

By the Committee on Health Policy; and Senator Grimsley

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1 A bill to be entitled
2 An act relating to laser hair removal or reduction;
3 amending s. 478.42, F.S.; revising definitions;
4 amending s. 478.43, F.S.; providing rulemaking
5 authority to the Department of Health for regulating
6 electrolysis services; repealing ss. 478.44 and
7 478.46, F.S., relating to the Electrolysis Council and
8 temporary permits, respectively; providing for the
9 validity of temporary permits previously issued by the
10 Board of Medicine; providing for the expiration of
11 such permits by a specified date, upon the issuance of
12 a license to practice electrology, or upon notice that
13 the applicant failed a written examination; amending
14 s. 478.49, F.S.; providing certification requirements
15 for licensed electrologists who perform laser hair
16 removal or reduction; specifying that licensed
17 electrologists must meet certain direct supervision
18 requirements; providing an exception; amending ss.
19 478.45, 478.47, 478.50, 478.51, 478.52, 478.53, and
20 478.55, F.S.; conforming provisions to changes made by
21 the act; specifying that current rules relating to the
22 practice of electrology remain in full force and
23 effect unless revised by the department or superseded
24 by other laws; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 478.42, Florida Statutes, is amended to
29 read:

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

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

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

(1)~~(3)~~ "Department" means the Department of Health.

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

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

Section 2. Section 478.43, Florida Statutes, is amended to read:

478.43 Department Board of Medicine; powers and duties.—

(1) The department board, ~~with the assistance of the Electrolysis Council,~~ is authorized to establish minimum standards for the delivery of electrolysis services and to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter.

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

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

(3)~~(4)~~ The department board, ~~in consultation with the council,~~ shall recommend proposed rules, and the board shall adopt ~~rules for a code of ethics for electrologists and rules related to the curriculum and approval of electrolysis training~~

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59 programs, sanitary guidelines, the delivery of electrolysis
60 services, continuing education requirements, and any other area
61 related to the practice of electrology.

62 Section 3. Section 478.44, Florida Statutes, is repealed.

63 Section 4. Section 478.46, Florida Statutes, is repealed.

64 Section 5. A valid temporary permit issued pursuant to s.
65 478.46, Florida Statutes, before October 1, 2018, remains valid
66 until October 1, 2019, until the applicant receives notice that
67 he or she has failed the written examination required under s.
68 478.45, Florida Statutes, or until the Department of Health
69 issues the applicant a license to practice electrology,
70 whichever occurs first. If the department has not issued the
71 applicant a license to practice electrology by October 1, 2019,
72 or if the applicant receives notice that he or she has failed
73 the written examination, the applicant's temporary permit is
74 automatically revoked.

75 Section 6. Section 478.49, Florida Statutes, is amended to
76 read:

77 478.49 License and certification required.—

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

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

86 (3) A licensee who uses a laser or pulsed-light device in a
87 laser hair removal or reduction procedure must be certified by a

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88 nationally recognized electrology organization in the use of
89 these devices.

90 (4) A licensee must follow the direct supervision
91 requirements of ss. 458.348(2) and 459.025(2) unless exempt
92 under s. 458.348(3)(e) or s. 459.025(3)(e).

93 Section 7. Section 478.45, Florida Statutes, is amended to
94 read:

95 478.45 Requirements for licensure.—

96 (1) An applicant applying for licensure as an electrologist
97 shall file a written application, accompanied by the application
98 for licensure fee prescribed in s. 478.55, on a form provided by
99 the department ~~board~~, showing to the satisfaction of the
100 department ~~board~~ that the applicant:

101 (a) Is at least 18 years old.

102 (b) Is of good moral character.

103 (c) Possesses a high school diploma or a high school
104 equivalency diploma.

105 (d) Has not committed an act in any jurisdiction which
106 would constitute grounds for disciplining an electrologist in
107 this state.

108 (e) Has successfully completed the academic requirements of
109 an electrolysis training program, not to exceed 120 hours, and
110 the practical application thereof as approved by the department
111 ~~board~~.

112 (2) Each applicant for licensure must ~~shall~~ successfully
113 pass a written examination developed by the department or a
114 national examination that has been approved by the department
115 ~~board~~. The examinations must ~~shall~~ test the applicant's
116 knowledge relating to the practice of electrology, including the

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117 applicant's professional skills and judgment in the use of
118 electrolysis techniques and methods, and any other subjects that
119 ~~which~~ are useful to determine the applicant's fitness to
120 practice.

121 (3) The department, ~~upon approval of the board,~~ may adopt a
122 national examination in lieu of any part of the examination
123 required by this section. The department board, ~~with the~~
124 ~~assistance of the council,~~ shall establish standards for
125 acceptable performance.

126 (4) The department shall issue a license to practice
127 electrology to any applicant who passes the examination, pays
128 the licensure fee as set forth in s. 478.55, and otherwise meets
129 the requirements of this chapter.

130 (5) The department shall conduct licensure examinations at
131 least two times a year. The department shall give public notice
132 of the time and place of each examination at least 60 days
133 before it is administered and shall mail notice of such
134 examination to each applicant whose application is timely filed,
135 pursuant to department board rule.

136 (6) The department may not issue a license to any applicant
137 who is under investigation in another jurisdiction for an
138 offense that ~~which~~ would be a violation of this chapter, until
139 such investigation is complete. Upon completion of such
140 investigation, if the applicant is found guilty of such offense,
141 the department board shall apply the applicable provisions of s.
142 478.52.

143 Section 8. Section 478.47, Florida Statutes, is amended to
144 read:

145 478.47 Licensure by endorsement.—The department shall issue

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146 a license by endorsement to any applicant who submits an
147 application and the required fees as set forth in s. 478.55 and
148 who holds an active license or other authority to practice
149 electrology in a jurisdiction whose licensure requirements are
150 determined by the department board to be equivalent to the
151 requirements for licensure in this state.

152 Section 9. Subsections (2) and (4) of section 478.50,
153 Florida Statutes, are amended to read:

154 478.50 Renewal of license; delinquent status; address
155 notification; continuing education requirements.—

156 (2) A license that is not renewed at the end of the
157 biennium prescribed by the department automatically reverts to
158 delinquent status. The department board shall adopt rules
159 establishing procedures, criteria, and fees as set forth in s.
160 478.55 for reactivation of an inactive license.

161 (4) (a) An application for license renewal must be
162 accompanied by proof of the successful completion of 20 hours of
163 continuing education courses or proof of successfully passing a
164 reexamination for licensure within the immediately preceding
165 biennium which meets the criteria established by the department
166 ~~board~~. Both the continuing education and reexamination shall
167 contain education on blood-borne diseases.

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

172 (c) Continuing education programs shall be approved by the
173 department board. Applications for approval shall be submitted
174 to the department board not less than 60 days or ~~not~~ more than

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175 360 days before they are held.

176 Section 10. Subsections (2), (3), and (11) of section
177 478.51, Florida Statutes, are amended to read:

178 478.51 Electrology facilities; requisites; facility
179 licensure; inspection.—

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

183 (3) The department ~~board~~ shall adopt rules governing the
184 licensure and operations of such facilities, personnel, safety
185 and sanitary requirements, and the licensure application and
186 granting process.

187 (11) Renewal of license registration for electrology
188 facilities shall be accomplished pursuant to rules adopted by
189 the department ~~board~~.

190 Section 11. Section 478.52, Florida Statutes, is amended to
191 read:

192 478.52 Disciplinary proceedings.—

193 (1) The following acts constitute grounds for denial of a
194 license or disciplinary action, as specified in s. 456.072(2):

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

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

200 (c) Being convicted or found guilty of, or entering a plea
201 of nolo contendere to, regardless of adjudication, a crime, in
202 any jurisdiction, which directly relates to the practice of
203 electrology.

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204 (d) Willfully making or filing a false report or record,
205 willfully failing to file a report or record required for
206 electrologists, or willfully impeding or obstructing the filing
207 of a report or record required by this act or inducing another
208 person to do so.

209 (e) Circulating false, misleading, or deceptive
210 advertising.

211 (f) Unprofessional conduct, including any departure from,
212 or failure to conform to, acceptable standards related to the
213 delivery of electrolysis services.

214 (g) Engaging or attempting to engage in the illegal
215 possession, sale, or distribution of any illegal or controlled
216 substance.

217 (h) Willfully failing to report any known violation of this
218 chapter.

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

222 (j) Engaging in the delivery of electrolysis services
223 without an active license.

224 (k) Employing an unlicensed person to practice electrology.

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

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

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

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233 (o) Gross or repeated malpractice or the inability to
234 practice electrology with reasonable skill and safety.

235 (p) Judicially determined mental incompetency.

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

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

242 1. The department may, upon probable cause, compel a
243 licensee to submit to a mental or physical examination by
244 physicians designated by the department. The cost of an
245 examination shall be borne by the licensee, and her or his
246 failure to submit to such an examination constitutes an
247 admission of the allegations against her or him, consequent upon
248 which a default and a final order may be entered without the
249 taking of testimony or presentation of evidence, unless the
250 failure was due to circumstances beyond her or his control.

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

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

258 (s) Disclosing the identity of or information about a
259 patient without written permission, except for information which
260 does not identify a patient and which is used for training
261 purposes in an approved electrolysis training program.

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

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

266 (v) Violating any provision of this chapter or chapter 456,
267 or any rules adopted pursuant thereto.

268 (2) The department board ~~board~~ may enter an order denying
269 licensure, ~~or~~ imposing any of the penalties in s. 456.072(2), or
270 imposing costs as provided in s. 456.072(4) against any
271 applicant for licensure or licensee who is found guilty of
272 violating any provision of subsection (1) of this section or who
273 is found guilty of violating any provision of s. 456.072(1).

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

279 (4) The department board, ~~with the assistance of the~~
280 ~~council~~, may, by rule, establish guidelines for the disposition
281 of disciplinary cases involving specific types of violations.
282 The guidelines may include minimum and maximum fines, periods of
283 supervision on probation, or conditions upon probation or
284 reissuance of a license.

285 Section 12. Subsection (6) of section 478.53, Florida
286 Statutes, is amended to read:

287 478.53 Penalty for violations.—It is a misdemeanor of the
288 first degree, punishable as provided in s. 775.082 or s.
289 775.083, to:

290 (6) Practice or attempt to practice any permanent hair

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291 removal except as described in s. 478.42(3) ~~s. 478.42(5)~~.

292 Section 13. Subsection (1) of section 478.55, Florida
293 Statutes, is amended to read:

294 478.55 Fees; facility; disposition.—

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

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

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

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

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

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

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

304 Section 14. Any current rules adopted by the Department of
305 Health, the Board of Medicine, or the Electrolysis Council which
306 relate to the practice of electrology remain in full force and
307 effect unless revised by the Department of Health pursuant to
308 this act or superseded by other laws.

309 Section 15. This act shall take effect October 1, 2018.