201 KAR 12:280. Esthetic practices restrictions.

RELATES TO: KRS 317A.130
STATUTORY AUTHORITY: KRS 317A.060, 317A.130
NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 requires the board to establish appropriate standards of practice for individuals licensed by the board. This administrative regulation establishes the required restrictions and limitations placed on esthetic practices.

Section 1. Definitions.

(1) "Basic exfoliation during dermaplane techniques" means only the uppermost layer of the stratum corneum may be removed.

(2) "Cosmetic resurfacing exfoliating procedures" means the application of cosmetic resurfacing exfoliating substances by a licensed health care practitioner for the purpose of improving the aesthetic appearance of the skin. This includes services such as acid or chemical peels, microdermabrasion, and other forms of exfoliation or resurfacing of a cosmetic nature.

(3) "Direct supervision" means to be within immediate distance, such as on the same floor, and available to respond when needed.

(4) "Health care practitioner" means any individual certified by the Kentucky Board of Nursing, or the Kentucky Board of Medical Licensure to perform esthetic specialties.

(5) "Immediate supervision" means a licensed physician is physically present in the same room and overseeing the activities of the esthetician at all times.

(6) "Microdermabrasion" means a gentle, progressive, superficial, mechanical exfoliation of the uppermost layers of the stratum corneum using a closed-loop vacuum system.

(7) "Microneedling" means the use of multiple tiny solid needles designed to pierce the skin for the purpose of stimulating collagen production or cellular renewal. Devices used may be in the form of rollers, stamps, or electronic "pens". Microneedling is also known as:

(a) Dermal needling;
(b) Collagen Induction Therapy (CIT);
(c) Dermal rolling;
(d) Cosmetic dry needling;
(e) Multitrepannic collagen actuation; or
(f) Percutaneous collagen induction.

(8) "Physician" means a medical doctor licensed by the Kentucky Board of Medical Licensure to perform services within his or her scope of practice.

Section 2. Supervision of Restricted Practices. An esthetician licensed by the board shall not perform any of the activities listed in KRS 317A.130(2) unless under the immediate supervision of a licensed physician. Medical procedures shall not be performed by an esthetics or cosmetology licensee. Services under the direct supervision of a licensed health care practitioner shall fall within the category of cosmetic resurfacing exfoliating procedures.

Section 3. Microdemabrasion.

(1) To be approved for use, a microdermabrasion device shall:

(a) Be specifically labeled for cosmetic or esthetic purposes;
(b) Be a closed-loop vacuum system that uses a tissue retention device; and
(c) Not result in the removal of the epidermis beyond the stratum corneum from the normal and customary use of the device.

(2) Loose particle microdermabrasion systems shall not be used.

Section 4. Acids and Chemical Exfoliations.

(1) The use of any acid or acid solution, which would exfoliate the skin below the stratum corneum, including those listed in subsection (2) of this section shall not be used unless under the direct supervision of a licensed health care practitioner.

(2) The following acids or acid solutions shall not be used unless under the direct supervision of a licensed health care practitioner:

(a) Phenol;

(b) Bichloroacetic acid;

(c) Resorcinol;

(d) Any acid in any concentration level that requires a prescription;

(e) Modified jessner solution on the face and the tissue immediately adjacent to the jaw line;

(f) Alpha hydroxy acids with a pH of not less than one (1.0) and at a concentration of fifty (50) percent shall include partially neutralized acids, and any acid above the concentration of fifty (50) percent is prohibited;

(g) Beta hydroxy acids with a concentration of not more than thirty (30) percent;

(h) Trichloroacetic acid (TCA), in a concentration of not more than fifteen (15) percent, but no manual, mechanical, or acid exfoliation may be used prior to treatment unless under the direct supervision of a licensed health care practitioner; and

(i) Vitamin-based acids.

(3) Limited chemical exfoliation for a basic esthetician shall not include the mixing, combining, or layering of skin exfoliation products or services, but shall include:

(a) Alpha hydroxy acids of thirty (30) percent or less, with a pH of not less than three (3.0); and

(b) Salicylic acid of fifteen (15) percent or less.

(4) A licensee may not apply any exfoliating acid to a client's skin that has undergone microdermabrasion or microneedling within the previous seven (7) days, unless under the direct supervision of a licensed physician.

(5) A licensee shall prepare and maintain current documentation of the licensee's cumulative experience in chemical exfoliation, including:

(a) Courses of instruction;

(b) Specialized training;

(c) On-the-job experience; and

(d) The approximate percentage that chemical exfoliation represents in the licensee's overall business.

(6) A licensee shall provide the documentation required by subsection (5) of this section to the board upon request.

(7) A licensee shall not use an acid or perform a chemical exfoliation that the licensee is not competent to use or perform through training and experience, and as documented in accordance with subsection (5) of this section.

(8) Only commercially available products utilized in accordance with manufacturers' instructions shall be used for chemical exfoliation purposes.

(9) A patch test shall be administered to each client prior to beginning any chemical exfoliation series.

Section 5. Devices. No mechanical or electrical apparatus that is considered a prescription medical device by the FDA may be used by a licensee, unless such use is under the immediate supervision by a licensed physician and within that licensed physician's appropriate scope of practice.

Section 6. Disclosure. Before applying a chemical exfoliant or using a microdermabrasion machine, a licensee shall inform a client that:

(1) The procedure shall only be performed for cosmetic and not medical purposes; and

(2) The benefits and risks of the all procedures shall be disclosed prior to application.

Section 7. Prohibited Practices.

(1) A licensee shall never use any preparation, product, device, or procedure that pierces or penetrates the skin beyond the stratum germinativum layer, also known as the basal layer of the epidermis.

(2) Dermaplane procedures, dermabrasion procedures, microneedling procedures, blades, knives, and lancets are prohibited, except for:

(a) Advanced extraction of impurities from the skin shall use a lancet of 2mm or less; and

(b) Dermaplane procedures for advanced exfoliation under direct supervision of a licensed physician.

(3) Dermaplane procedures for basic exfoliation may be practiced without the direct supervision of a licensed physician only if the following apply. A licensee shall maintain current documentation of the licensee's training in dermaplaning, including:

(a) Courses of instruction; and

(b) Specialized training.

(4) A licensee shall provide the documentation required by subsection (3) of this section to the board upon request.

(5) A licensee shall not use any procedure in which human tissue is cut or altered by laser energy or ionizing radiation.

(45 Ky.R. 213; 947; eff. 11-9-2018.)