



ROY COOPER
ATTORNEY GENERAL

State of North Carolina

Department of Justice
P.O. Box 629
Raleigh, NC 27602

THOMAS J. CAMPBELL
ASST. ATTORNEY GENERAL
HEALTH AND PUBLIC ASST.
TEL: (919) 716-6840
FAX: (919) 716-6758

August 14, 2015

Bobby D. White
Chief Operations Officer
North Carolina State Board of Dental Examiners
507 Airport Boulevard, Suite 106
Morrisville, NC 27560-8200

RE: Advisory letter on whether licensed North Carolina dentists may perform procedures that are primarily designed to improve a patient's appearance rather than the function or health of their teeth and jaws, without obtaining some additional license or training.

Dear Mr. White:

You have asked whether licensed North Carolina dentists may perform procedures that are primarily designed to improve a patient's appearance rather than the function or health of their teeth and jaws, without obtaining some additional license or training. The Board has been asked specifically whether dentists may: inject Botox to reduce a high lip line or "gummy smile," or for the purpose of lip augmentation; administer dermal fillers to smooth lines around the mouth and on the lips; inject Botox or dermal fillers between the eyebrows to decrease furrowing. You have also asked whether, if a dentist is permitted to offer Botox injections or dermal fillers for any of the foregoing purposes, the dentist may direct a nurse, hygienist or dental assistant to do the actual work. Finally, you have asked whether the Dental Board may enact regulations requiring that individuals who perform Botox injections or dermal fillers in a dental office have a certain level of training.

Summary answer: the injection of Botox and/or dermal fillers does not constitute the practice of dentistry, and therefore, the Dental Board does not have the authority to regulate that practice.

Initially, we must look at whether injecting Botox or dermal fillers can be considered to be the practice of dentistry as defined by law. N.C.G.S. §90-29(b)(1)-(13) specifically lists what activities constitute the practice of dentistry. The injection of Botox or dermal fillers does not

specifically appear anywhere in the aforementioned statute. There is only one section which could arguably be said to envision the injection of Botox into a patient's lips:

Diagnoses, *treats*, operates, or prescribes for any disease, disorder, pain, *deformity*, injury, *deficiency, defect, or other physical condition* of the human teeth, gums, alveolar process, jaws, maxilla, mandible, or *adjacent tissues or structures of the oral cavity*;

N.C.G.S. §90-29(b)(1)(emphasis added).

Clearly, injecting Botox or dermal fillers between the eyebrows is not covered in this section and could not be considered to be the practice of dentistry under any scenario.

An initial reading of the statute could lead one to conclude that the injection of Botox or dermal fillers into the lips or area around the mouth could be considered to be the treatment of a deformity, deficiency or defect of the tissues adjacent to the oral cavity, and as such, constitute the practice of dentistry. However, the term "oral cavity" is defined as follows:

the cavity of the mouth; especially: the part of the mouth behind the gums and teeth that is bounded above by the hard and soft palates and below by the tongue and by the mucous membrane connecting it with the inner part of the mandible

Merriman-Webster, Medical Dictionary (2015).

The lips and/or adjacent areas of the mouth do not fall within the definition of "oral cavity," therefore, the treatment of those areas cannot be considered to be the practice of dentistry. That being the case, a licensed North Carolina dentist would not be authorized to perform those procedures by virtue of his/her license and would need to have an additional licensure (for example, a medical license as a maxillofacial surgeon) and accompanying training. Given that it is our opinion that North Carolina dentists cannot perform the aforementioned procedures without additional licensure and training, said dentists could also not legally direct a nurse, hygienist or dental assistant to perform said procedures.

On the other hand, the injection of Botox or dermal fillers would constitute the practice of medicine, as defined by N.C.G.S. §90-1.1. Specifically, it would fall within the following categories, all of which constitute the practice of medicine:

- b. Offering or undertaking to *prescribe, order, give, or administer any drug or medicine for the use of any other individual.*
- c. Offering or undertaking to prevent or diagnose, *correct, prescribe for, administer to, or treat in any manner or by any means, methods, or devices* any disease, illness, pain, wound, fracture, *infirmity, defect*, or abnormal physical or mental condition of any individual, including the management of pregnancy or parturition.

- d. Offering or undertaking to perform *any surgical operation* on any individual.
- e. Using the designation "Doctor," "Doctor of Medicine," "Doctor of Osteopathy," "Doctor of Osteopathic Medicine," "Physician," "Surgeon," "Physician and Surgeon," "Dr.," "M.D.," "D.O.," or any combination thereof in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition, unless the designation additionally contains the description of or reference to another branch of the healing arts for which the individual holds a valid license in this State or the use of the designation "Doctor" or "Physician" is otherwise specifically permitted by law.

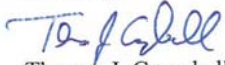
N.C. Gen. Stat. § 90-1.1(emphasis added).

That being the case, a dentist who also practices maxillofacial surgery by virtue of his/her North Carolina medical license, could inject Botox or dermal fillers into a patient. However, as set forth above, that practice would not be considered to be the practice of dentistry. That would be pursuant to the individual's license to practice medicine.

Your next question was whether the Dental Board may enact regulations requiring that individuals who perform Botox injections or dermal fillers in a dental office have a certain level of training. The Dental Board is empowered to regulate the practice of dentistry in North Carolina pursuant to N.C.G.S. §90-22. Given that the injection of Botox or dermal fillers does not constitute the practice of dentistry, it logically follows that the Dental Board does not have the authority to regulate such procedures.

While the Dental Board does not have the authority to regulate the injection of Botox or dermal fillers, there is no reason why the Dental Board could not respond to inquiries about said practice. The Board could simply state that North Carolina dentists should not be performing such procedures absent a medical license separate and apart from their dental license.

I hope that this adequately addresses your question. This is an advisory letter. It has not been approved in accordance with procedures for issuing an Advisory Opinion of the Attorney General.

Sincerely,

Thomas J. Campbell
Assistant Attorney General

Cc: Grayson Kelley, Chief Deputy Attorney General

TJC/tjc