

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 744

INTRODUCER: Health Policy Committee and Senator Grimsley

SUBJECT: Laser Hair Removal or Reduction

DATE: February 26, 2018 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rossitto-VanWinkle</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Hansen</u>	<u>AP</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 744 moves the regulation of electrolysis from the Board of Medicine (board) and the Electrolysis Council (EC) to the department level so that electrolysis will be directly regulated by the Department of Health (department). All powers and duties previously assigned to the board are assigned to the department and the EC is repealed.

The definition of “electrolysis or electrology” is revised to reflect technological advancements; removing reference to the permanent removal of hair by destroying the hair-producing cells of the skin and vascular system from the definition. The bill defines “electrolysis or electrology” as the permanent removal of hair using equipment and devices that have been cleared by and registered with the United States Food and Drug Administration (FDA).

The bill requires that a licensed electrologist who uses a laser or pulsed-light device in a laser hair removal or reduction procedure must be certified in the use of these devices. The bill also specifies that such licensees must follow the physician supervision protocols, unless exempt.

The bill repeals the authority to issue a temporary permit prior to issuing an electrologist license, and provides a one-year phase out process for temporary permits issued before October 1, 2018.

The bill has no fiscal impact on state revenues or expenditures.

The bill takes effect October 1, 2018.

II. Present Situation:

State Regulation of Electrology

The board within the Florida Department of Health (department) licenses, monitors, disciplines, educates, and rehabilitates physicians and other practitioners to assure their fitness and competence in the service of the people of Florida.¹ Electrology is a practice that is regulated by the board, with input by the EC.² The EC is a body that is housed within the board. These entities are given authority to investigate complaints, impose discipline on a license, and perform inspections related to electrolysis.³

“Electrolysis or electrology” is defined as 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 which have been cleared by, and registered with, the FDA and that are used pursuant to protocols approved by the board.⁴

The EC consists of five members appointed by the board. The EC meets quarterly and has the following responsibilities:⁵

- Approval and denial of applicants by examination and endorsement;
- Approval and denial of continuing education providers and electrolysis training programs;
- Authority to accept non-disciplinary voluntarily relinquishments;
- Authority to notice rules for development and to propose rules to the board; and
- Initial consideration of rulemaking proposals, petitions to adopt, amend, or repeal rules related to electrology and making recommendations to the board as to the appropriate action to be taken.

A person may not practice electrolysis or hold himself or herself out as an electrologist unless that person has an active valid Florida license.⁶ Specifically, an applicant for a license must:

- Be at least 18 years old;
- Be of good moral character;
- Possess a high school diploma or high school equivalency diploma;
- Have not committed in any jurisdiction an act that constitutes grounds for discipline as an electrologist in Florida;
- Have successfully completed the 120-hour electrolysis training program and board approved 200-hour practical application; and
- Have passed a written examination developed by the department or a national examination approved by the board.⁷

¹ FLORIDA BOARD OF MEDICINE, <http://flboardofmedicine.gov/> (last visited Feb. 19, 2018).

² See ch. 478, F.S., and Fla. Admin. Code R. 64B8-50 through 64B8-56.

³ ss. 478.43, 478.51, and 478.52, F.S.

⁴ Section 478.42(5), F.S.

⁵ Section 478.44, F.S., and Fla. Admin. Code R. 64B8-50.003.

⁶ Section 478.49(1), F.S.

⁷ Section 478.45(1) and (2), F.S., and Florida Department of Health, *Analysis of SB 744* (November 2, 2017)(on file with the Senate Subcommittee on General Government).

The department may issue temporary permits to qualified applicants to practice electrology that are valid until the next board meeting at which licensing decisions occur, or the next exam results are issued.⁸

The board, with the assistance of the EC,⁹ establishes minimum standards for the delivery of electrolysis services and adopts rules to implement ch. 478, F.S.¹⁰

Electrology facilities must be licensed by the department. The board is responsible for rulemaking to govern the licensure, operation, personnel, and safety and sanitary requirements of electrology facilities.¹¹

Use of Laser and Light-based Devices for Hair Removal or Reduction

The board has established by rule an allowance for a Florida electrologist to use laser and light-based devices for hair removal or reduction, which are procedures above the initial scope of licensure, if he or she:

- Has completed a 30-hour continuing education course approved by the EC;¹²
- Is certified in the use of laser and light-based devices for the removal or reduction of hair by a national certification organization approved by the EC and the board (i.e. passed the Certified Medical Electrologist Exam (CME) given by the Society for Clinical & Medical Hair Removal, Inc. (SCMHR));
- Is using only the laser and light-based hair removal or reduction devices upon which they have been trained; and
- Is operating under the direct supervision and responsibility of a physician¹³ properly trained in laser hair removal and licensed pursuant to chs. 458 or 459, F.S.¹⁴

The EC and the board have approved the SCMHR,¹⁵ as the national certification organization to certify Florida electrologists in the use of laser and pulse-light devices for the removal or reduction of hair.¹⁶ The SCMHR offers certification for use of laser and light-based devices, education programs for hair removal procedures, and membership services.¹⁷ The CME test that is required by the department is \$200 for members of the organization and \$300 for non-

⁸ Section 478.46, F.S.

⁹ Section 478.44, F.S., creates the Electrolysis Council, and specifies its membership and meeting requirements.

¹⁰ Section 478.43, F.S. See Rules 64B8-50 through 64B8-56, F.A.C., which regulate the licensure, practice, continuing education, and discipline of electrologists.

¹¹ Section 478.51, F.S.

¹² Fla. Admin. Code R. 64B8-52.004.

¹³ A physician cannot supervise more than four electrologists at any one time. Fla. Admin. Code R. 64B8-56.002(6).

¹⁴ Fla. Admin. Code R. 64B8-56.002(2).

¹⁵ The Society for Clinical & Medical Hair Removal, Inc., is an international non-profit organization with members in the United States, Canada, and abroad. The Society for Clinical & Medical Hair Removal offers four certifications through International Commission for Hair Removal Certification (ICHRC) competency-based certification examinations. These certifications enhance the professional growth of members and the Society, and all allied health practitioners, including physicians, electrologists, nurses and others authorized to practice in the jurisdiction in which they practice. See The Society of Clinical & Medical Hair Removal, Inc., *Certification* <https://www.scmhr.org/certification/> (last visited Feb. 8, 2018).

¹⁶ Department of Health, Licensing and Regulation, Electrolysis, *Laser Information* <http://www.floridahealth.gov/licensing-and-regulation/electrolysis/laser/index.html> (last visited Feb. 8, 2018).

¹⁷ THE SOCIETY FOR CLINICAL & MEDICAL HAIR REMOVAL, INC., *About Us*, <https://www.scmhr.org/> (last visited Feb. 20, 2018).

members.¹⁸ Certification that is obtained by passing the test lasts for five years, at which time either taking continuing education units (7.5 units at \$25 per¹⁹) or a reexamination is required to renew.²⁰ Membership costs \$195 annually.²¹ Currently, Florida electrologists using laser or light-based devices do not need to renew or maintain such certification to continue to use such devices.²²

If a licensee violates the Electrology Practice Act, he or she can be disciplined²³ and be given penalties set forth in s. 456.072, F.S., which include suspension, probation, fines, reprimands, refunds, and remedial education.²⁴

There are currently 1,329 active electrologist licenses, and 310 licensed electrolysis facilities, in Florida. The department does not distinguish in its reporting between those electrologists certified and those not certified in the use of lasers or pulse-light devices.²⁵

III. Effect of Proposed Changes:

The bill eliminates the EC and removes regulation of the practice of electrology from the board and provides the practice is directly regulated by the department. All powers and duties previously assigned to the board are assigned to the department. The bill preserves any current rules adopted by the department, the board, or the EC that relate to the practice of electrology so that they remain in effect, unless revised by the department or are superseded by other laws.

The definition of “electrolysis or electrology” is revised to reflect technological advancements; removing reference to the permanent removal of hair by destroying the hair-producing cells of the skin and vascular system from the definition. The bill defines “electrolysis or electrology” as the permanent removal of hair using equipment and devices that have been cleared by and registered with the FDA.

The bill requires a licensed electrologist who uses a laser or pulsed-light device in a laser hair removal or reduction procedure must be certified by a nationally recognized electrology organization in the use of these devices. The bill also specifies that such licensees must follow the physician supervision protocols under the Medical Practice Act or the Osteopathic Medical Practice Act, unless the licensee meets an exemption under either of those acts.

¹⁸ *Id.* at Certified Medical Electrologist (CME) Examination Application.

¹⁹ *Id.* at Membership (Membership Benefits).

²⁰ *Id.* at Certified Medical Electrologist (CME) Examination Application.

²¹ *Id.* at Membership Application.

²² Florida Department of Health, *Analysis of SB 744* (November 2, 2017)(on file with the Senate Subcommittee on General Government).

²³ Section 478.52, F.S.

²⁴ Section 456.072(2), F.S.

²⁵ The number of active Florida licenses was calculated by adding “In State Active,” “Out of State Active,” and “Military Active” practitioners. See Department of Health, Division of Medical Quality Assurance, Annual Report and Long Range Plan, Fiscal Year 2016-2017, *Summary of Licensed Practitioners*, pp. 11 and 14, <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1617.pdf> (last visited Feb. 8, 2018).

The bill repeals the department's authority to issue a temporary permit prior to issuing an electrologist license. Any temporary permits issued before October 1, 2018, remain valid until the earlier of:

- The applicant receives notice that he or she has failed the examination required for licensure, whereupon the temporary permit is automatically revoked;
- The department issues the applicant a license to practice electrology, or
- October 1, 2019; whereupon the temporary permit is automatically revoked.

The bill conforms changes in assigned responsibilities or authorizations from the board or the EC to the department.

The bill takes effect October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will increase costs on individuals to maintain an electrology license for those who use laser and pulsed-light devices because the licensee will have to maintain their SCMHR certification and pay costs associated with doing so every five years. Current policy is that after initial certification, licensees are not required to maintain CME certification to practice or renew licensure.

C. Government Sector Impact:

The department may incur costs related to rulemaking to move regulation of the practice of electrology from the EC and board to the department. According to the department, current resources are adequate to absorb these costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 478.42, 478.43, 478.45, 478.47, 478.49, 478.50, 478.51, 478.52, 478.53, and 478.55.

The bill repeals the following sections of Florida Statutes: 478.44 and 478.46.

This bill creates two undesignated sections of law.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Committee Substitute by Health Policy February 13, 2018:

The committee substitute:

- Retains the regulation of electrology in the department through the Division of Medical Quality Assurance, rather than transferring it to the Department of Business and Professional Regulation;
- References the direct physician supervision requirements;
- Provides a one year phase out for valid permits in good standing that exist on the effective date of the bill; and
- Preserves the electrology rules in place unless they are changed by the department or superseded by other laws.

B. Amendments:

None.