

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 591 Laser Hair Removal  
**SPONSOR(S):** Raschein  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 504

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		Siples	O'Callaghan
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

The practice of electrology is governed by the Florida Board of Medicine, in consultation with the Electrolysis Council. The practice of electrolysis refers to the permanent removal of hair using equipment and devices approved and registered by the United States Food and Drug Administration (FDA), and are used pursuant to protocols approved by the Board of Medicine.

Pursuant to rule 64B8-56.002, F.A.C., an electrologist may only perform laser and light-based hair removal or reduction if he or she:

- Has completed an approved training course;
- Is certified in the use of laser and light-based devices for the removal or reduction of hair by an approved national certification organization;
- Is only using the laser and light-based hair removal or reduction devices on which he or she has been trained; and
- Is operating pursuant to written protocols and under the direct supervision and responsibility of a licensed physician.

The bill defines "laser or pulsed-light device" as an electronic device approved by the FDA for laser hair removal, and "laser hair removal" as the use of laser or pulsed-light device in a hair removal procedure that does not remove the epidermis.

The bill seeks to codify rule 64B8-56.002, F.A.C., in law by requiring that an electrologist who uses a laser or pulsed-light device to be certified by a nationally recognized electrology organization in the use of these devices and to have appropriate training as defined by the board for each device used.

The bill appears to have no fiscal impact on state or local government.

The bill provides an effective date of July 1, 2016.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### The Practice of Electrolysis

The practice of electrolysis and the regulation of electrologists are governed by the Electrolysis Practice Act.<sup>1</sup> Electrolysis or electrology refers to the permanent removal of hair by destroying the hair-producing cells of the skin and vascular system, using equipment and devices cleared by and registered with the United States Food and Drug Administration (FDA), and using such equipment and devices in accordance with protocols approved by the Board of Medicine (board).<sup>2</sup>

An electrologist is a person who practices electrolysis. To qualify to be licensed as an electrologist, an applicant must:<sup>3</sup>

- Be at least 18 years old;
- Be of good moral character;
- Possess a high school diploma or its equivalent;
- Have not committed an act in any jurisdiction that would constitute grounds for discipline as an electrologist in this state;
- Have successfully completed the academic requirements of an electrolysis training program, approved by the board; and
- Have successfully passed a written exam developed by the Department of Health (DOH), or a national examination adopted by the board.

Licenses are renewed biennially.<sup>4</sup> A licensee must comply with a 20-hour continuing education requirement each biennium.<sup>5</sup> There are approximately 1,240 electrologists who hold active licenses in Florida.<sup>6</sup> Unless a person holds an active license as an electrologist, he or she may not hold herself or himself out as an electrologist or use the title “electrologist,” “registered electrologist,” or the abbreviation “RE.”

The board has approved needle type epilators and laser and light-based hair removal devices cleared by the FDA for hair removal or reduction.<sup>7</sup> An electrologist may not use a laser or light-based device for hair removal or reduction unless he or she:<sup>8</sup>

- Has completed an approved 30- hour training course in laser and light-based hair removal or reduction;
- Has been certified in the use of laser and light-based devices for the removal or reduction of hair by an approved national certification organization;<sup>9</sup>
- Is only using the laser and light-based devices for which he or she has been trained; and

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<sup>1</sup> Chapter 478, F.S.

<sup>2</sup> Section 478.42(5), F.S.

<sup>3</sup> Section 478.75, F.S. Pursuant to s. 478.47, F.S., licensure by endorsement is available for those holding licenses in other jurisdictions whose licensure requirements are equivalent to those in Florida.

<sup>4</sup> Section 478.50, F.S.

<sup>5</sup> Rule 64B8-52.001, F.A.C. Upon the first licensure renewal, a licensee must complete an approved course on HIV/AIDS and blood-borne disease. Two hours each biennium must be on the prevention of medical errors.

<sup>6</sup> Florida Department of Health, Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2014-2015*, 10, available at <http://mqawebteam.com/annualreports/1415/files/assets/basic-html/page-1.html#> (last visited January 27, 2016). This number includes in state, out of state, and military active licensees.

<sup>7</sup> Rule 64B8-56.002(1), F.A.C.

<sup>8</sup> Rule 64B8-56.002(2), F.A.C.

<sup>9</sup> The approved certification organization is the Society of Clinical & Medical Hair Removal, Inc. (SCMHR). See <http://www.floridahealth.gov/licensing-and-regulation/electrolysis/laser/index.html> (last visited January 27, 2016).

- Is operating under the direct supervision and responsibility of a physician properly trained in hair removal and licensed pursuant to ch. 458 or 459, F.S.

The supervising physician and the electrologist must have written protocols, which must be provided to the DOH.<sup>10</sup> The supervising physician must review and inspect the techniques, procedures, and equipment utilized by the electrologist, upon assuming duties as the supervisor and semiannually thereafter. The supervising physician must ensure that the electrologist receives semi-annual training in infection control, sterilization, and emergency procedures. A physician may not supervise more than four electrologists at any one time.<sup>11</sup>

Any establishment or portion thereof wherein electrolysis is performed is deemed to be an electrology facility. All electrology facilities must be licensed by and is subject to inspection by the DOH for compliance with safety and sanitary requirements.<sup>12</sup>

### Electrolysis Council

The Electrolysis Council (council), created by s. 478.44, F.S., assists the board in determining minimum standards for the delivery of electrolysis services.<sup>13</sup> The duties of the council include:

- Approval and denial of applicants for examination and applicants for endorsement;
- Approval and denial of continuing education providers and electrolysis training programs;
- The authority to accept non-disciplinary voluntary relinquishments;
- The authority to notice rules for development and to propose rules to the board; and
- Initial consideration of rulemaking proposals, petitions for declaratory statements, and petitions to adopt, amend, or repeal rules that relate to the practice of electrology and make recommendations on such to the board.<sup>14</sup>

### Certification for Use of Laser and Light-Based Devices

The Society for Clinical and Medical Hair Removal (SCMHR) is an international organization that provides the only national certifications of physicians, nurses, and medical estheticians to demonstrate competency in hair removal procedures.<sup>15</sup> SCMHR offers four certifications:<sup>16</sup>

- Certified Clinical Electrologist (CCE) for those using needle modality;
- Certified Medical Electrologist (CME) for those with advanced knowledge and skill in needle modalities, as well as laser and light-based hair removal modalities;<sup>17</sup>
- Certified Laser Hair Removal Professional (CLHRP); and
- Certified Pulse Light Hair Removal Professional (CPLHRP).

For certification as a CME, an electrologist must hold a valid CCE designation, which is the first level of certification for electrologists, and successfully pass a CME examination,<sup>18</sup> which consists of questions on the use of lasers and advanced electrology.<sup>19</sup> The CME designation is valid for five years, after

<sup>10</sup> Rule 64B8-56.002(4), F.A.C. Sections 458.348(3) and 459.025(2), F.S., also provides that all protocols relating to the use of laser or light-based hair removal or reduction by persons other than licensed physicians shall require the person performing such services be appropriately trained and work only under the direct supervision and responsibility of a licensed physician.

<sup>11</sup> Rule 64B8-56.002(5), F.A.C.

<sup>12</sup> See Rule 64B8-51.006, F.A.C.

<sup>13</sup> The Council consists of five members appointed by the Board of Medicine, and include three licensed electrologists who have been actively practicing electrology and two consumer members who have no financial interest in the practice of electrology.

<sup>14</sup> Rule 64B8-50.003, F.A.C.

<sup>15</sup> SCMHR, *About Us*, available at <https://www.scmhr.org/about-scmhr> (last visited January 28, 2016).

<sup>16</sup> SCMHR, *Certification*, available at <https://www.scmhr.org/cert> (last visited January 28, 2016).

<sup>17</sup> *Id.* The Certified Medical Electrologist is the certification required for licensure in the state of Florida.

<sup>18</sup> The examination costs \$200 for SCMHR members and \$300 for nonmembers. Additionally, those sitting for the exam are charged a separate \$85 proctoring fee.

<sup>19</sup> SCMHR, *CME Frequently Asked Questions*, available at <https://www.scmhr.org/certified-medical-electrologist-cme/15-cme/157-cme-frequently-asked-questions> (last visited January 28, 2016).

which, an electrologist must either retake the exam or complete 75 hours of approved continuing education.<sup>20</sup>

### **Effect of Proposed Changes**

The bill defines the following terms:

- “Laser or pulsed-light device” means an electronic device approved by the United States Food and Drug Administration for laser hair removal.
- “Laser hair removal” means the use of a laser or pulsed-light device in a hair removal procedure that does not remove the epidermis.

The bill requires an electrologists who uses a laser or pulsed-light device to be certified by a nationally recognized electrology organization in the use of these devices and must have the appropriate training as defined by the board for each device used.

The bill provides an effective date of July 1, 2016.

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

**Section 1.** Amends s. 478.45, F.S., relating to requirements for licensure.

**Section 2.** Provides an effective date of July 1, 2016.

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

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

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

An electrologist who wishes to use laser or pulsed-light devices in his or her practice would be subject to the costs associated with obtaining national certification and training. However, since this requirement is currently in rule, the costs of such certification and training should remain the same.

#### **D. FISCAL COMMENTS:**

None.

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<sup>20</sup> SCMHHR, *Certified Medical Electrologist*, available at <https://www.scmhr.org/certified-medical-electrologist-cme> (last visited January 28, 2016).

### **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:**

None.

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

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**