

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 10 MEDICINE AND SURGERY PRACTITIONERS
PART 13 DELEGATED USE OF DEVICES AND PROCEDURES BY MEDICAL ASSISTANTS;
COSMETIC INJECTIONS

16.10.13.1 ISSUING AGENCY: New Mexico Medical Board, hereafter called the board.
[16.10.13.1 NMAC – Rp 16 NMAC 10.13.1, 4/18/02; A, 12/30/05]

16.10.13.2 SCOPE: This part governs the delegated use of procedures and use of certain medical devices by medical assistants under the supervision of the physician.
[16.10.13.2 NMAC – Rp 16 NMAC 10.13.2, 4/18/02, A, 12/30/05]

16.10.13.3 STATUTORY AUTHORITY: These rules of practice and procedure govern the use of medical devices and procedures by unlicensed medical assistants under the supervision of a physician in New Mexico. These rules are promulgated pursuant to and in accordance with the Medical Practice Act, sections 61-6-1 through 61-6-35 NMSA 1978.
[16.10.13.3 NMAC – Rp 16 NMAC 10.13.3, 4/18/02; A, 12/30/05]

16.10.13.4 DURATION: Permanent
[16.10.13.4 NMAC – Rp 16 NMAC 10.13.4, 4/18/02]

16.10.13.5 EFFECTIVE DATE: April 18, 2002, unless a different date is cited at the end of a section.
[16.10.13.5 NMAC – Rp 16 NMAC 10.13.5, 4/18/02]

16.10.13.6 OBJECTIVE: This part establishes the procedures whereby physicians licensed in New Mexico can delegate responsibility for certain medical procedures generally considered to be the practice of medicine to medical assistants with appropriate training and supervision, pursuant to section 61-6-17 (I) NMSA 1978.
[16.10.13.6 NMAC – Rp 16 NMAC 10.13.6, 4/18/02; A, 12/30/05]

16.10.13.7 DEFINITIONS:

A. "Supervising physician" means a physician licensed to practice in New Mexico who is responsible for the patient's care and will provide oversight and guidance of the medical assistant.

B. "Medical assistant" means any individual who is not licensed as a healthcare practitioner in New Mexico and is working under the direction and supervision of a licensed physician. Licensed practitioners, including registered nurses and physician assistants, are not considered to be medical assistants pursuant to this rule.

C. "Medical therapeutic or cosmetic medical procedure, device, or treatment" means a treatment or procedure that uses any of the following, if the procedure or treatment alters or damages or is capable of altering or damaging living tissue, to improve the patient's appearance or to achieve an enhanced aesthetic result:

- (1) injection or insertion of a biologic or synthetic substance for soft tissue augmentation;
- (2) application of a chemical substance;
- (3) application of microwave energy; or
- (4) application of a federal food and drug administration approved prescription device that uses waveform energy of any kind, including, but not limited to lasers or intense pulsed light.

D. "Certified" means the medical assistant has been awarded a certificate of completion of training by a physician trained to use the equipment, by a certified representative of the medical equipment company, or by another entity qualified to offer the required training.

[16.10.13.7 NMAC – Rp 16 NMAC 10.13.7, 4/18/02; A, 12/30/05; A, 7/22/08]

16.10.13.8 USE OF MEDICAL THERAPEUTIC AND COSMETIC DEVICES. Medical therapeutic or cosmetic devices penetrate and alter human tissue and can result in complications such as visual impairment, blindness, inflammation, burns, scarring, hypo-pigmentation and hyper-pigmentation. The use of medical therapeutic and cosmetic devices is the practice of medicine as defined in Section 61-6-1 NMSA 1978.

A. Limitations.

(1) Medical assistants are limited to using medical therapeutic and cosmetic devices that are non-incisive and non-ablative.

(2) Medical therapeutic and cosmetic devices may only be used by a medical assistant who is certified pursuant to Subsection D of 16.10.13.7 NMAC and when the supervising physician is immediately available on the premises.

B. Responsibility of the supervising physician. A physician who is trained in the safety and use of medical therapeutic or cosmetic devices may supervise medical assistants who perform hair removal and other therapeutic or cosmetic procedures using devices that use waveform energy consistent with the following requirements.

(1) The supervising physician must provide the following services before treatment by a medical assistant is initiated: patient history, physical examination, diagnosis, treatment protocol, and preparation of medical record.

(2) The supervising physician shall review any adverse outcomes or changes in the treatment protocol.

(3) The supervising physician shall assure the patient is informed and aware that the individual performing the procedure is a medical assistant and is under the physician's supervision.

(4) The supervising physician shall provide the patient instructions for emergency and follow-up care.

(5) The supervising physician shall prepare a written protocol for the medical assistant to follow when using the medical therapeutic or cosmetic device. The protocol may include pre and post care treatment related to the procedure as long as the treatment is topical and non-injectable. The physician is responsible for ensuring that the medical assistant uses the medical therapeutic or cosmetic device only in accordance with the written protocol and does not exercise independent medical judgment when using the device.

(6) The supervising physician shall assure compliance with the training and reporting requirements of this rule.

(7) The supervising physician is ultimately responsible for the safety of the patient, regardless of who performs the treatment using the medical therapeutic or cosmetic device or procedure.

C. Training requirements. Medical assistants who use medical therapeutic or cosmetic devices must have training and be certified on each device they will use. The training on each device must include the following:

- (1) physics and safety of the medical therapeutic or cosmetic device;
- (2) basic principle of the planned procedure;
- (3) clinical application of the medical therapeutic or cosmetic device, including wavelengths to be used;
- (4) indications and contraindications for the use of the medical therapeutic or cosmetic device;
- (5) pre-operative and post-operative care;
- (6) recognition and acute management of complications that may result from the procedure; and
- (7) infectious disease control procedures required for each procedure.

D. Reporting requirements. The supervising physician shall complete a "certificate of training" form and submit it to the board prior to the use of a medical therapeutic or cosmetic device by the medical assistant. The form will be device-specific and document training for each medical therapeutic or cosmetic device used by the medical assistant.

E. Public communication. Any public communication offering the performance or administration of a cosmetic medical procedure or treatment shall identify the physician or surgeon responsible for the provision of, or the direct supervision of the procedure or treatment.

[16.10.13.8 NMAC – Rp 16 NMAC 10.13.8, 4/18/02; A, 12/30/05; A, 7/22/08]

16.10.13.9 INJECTION OF COSMETIC OR AESTHETIC SUBSTANCES

The injection of cosmetic or aesthetic substances is considered to be the practice of medicine and shall not be delegated to medical assistants.

[16.10.13.8 NMAC – Rp 16 NMAC 10.13.8, 4/18/02; N, 12/30/05]

History of 16.10.13 NMAC:

History of Repealed Material:

16 NMAC 10.13, Devices and Procedures; Use by Medical and Non-Medical Personnel – Repealed 4/18/02