatments, an appropriate physical examination shall be conducted which shall include the taking of a proper medical history. The board shall have the authority to promulgate rules to specify exceptions for certain procedures;

(2) Patient gives written consent for each procedure or treatment, which includes notification of possible complications and reasonable expectations;

(3) Patient understands who the supervising physician is and how to contact the physician;

(4) If the supervising physician is not on site while the procedure is performed, that the patient is made aware; and

(5) That the supervising physician is immediately notified upon discovery of a complication.

(d) The board of osteopathic examination is authorized to promulgate rules, if any, including but not limited to:

(1) Establishing training or education requirements that a physician delegating cosmetic or aesthetic procedures must meet;

(2) Standards as to proper supervision by such a physician under this section; and

(3) Any notifications, including posting of a sign, required to be communicated to patients prior to provision of cosmetic or aesthetic procedures or treatments.

(e) Should the Board choose to promulgate rules that require the posting of a sign which notifies patients of the supervising physician's background and training, such sign will be considered advertising and would subject the supervising physician to the standards for advertising established by the board in Rule 1050-02-11.

SECTION 8. Tennessee Code Annotated 63-9-111, is amended by deleting the word "and" at the end of subdivision (b)(22); by deleting the period at the end of subdivision (b)(23)(D) and substituting instead the following punctuation "; and" at the end of subdivision (b)(23)(D); and by adding the following language as a new subdivision to be designated as follows:

(24) It shall be considered unethical and a conflict of interest for a physician to supervise a non-physician in the performance of cosmetic or aesthetic procedures or

treatments if such physician is employed by or independently contracted with an entity not owned or controlled by a physician or group of physicians licensed in this state.

SECTION 9. On or before August 15, 2012, the board of medical examiners and the board of osteopathic examination shall promulgate rules, including emergency rules if deemed necessary, to implement this part, pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 10. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. This act shall take effect October 1, 2012, the public welfare requiring it.