

1 A bill to be entitled
2 An act relating to laser hair removal or reduction;
3 amending ss. 20.165 and 20.43, F.S.; transferring the
4 regulation of electrology from the Department of
5 Health to the Department of Business and Professional
6 Regulation; amending ss. 458.348 and 459.025, F.S.;
7 deleting the requirement for training and supervision
8 over certain persons performing specified electrolysis
9 or electrology services; amending s. 478.42, F.S.;
10 revising definitions; amending s. 478.43, F.S.;
11 providing rulemaking authority to the Department of
12 Business and Professional Regulation; repealing ss.
13 478.44 and 478.46, F.S., relating to the Board of
14 Medicine, the Electrolysis Council, and temporary
15 permits, respectively; amending s. 478.49, F.S.;
16 providing certification requirements for licensed
17 electrologists who perform laser hair removal or
18 reduction; conforming a provision to changes made by
19 the act; amending ss. 456.037, 478.45, 478.47, 478.50,
20 478.51, 478.52, 478.53, and 478.55, F.S.; conforming
21 provisions to changes made by the act; providing that
22 the statutory powers, duties, and functions, records,
23 personnel, property, and unexpended balances of
24 appropriations, allocations, or other funds for the
25 administration of ch. 478, F.S., relating to

26 electrolysis are transferred by a type two transfer
27 from the Department of Health to the Department of
28 Business and Professional Regulation; declaring that
29 the transfer may not affect the validity of any
30 judicial or administrative action pending as of a
31 certain date; specifying that certain lawful orders
32 remain in effect and enforceable; providing that
33 certain permits and certifications issued by the
34 Department of Health are valid; providing an effective
35 date.

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37 Be It Enacted by the Legislature of the State of Florida:

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39 Section 1. Paragraph (a) of subsection (4) of section
40 20.165, Florida Statutes, is amended to read:

41 20.165 Department of Business and Professional
42 Regulation.—There is created a Department of Business and
43 Professional Regulation.

44 (4) (a) The following boards and programs are established
45 within the Division of Professions:

46 1. Board of Architecture and Interior Design, created
47 under part I of chapter 481.

48 2. Florida Board of Auctioneers, created under part VI of
49 chapter 468.

50 3. Barbers' Board, created under chapter 476.

- 51 4. Florida Building Code Administrators and Inspectors
 52 Board, created under part XII of chapter 468.
- 53 5. Construction Industry Licensing Board, created under
 54 part I of chapter 489.
- 55 6. Board of Cosmetology, created under chapter 477.
- 56 7. Electrical Contractors' Licensing Board, created under
 57 part II of chapter 489.
- 58 8. Board of Employee Leasing Companies, created under part
 59 XI of chapter 468.
- 60 9. Board of Landscape Architecture, created under part II
 61 of chapter 481.
- 62 10. Board of Pilot Commissioners, created under chapter
 63 310.
- 64 11. Board of Professional Engineers, created under chapter
 65 471.
- 66 12. Board of Professional Geologists, created under
 67 chapter 492.
- 68 13. Board of Veterinary Medicine, created under chapter
 69 474.
- 70 14. Home inspection services licensing program, created
 71 under part XV of chapter 468.
- 72 15. Mold-related services licensing program, created under
 73 part XVI of chapter 468.
- 74 16. Electrolysis licensing program, created under chapter
 75 478.

76 Section 2. Paragraph (g) of subsection (3) of section
 77 20.43, Florida Statutes, is amended to read:

78 20.43 Department of Health.—There is created a Department
 79 of Health.

80 (3) The following divisions of the Department of Health
 81 are established:

82 (g) Division of Medical Quality Assurance, which is
 83 responsible for the following boards and professions established
 84 within the division:

85 1. The Board of Acupuncture, created under chapter 457.

86 2. The Board of Medicine, created under chapter 458.

87 3. The Board of Osteopathic Medicine, created under
 88 chapter 459.

89 4. The Board of Chiropractic Medicine, created under
 90 chapter 460.

91 5. The Board of Podiatric Medicine, created under chapter
 92 461.

93 6. Naturopathy, as provided under chapter 462.

94 7. The Board of Optometry, created under chapter 463.

95 8. The Board of Nursing, created under part I of chapter
 96 464.

97 9. Nursing assistants, as provided under part II of
 98 chapter 464.

99 10. The Board of Pharmacy, created under chapter 465.

100 11. The Board of Dentistry, created under chapter 466.

- 101 12. Midwifery, as provided under chapter 467.
- 102 13. The Board of Speech-Language Pathology and Audiology,
103 created under part I of chapter 468.
- 104 14. The Board of Nursing Home Administrators, created
105 under part II of chapter 468.
- 106 15. The Board of Occupational Therapy, created under part
107 III of chapter 468.
- 108 16. Respiratory therapy, as provided under part V of
109 chapter 468.
- 110 17. Dietetics and nutrition practice, as provided under
111 part X of chapter 468.
- 112 18. The Board of Athletic Training, created under part
113 XIII of chapter 468.
- 114 19. The Board of Orthotists and Prosthetists, created
115 under part XIV of chapter 468.
- 116 ~~20. Electrolysis, as provided under chapter 478.~~
- 117 20.21. The Board of Massage Therapy, created under chapter
118 480.
- 119 ~~21.22.~~ The Board of Clinical Laboratory Personnel, created
120 under part III of chapter 483.
- 121 ~~22.23.~~ Medical physicists, as provided under part IV of
122 chapter 483.
- 123 ~~23.24.~~ The Board of Opticianry, created under part I of
124 chapter 484.
- 125 ~~24.25.~~ The Board of Hearing Aid Specialists, created under

126 part II of chapter 484.

127 25.26. The Board of Physical Therapy Practice, created
128 under chapter 486.

129 26.27. The Board of Psychology, created under chapter 490.

130 27.28. School psychologists, as provided under chapter
131 490.

132 28.29. The Board of Clinical Social Work, Marriage and
133 Family Therapy, and Mental Health Counseling, created under
134 chapter 491.

135 29.30. Emergency medical technicians and paramedics, as
136 provided under part III of chapter 401.

137 Section 3. Subsection (2) of section 458.348, Florida
138 Statutes, is amended to read:

139 ~~(2) PROTOCOLS REQUIRING DIRECT SUPERVISION. All protocols~~
140 ~~relating to electrolysis or electrology using laser or light-~~
141 ~~based hair removal or reduction by persons other than physicians~~
142 ~~licensed under this chapter or chapter 459 shall require the~~
143 ~~person performing such service to be appropriately trained and~~
144 ~~work only under the direct supervision and responsibility of a~~
145 ~~physician licensed under this chapter or chapter 459.~~

146 Section 4. Subsection (2) of section 459.025, Florida
147 Statutes, is amended to read:

148 ~~(2) PROTOCOLS REQUIRING DIRECT SUPERVISION. All protocols~~
149 ~~relating to electrolysis or electrology using laser or light-~~
150 ~~based hair removal or reduction by persons other than~~

151 ~~osteopathic physicians licensed under this chapter or chapter~~
152 ~~458 shall require the person performing such service to be~~
153 ~~appropriately trained and to work only under the direct~~
154 ~~supervision and responsibility of an osteopathic physician~~
155 ~~licensed under this chapter or chapter 458.~~

156 Section 5. Section 478.42, Florida Statutes, is amended to
157 read:

158 478.42 Definitions.—As used in this chapter, the term:

159 ~~(1) "Board" means the Board of Medicine.~~

160 ~~(2) "Council" means the Electrolysis Council.~~

161 (1)(3) "Department" means the Department of Business and
162 Professional Regulation Health.

163 (2)(4) "Electrologist" means a person who engages in the
164 practice of electrolysis.

165 (3)(5) "Electrolysis or electrology" means the permanent
166 removal of hair ~~by destroying the hair-producing cells of the~~
167 ~~skin and vascular system,~~ using equipment and devices that
168 ~~approved by the board~~ which have been cleared by and registered
169 with the United States Food and Drug Administration ~~and that are~~
170 ~~used pursuant to protocols approved by the board.~~

171 Section 6. Section 478.43, Florida Statutes, is amended to
172 read:

173 478.43 Department Board of Medicine; powers and duties.—

174 (1) The department board, ~~with the assistance of the~~
175 ~~Electrolysis Council,~~ is authorized to establish minimum

176 standards for the delivery of electrolysis services and to adopt
177 rules pursuant to ss. 120.536(1) and 120.54 to implement the
178 provisions of this chapter.

179 (2) The department board may administer oaths, summon
180 witnesses, and take testimony in all matters relating to its
181 duties under this chapter.

182 ~~(3) The board may delegate such powers and duties to the~~
183 ~~council as it may deem proper.~~

184 ~~(3)-(4) The department board, in consultation with the~~
185 ~~council, shall recommend proposed rules, and the board shall~~
186 ~~adopt rules for a code of ethics for electrologists and rules~~
187 ~~related to the curriculum and approval of electrolysis training~~
188 ~~programs, sanitary guidelines, the delivery of electrolysis~~
189 ~~services, continuing education requirements, and any other area~~
190 ~~related to the practice of electrology.~~

191 Section 7. Section 478.44, Florida Statutes, is repealed.

192 Section 8. Section 478.45, Florida Statutes, is amended to
193 read:

194 478.45 Requirements for licensure.—

195 (1) An applicant applying for licensure as an
196 electrologist shall file a written application, accompanied by
197 the application for licensure fee prescribed in s. 478.55, on a
198 form provided by the department board, showing to the
199 satisfaction of the department board that the applicant:

200 (a) Is at least 18 years old.

201 (b) Is of good moral character.

202 (c) Possesses a high school diploma or a high school
203 equivalency diploma.

204 (d) Has not committed an act in any jurisdiction which
205 would constitute grounds for disciplining an electrologist in
206 this state.

207 (e) Has successfully completed the academic requirements
208 of an electrolysis training program, not to exceed 120 hours,
209 and the practical application thereof as approved by the
210 department ~~board~~.

211 (2) Each applicant for licensure must ~~shall~~ successfully
212 pass a written examination developed by the department or a
213 national examination that has been approved by the department
214 ~~board~~. The examinations must ~~shall~~ test the applicant's
215 knowledge relating to the practice of electrology, including the
216 applicant's professional skills and judgment in the use of
217 electrolysis techniques and methods, and any other subjects that
218 ~~which~~ are useful to determine the applicant's fitness to
219 practice.

220 (3) The department, ~~upon approval of the board,~~ may adopt
221 a national examination in lieu of any part of the examination
222 required by this section. The department ~~board,~~ ~~with the~~
223 ~~assistance of the council,~~ shall establish standards for
224 acceptable performance.

225 (4) The department shall issue a license to practice

226 electrology to any applicant who passes the examination, pays
227 the licensure fee as set forth in s. 478.55, and otherwise meets
228 the requirements of this chapter.

229 (5) The department shall conduct licensure examinations at
230 least two times a year. The department shall give public notice
231 of the time and place of each examination at least 60 days
232 before it is administered and shall mail notice of such
233 examination to each applicant whose application is timely filed,
234 pursuant to department ~~board~~ rule.

235 (6) The department may not issue a license to any
236 applicant who is under investigation in another jurisdiction for
237 an offense that ~~which~~ would be a violation of this chapter,
238 until such investigation is complete. Upon completion of such
239 investigation, if the applicant is found guilty of such offense,
240 the department ~~board~~ shall apply the applicable provisions of s.
241 478.52.

242 Section 9. Section 478.46, Florida Statutes, is repealed.

243 Section 10. Section 478.47, Florida Statutes, is amended
244 to read:

245 478.47 Licensure by endorsement.—The department shall
246 issue a license by endorsement to any applicant who submits an
247 application and the required fees as set forth in s. 478.55 and
248 who holds an active license or other authority to practice
249 electrology in a jurisdiction whose licensure requirements are
250 determined by the department ~~board~~ to be equivalent to the

251 requirements for licensure in this state.

252 Section 11. Section 478.49, Florida Statutes, is amended
 253 to read:

254 478.49 License and certification required.—

255 (1) A person may not ~~No person may~~ practice electrology or
 256 hold herself or himself out as an electrologist in this state
 257 unless she or he ~~the person~~ has been issued a license by the
 258 department and holds an active license pursuant to ~~the~~
 259 ~~requirements~~ of this chapter.

260 (2) A licensee shall display her or his license in a
 261 conspicuous location in her or his place of practice and provide
 262 it to the department ~~or the board~~ upon request.

263 (3) A licensee who uses a laser or pulsed-light device in
 264 a laser hair removal or reduction procedure must be certified by
 265 a nationally recognized electrology organization in the use of
 266 these devices.

267 Section 12. Subsections (2) and (4) of section 478.50,
 268 Florida Statutes, are amended to read:

269 478.50 Renewal of license; delinquent status; address
 270 notification; continuing education requirements.—

271 (2) A license that is not renewed at the end of the
 272 biennium prescribed by the department automatically reverts to
 273 delinquent status. The department ~~board~~ shall adopt rules
 274 establishing procedures, criteria, and fees as set forth in s.
 275 478.55 for reactivation of an inactive license.

276 (4) (a) An application for license renewal must be
277 accompanied by proof of the successful completion of 20 hours of
278 continuing education courses or proof of successfully passing a
279 reexamination for licensure within the immediately preceding
280 biennium which meets the criteria established by the department
281 ~~board~~. Both the continuing education and reexamination shall
282 contain education on blood-borne diseases.

283 (b) The department board, ~~with the assistance of the~~
284 ~~council~~, shall approve criteria for, and content of,
285 electrolysis training programs and continuing education courses
286 required for licensure and renewal as set forth in this chapter.

287 (c) Continuing education programs shall be approved by the
288 department board. Applications for approval shall be submitted
289 to the department board not less than 60 days or ~~not~~ more than
290 360 days before they are held.

291 Section 13. Subsections (2), (3), and (11) of section
292 478.51, Florida Statutes, are amended to read:

293 478.51 Electrology facilities; requisites; facility
294 licensure; inspection.—

295 (2) The facility license shall be displayed in a
296 conspicuous place within the facility and shall be made
297 available upon request of the department ~~or board~~.

298 (3) The department board shall adopt rules governing the
299 licensure and operations of such facilities, personnel, safety
300 and sanitary requirements, and the licensure application and

301 granting process.

302 (11) Renewal of license registration for electrology
303 facilities shall be accomplished pursuant to rules adopted by
304 the department ~~board~~.

305 Section 14. Section 478.52, Florida Statutes, is amended
306 to read:

307 478.52 Disciplinary proceedings.—

308 (1) The following acts constitute grounds for denial of a
309 license or disciplinary action, as specified in s. 455.227(2) ~~s.~~
310 ~~456.072(2)~~:

311 (a) Obtaining or attempting to obtain a license by
312 bribery, fraud, or knowing misrepresentation.

313 (b) Having a license or other authority to deliver
314 electrolysis services revoked, suspended, or otherwise acted
315 against, including denial of licensure, in another jurisdiction.

316 (c) Being convicted or found guilty of, or entering a plea
317 of nolo contendere to, regardless of adjudication, a crime, in
318 any jurisdiction, which directly relates to the practice of
319 electrology.

320 (d) Willfully making or filing a false report or record,
321 willfully failing to file a report or record required for
322 electrologists, or willfully impeding or obstructing the filing
323 of a report or record required by this act or inducing another
324 person to do so.

325 (e) Circulating false, misleading, or deceptive

326 advertising.

327 (f) Unprofessional conduct, including any departure from,
 328 or failure to conform to, acceptable standards related to the
 329 delivery of electrolysis services.

330 (g) Engaging or attempting to engage in the illegal
 331 possession, sale, or distribution of any illegal or controlled
 332 substance.

333 (h) Willfully failing to report any known violation of
 334 this chapter.

335 (i) Willfully or repeatedly violating a rule adopted under
 336 this chapter, or an order of the ~~board or~~ department previously
 337 entered in a disciplinary hearing.

338 (j) Engaging in the delivery of electrolysis services
 339 without an active license.

340 (k) Employing an unlicensed person to practice
 341 electrology.

342 (l) Failing to perform any statutory or legal obligation
 343 placed upon an electrologist.

344 (m) Accepting and performing professional responsibilities
 345 which the licensee knows, or has reason to know, she or he is
 346 not competent to perform.

347 (n) Delegating professional responsibilities to a person
 348 the licensee knows, or has reason to know, is unqualified by
 349 training, experience, or licensure to perform.

350 (o) Gross or repeated malpractice or the inability to

351 practice electrology with reasonable skill and safety.

352 (p) Judicially determined mental incompetency.

353 (q) Practicing or attempting to practice electrology under
354 a name other than her or his own.

355 (r) Being unable to practice electrology with reasonable
356 skill and safety because of a mental or physical condition or
357 illness, or the use of alcohol, controlled substances, or any
358 other substance that ~~which~~ impairs one's ability to practice.

359 1. The department may, upon probable cause, compel a
360 licensee to submit to a mental or physical examination by
361 physicians designated by the department. The cost of an
362 examination shall be borne by the licensee, and her or his
363 failure to submit to such an examination constitutes an
364 admission of the allegations against her or him, consequent upon
365 which a default and a final order may be entered without the
366 taking of testimony or presentation of evidence, unless the
367 failure was due to circumstances beyond her or his control.

368 2. A licensee who is disciplined under this paragraph
369 shall, at reasonable intervals, be afforded an opportunity to
370 demonstrate that she or he can resume the practice of
371 electrology with reasonable skill and safety.

372 3. In any proceeding under this paragraph, the record of
373 proceedings or the orders entered by the department ~~board~~ may
374 not be used against a licensee in any other proceeding.

375 (s) Disclosing the identity of or information about a

376 patient without written permission, except for information which
 377 does not identify a patient and which is used for training
 378 purposes in an approved electrolysis training program.

379 (t) Practicing or attempting to practice any permanent
 380 hair removal except as described in s. 478.42(3) ~~s. 478.42(5)~~.

381 (u) Operating any electrolysis facility unless it has been
 382 duly licensed as provided in this chapter.

383 (v) Violating any provision of this chapter or chapter 455
 384 ~~456~~, or any rules adopted pursuant thereto.

385 (2) The department board ~~board~~ may enter an order denying
 386 licensure, ~~or~~ imposing any of the penalties in s. 455.227(2), or
 387 imposing costs as provided in s. 455.227(3) ~~s. 456.072(2)~~
 388 against any applicant for licensure or licensee who is found
 389 guilty of violating any provision of subsection (1) of this
 390 section or who is found guilty of violating any provision of s.
 391 455.227(1) ~~s. 456.072(1)~~.

392 (3) The department board ~~board~~ may not issue or reinstate a
 393 license to a person it has deemed unqualified until it is
 394 satisfied that such person has complied with the terms and
 395 conditions of the final order and that the licensee can safely
 396 practice electrology.

397 (4) The department board, ~~with the assistance of the~~
 398 ~~council~~, may, by rule, establish guidelines for the disposition
 399 of disciplinary cases involving specific types of violations.
 400 The guidelines may include minimum and maximum fines, periods of

401 supervision on probation, or conditions upon probation or
 402 reissuance of a license.

403 Section 15. Subsection (6) of section 478.53, Florida
 404 Statutes, is amended to read:

405 478.53 Penalty for violations.—It is a misdemeanor of the
 406 first degree, punishable as provided in s. 775.082 or s.
 407 775.083, to:

408 (6) Practice or attempt to practice any permanent hair
 409 removal except as described in s. 478.42(3) ~~s. 478.42(5)~~.

410 Section 16. Subsection (1) of section 478.55, Florida
 411 Statutes, is amended to read:

412 478.55 Fees; facility; disposition.—

413 (1) The department ~~board~~ shall establish by rule the
 414 collection of fees for the following purposes:

415 (a) License application fee: a fee not to exceed \$100.

416 (b) Examination fee: a fee not to exceed \$300.

417 (c) Initial licensure fee: a fee not to exceed \$100.

418 (d) Renewal fee: a fee not to exceed \$100 biennially.

419 (e) Reactivation fee: a fee not to exceed \$100.

420 (f) Inspection fee for facility: a fee not to exceed \$100
 421 biennially.

422 Section 17. Subsection (5) of section 456.037, Florida
 423 Statutes, is amended to read:

424 456.037 Business establishments; requirements for active
 425 status licenses; delinquency; discipline; applicability.—

426 (5) This section applies to any business establishment
427 registered, permitted, or licensed by the department to do
428 business. Business establishments include, but are not limited
429 to, dental laboratories, ~~electrology facilities,~~ massage
430 establishments, pharmacies, and pain-management clinics required
431 to be registered under s. 458.3265 or s. 459.0137.

432 Section 18. (1) All of the statutory powers, duties, and
433 functions, records, personnel, property, and unexpended balances
434 of appropriations, allocations, or other funds for the
435 administration of chapter 478, Florida Statutes, relating to
436 electrolysis are transferred by a type two transfer, as defined
437 in s. 20.06(2), Florida Statutes, from the Department of Health
438 to the Department of Business and Professional Regulation.

439 (2) The transfer of regulatory authority under chapter
440 478, Florida Statutes, provided by this section may not affect
441 the validity of any judicial or administrative action pending as
442 of 11:59 p.m. on the day before the effective date of this
443 section to which the Department of Health is at that time a
444 party, and the Department of Business and Professional
445 Regulation is substituted as a party in interest in any such
446 action.

447 (3) All lawful orders issued by the Department of Health
448 implementing or enforcing or otherwise in regard to any
449 provision of chapter 478, Florida Statutes, issued before the
450 effective date of this section shall remain in effect and

451 enforceable after the effective date of this section unless
452 thereafter modified in accordance with law.

453 (4) Notwithstanding the transfer of regulatory authority
454 under chapter 478, Florida Statutes, provided by this section,
455 persons and entities holding in good standing any permit under
456 chapter 478, Florida Statutes, as of 11:59 p.m. on the day
457 before the effective date of this section are, as of the
458 effective date of this section, deemed to hold in good standing
459 a permit in the same capacity as that for which the permit was
460 formerly issued.

461 (5) Notwithstanding the transfer of regulatory authority
462 under chapter 478, Florida Statutes, provided by this section,
463 persons holding in good standing any certification issued under
464 chapter 478, Florida Statutes, or rules adopted pursuant
465 thereto, as of 11:59 p.m. on the day before the effective date
466 of this section are, as of the effective date of this section,
467 deemed to be certified in the same capacity in which they were
468 formerly certified.

469 Section 19. This act shall take effect October 1, 2018.