

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 381 Electrolysis

**SPONSOR(S):** Logan

**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee		Holt	Calamas
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

Currently, a licensed electrologist who performs laser or light-based hair removal or reduction may only practice under a formal written protocol with a supervising physician who is either a Florida licensed medical doctor or a doctor of osteopathic medicine. The provisions stating the formal supervisory relationship are located in the Medical Practice Act and the Osteopathic Medicine Practice Act, but are not in the Electrolysis Practice Act. The bill duplicates this language and places it in the Electrolysis Practice Act.

The bill decreases the level of supervision of the formal relationship from direct to indirect supervision. The bill provides a definition for "indirect supervision," such that a supervising physician must be readily available for consultation but not on the premises and practices at a location within 20 miles or 30 minutes of where the practicing licensed electrologist is located.

The bill makes conforming changes to the Medical Practice Act and the Osteopathic Medicine Practice Act by deleting references to direct supervision and the requirement that the supervising physician must be onsite when electrology services are performed.

The bill has no fiscal impact on the state or local governments.

The bill takes effect upon becoming a law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Medical Quality Assurance

The Department of Health (DOH), Division of Medical Quality Assurance (MQA), regulates health care practitioners to ensure the health, safety and welfare of the public. Currently, MQA supports licensure and disciplinary activities for 43 professions and 37 types of facilities/establishments, and works with 22 boards and 6 councils.

##### Boards

A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within the MQA.<sup>1</sup> Boards are responsible for approving or denying applications for licensure and making disciplinary decisions on whether a practitioner practices within the authority of their practice act. Practice acts refer to the legal authority in state statute that grants a profession the authority to provide services to the public. The range of disciplinary actions taken by a board includes citations, suspensions, reprimands, probations, and revocations.

##### Electrology

Electrology is the science of permanent hair removal by inserting a very fine needle into the natural opening of the hair follicle alongside the hair shaft. A minute amount of electricity is gently applied to the base of the hair follicle destroying hair growth cells and the regenerative ability of the hair follicle.<sup>2</sup> The electrolysis modality was the first method used to permanently remove hair, back in 1875.<sup>3</sup> The term electrolysis is used to describe all methods of permanent hair removal.

According to the American Electrology Association, there are three modalities used today that fall under the heading of electrolysis: galvanic or electrolysis; thermolysis or short-wave; and the blended method.<sup>4</sup> The modality used is at the discretion of the professional electrologist.<sup>5</sup>

The galvanic or electrolysis modality is a chemical process. The current produces a chemical reaction in the hair follicle eliminating the hair growth cells. This method is widely used in the multiple needle galvanic electrolysis, utilizing up to 16 needles simultaneously.

The thermolysis or short-wave modality produces heat. When this modality is used it heats and destroys the hair growth cells in the follicle. This modality can be utilized in two ways: (1) flash method of thermolysis uses high intensity current for less time in the follicle (2) the current is used at lower intensity and longer timing.

The blend method combines galvanic current with the thermolysis current modality. Thermolysis heats up the chemical reaction in the follicle destroying hair growth cells.

Florida law provides that electrology is the permanent removal of hair by destroying the hair-producing cells of the skin and vascular system, using equipment and devices approved by the Board of Medicine which have been cleared by and registered with the United States Food and Drug Administration (FDA)

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<sup>1</sup> S. 456.001, F.S.

<sup>2</sup> American Electrology Association, Inc., Frequently Asked Questions About Permanent Hair Removal, *available at*: <http://www.electrology.com/consumer/faq.html> (last viewed December 14, 2011)

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

and that are used pursuant to approved protocols.<sup>6</sup> The Board of Medicine has approved the following equipment and devices to be used by licensed electrologist for the permanent removal of hair:<sup>7</sup>

- Needle type epilators.<sup>8</sup>
- Laser and light-based hair removal or reduction devices cleared by the FDA for hair removal or reduction.

### Licensure

Chapter 478, F.S., governs the practice of electrology in Florida, and is referred to as the “Electrolysis Practice Act”. Section 478.44, F.S., creates the Electrolysis Council (council), which is under the supervision of the Board of Medicine (board). The practice act sets forth definitions, requirements for licensure in Florida, requirements for renewal of license, requirements for electrolysis facilities, requirements for training programs, grounds for discipline, penalties for violating the practice act, and the powers and duties of the board, with assistance from the council. Currently ss. 459.025(2) and 458.348(3), F.S., require that an electrologist, when performing laser hair removal, perform such procedure under the direct supervision and responsibility of a medical doctor or doctor of osteopathic medicine licensed under chapter 458 or 459, F.S.

The supervising physician, initially upon assuming duties as the supervisor and semiannually thereafter, is required to review and inspect the techniques, procedures, and equipment utilized by the electrologist in the performance of laser and light-based hair removal or reduction.<sup>9</sup> Additionally, the supervising physician is required to ensure that the electrologist has received semi-annual training in the areas of infection control, sterilization, and emergency procedures.

The supervising physician and the electrologist are required to jointly develop a written protocol regarding:<sup>10</sup>

- Medical condition for individuals to receive laser and light-based hair removal or reduction treatment;
- The condition and the procedure for identifying conditions that require direct evaluation or specific consultation by the physician;
- The treatment of routine minor problems resulting during or from laser and light-based hair removal or reduction;
- The procedures to be followed in the event of an emergency developing during the performance of or as a result of laser and light-based hair removal or reduction;
- The initial consultation with each patient must include an examination and assessment by a licensed physician; and
- A statement that the electrologist does and will maintain professional liability coverage that includes coverage for incidents arising from laser usage in an amount not less than \$100,000.

The written protocols are to be signed, dated, and maintained in a readily available location on the premises where the electrologist practices. The supervising physician is required to maintain one copy on the premises and another copy must be submitted to the DOH. Additionally, a supervising physician must keep the Board of Medicine informed of the number of licensed electrologists under their supervision since they may not supervise more than four electrologists at any one time.<sup>11</sup>

To qualify for licensure, applicants must:<sup>12</sup>

- Be at least 18 years old;

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<sup>6</sup> S. 478.42(5), F.S.

<sup>7</sup> 64B8-56.002, F.A.C.

<sup>8</sup> An epilator is an electrical device used to remove hair by mechanically grasping multiple hairs simultaneously and pulling them out at the root.

<sup>9</sup> 64B8-56.002, F.A.C.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> S. 478.45, F.S. and 64B8-51.002, F.A.C.

- Possess good moral character;
- Possess a high school diploma, a graduate equivalency diploma, college diploma, university diploma, or technical school diploma if such college, university, or technical school required high school or graduate equivalency diploma for admission;
- Not have committed an act in any jurisdiction which would constitute grounds for disciplining an electrologist in this state;
- Complete the requirements of an electrolysis training program consisting of 120 hours academic training and a minimum of 200 hours of practical application; and
- Pass the the International Board of Electrologist Certification national examination.

To become licensed as an electrologist, individuals must submit an application,; remit a \$100 application fee, \$135 examination fee, \$100 initial licensure fee and a \$5 fee to fund efforts to combat unlicensed practice.<sup>13</sup> As of June 30, 2011, there were 1,081 individuals who possessed active in-state licenses as electrologists.<sup>14</sup>

### **Effects of Proposed Changes**

Currently, a licensed electrologist who performs laser or light-based hair removal or reduction may only practice under a formal written protocol with a supervising physician who is either a Florida licensed medical doctor or a doctor of osteopathic medicine. The provisions stating the formal supervisory relationship are located in the Medical Practice Act and the Osteopathic Medicine Practice Act, but are not in the Electrolysis Practice Act. The bill duplicates this language and places it in the Electrolysis Practice Act.

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#### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 487.42, F.S., relating to definitions.

**Section 2.** Amends s. 487.451, F.S., relating to formal supervisory relationships.

**Section 3.** Amends s. 458.348, F.S., relating to formal supervisory relationships, standing orders, and established protocols.

**Section 4.** Amends s. 459.025, F.S., relating to formal supervisory relationships, standing orders, and established protocols.

**Section 5.** Provides an effective date of upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None identified.

##### **2. Expenditures:**

None identified.

<sup>13</sup> 64B8-51.007, F.A.C.

<sup>14</sup> The Florida Department of Health, Division of Medical Quality Assurance, 2010-2011 Annual Report, *available at*: <http://www.doh.state.fl.us/mqa/reports.htm> (last viewed December 28, 2011).

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None identified.

2. Expenditures:

None identified.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None identified.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The DOH has sufficient authority to promulgate rules to implement the provisions of the bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**