

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Careers & Competition
2 Subcommittee

3 Representative Fine offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (a) of subsection (4) of section
8 20.165, Florida Statutes, is amended to read:

9 20.165 Department of Business and Professional

10 Regulation.—There is created a Department of Business and
11 Professional Regulation.

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

14 1. Board of Architecture and Interior Design, created
15 under part I of chapter 481.

Amendment No. 1

- 16 2. Florida Board of Auctioneers, created under part VI of
17 chapter 468.
- 18 3. Barbers' Board, created under chapter 476.
- 19 4. Florida Building Code Administrators and Inspectors
20 Board, created under part XII of chapter 468.
- 21 5. Construction Industry Licensing Board, created under
22 part I of chapter 489.
- 23 6. Board of Cosmetology, created under chapter 477.
- 24 7. Electrical Contractors' Licensing Board, created under
25 part II of chapter 489.
- 26 8. Board of Employee Leasing Companies, created under part
27 XI of chapter 468.
- 28 9. Board of Landscape Architecture, created under part II
29 of chapter 481.
- 30 10. Board of Pilot Commissioners, created under chapter
31 310.
- 32 11. Board of Professional Engineers, created under chapter
33 471.
- 34 12. Board of Professional Geologists, created under
35 chapter 492.
- 36 13. Board of Veterinary Medicine, created under chapter
37 474.
- 38 14. Home inspection services licensing program, created
39 under part XV of chapter 468.

Amendment No. 1

40 15. Mold-related services licensing program, created under
41 part XVI of chapter 468.

42 16. Electrolysis licensing program, created under chapter
43 478.

44 Section 2. Paragraph (g) of subsection (3) of section
45 20.43, Florida Statutes, is amended to read:

46 20.43 Department of Health.—There is created a Department
47 of Health.

48 (3) The following divisions of the Department of Health
49 are established:

50 (g) Division of Medical Quality Assurance, which is
51 responsible for the following boards and professions established
52 within the division:

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

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

55 3. The Board of Osteopathic Medicine, created under
56 chapter 459.

57 4. The Board of Chiropractic Medicine, created under
58 chapter 460.

59 5. The Board of Podiatric Medicine, created under chapter
60 461.

61 6. Naturopathy, as provided under chapter 462.

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

63 8. The Board of Nursing, created under part I of chapter
64 464.

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Published On: 1/12/2018 7:25:47 PM

Amendment No. 1

- 65 9. Nursing assistants, as provided under part II of
66 chapter 464.
- 67 10. The Board of Pharmacy, created under chapter 465.
- 68 11. The Board of Dentistry, created under chapter 466.
- 69 12. Midwifery, as provided under chapter 467.
- 70 13. The Board of Speech-Language Pathology and Audiology,
71 created under part I of chapter 468.
- 72 14. The Board of Nursing Home Administrators, created
73 under part II of chapter 468.
- 74 15. The Board of Occupational Therapy, created under part
75 III of chapter 468.
- 76 16. Respiratory therapy, as provided under part V of
77 chapter 468.
- 78 17. Dietetics and nutrition practice, as provided under
79 part X of chapter 468.
- 80 18. The Board of Athletic Training, created under part
81 XIII of chapter 468.
- 82 19. The Board of Orthotists and Prosthetists, created
83 under part XIV of chapter 468.
- 84 ~~20. Electrolysis, as provided under chapter 478.~~
- 85 20.21. The Board of Massage Therapy, created under chapter
86 480.
- 87 ~~21.22.~~ The Board of Clinical Laboratory Personnel, created
88 under part III of chapter 483.

Amendment No. 1

89 ~~22.23.~~ Medical physicists, as provided under part IV of
90 chapter 483.

91 ~~23.24.~~ The Board of Opticianry, created under part I of
92 chapter 484.

93 ~~24.25.~~ The Board of Hearing Aid Specialists, created under
94 part II of chapter 484.

95 ~~25.26.~~ The Board of Physical Therapy Practice, created
96 under chapter 486.

97 ~~26.27.~~ The Board of Psychology, created under chapter 490.

98 ~~27.28.~~ School psychologists, as provided under chapter
99 490.

100 ~~28.29.~~ The Board of Clinical Social Work, Marriage and
101 Family Therapy, and Mental Health Counseling, created under
102 chapter 491.

103 ~~29.30.~~ Emergency medical technicians and paramedics, as
104 provided under part III of chapter 401.

105 Section 3. Subsection (2) is amended and present
106 subsections (3) through (5) of section 458.348, Florida
107 Statutes, are redesignated as subsections (2) through (4),
108 respectively, to read:

109 ~~(2) PROTOCOLS REQUIRING DIRECT SUPERVISION. All protocols~~
110 ~~relating to electrolysis or electrology using laser or light-~~
111 ~~based hair removal or reduction by persons other than physicians~~
112 ~~licensed under this chapter or chapter 459 shall require the~~
113 ~~person performing such service to be appropriately trained and~~

576393 - h0965-stike.docx

Published On: 1/12/2018 7:25:47 PM

Amendment No. 1

114 ~~work only under the direct supervision and responsibility of a~~
115 ~~physician licensed under this chapter or chapter 459.~~

116 Section 4. Subsection (2) is amended and present
117 subsections (3) through (5) of section 459.025, Florida
118 Statutes, are redesignated as subsections (2) through (4),
119 respectively, to read:

120 ~~(2) PROTOCOLS REQUIRING DIRECT SUPERVISION. All protocols~~
121 ~~relating to electrolysis or electrology using laser or light-~~
122 ~~based hair removal or reduction by persons other than~~
123 ~~osteopathic physicians licensed under this chapter or chapter~~
124 ~~458 shall require the person performing such service to be~~
125 ~~appropriately trained and to work only under the direct~~
126 ~~supervision and responsibility of an osteopathic physician~~
127 ~~licensed under this chapter or chapter 458.~~

128 Section 5. Section 478.42, Florida Statutes, is amended to
129 read:

130 478.42 Definitions.—As used in this chapter, the term:

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

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

133 (1)(3) "Department" means the Department of Business and
134 Professional Regulation Health.

135 (2)(4) "Electrologist" means a person who engages in the
136 practice of electrolysis.

137 (3)(5) "Electrolysis or electrology" means the permanent
138 removal of hair ~~by destroying the hair-producing cells of the~~

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Published On: 1/12/2018 7:25:47 PM

Amendment No. 1

139 ~~skin and vascular system,~~ using equipment and devices that
140 ~~approved by the board which~~ have been cleared by and registered
141 with the United States Food and Drug Administration ~~and that are~~
142 ~~used pursuant to protocols approved by the board.~~

143 Section 6. Section 478.43, Florida Statutes, is amended to
144 read:

145 478.43 Department Board of Medicine; powers and duties.—

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

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

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

156 (4) The department board, ~~in consultation with the council,~~
157 ~~shall recommend proposed rules,~~ and the board shall adopt rules
158 ~~for a code of ethics for electrologists~~ and rules related to the
159 curriculum and approval of electrolysis training programs,
160 sanitary guidelines, the delivery of electrolysis services,
161 continuing education requirements, and any other area related to
162 the practice of electrology.

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

Amendment No. 1

164 Section 8. Section 478.45, Florida Statutes, is amended to
165 read:

166 478.45 Requirements for licensure.—

167 (1) An applicant applying for licensure as an
168 electrologist shall file a written application, accompanied by
169 the application for licensure fee prescribed in s. 478.55, on a
170 form provided by the department board, showing to the
171 satisfaction of the department board that the applicant:

172 (a) Is at least 18 years old.

173 (b) Is of good moral character.

174 (c) Possesses a high school diploma or a high school
175 equivalency diploma.

176 (d) Has not committed an act in any jurisdiction which
177 would constitute grounds for disciplining an electrologist in
178 this state.

179 (e) Has successfully completed the academic requirements
180 of an electrolysis training program, not to exceed 120 hours,
181 and the practical application thereof as approved by the
182 department board.

183 (2) Each applicant for licensure must ~~shall~~ successfully
184 pass a written examination developed by the department or a
185 national examination that has been approved by the department
186 ~~board~~. The examinations must ~~shall~~ test the applicant's
187 knowledge relating to the practice of electrology, including the
188 applicant's professional skills and judgment in the use of

Amendment No. 1

189 electrolysis techniques and methods, and any other subjects that
190 ~~which~~ are useful to determine the applicant's fitness to
191 practice.

192 (3) The department, ~~upon approval of the board,~~ may adopt
193 a national examination in lieu of any part of the examination
194 required by this section. The department board, ~~with the~~
195 ~~assistance of the council,~~ shall establish standards for
196 acceptable performance.

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

201 (5) The department shall conduct licensure examinations at
202 least two times a year. The department shall give public notice
203 of the time and place of each examination at least 60 days
204 before it is administered and shall mail notice of such
205 examination to each applicant whose application is timely filed,
206 pursuant to department board rule.

207 (6) The department may not issue a license to any
208 applicant who is under investigation in another jurisdiction for
209 an offense that ~~which~~ would be a violation of this chapter,
210 until such investigation is complete. Upon completion of such
211 investigation, if the applicant is found guilty of such offense,
212 the department board shall apply the applicable provisions of s.
213 478.52.

Amendment No. 1

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

215 Section 10. Section 478.47, Florida Statutes, is amended
216 to read:

217 478.47 Licensure by endorsement.—The department shall
218 issue a license by endorsement to any applicant who submits an
219 application and the required fees as set forth in s. 478.55 and
220 who holds an active license or other authority to practice
221 electrology in a jurisdiction whose licensure requirements are
222 determined by the department board ~~board~~ to be equivalent to the
223 requirements for licensure in this state.

224 Section 11. Section 478.49, Florida Statutes, is amended
225 to read:

226 478.49 License and certification required.—

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

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

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

Amendment No. 1

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

241 478.50 Renewal of license; delinquent status; address
242 notification; continuing education requirements.—

243 (2) A license that is not renewed at the end of the
244 biennium prescribed by the department automatically reverts to
245 delinquent status. The department board shall adopt rules
246 establishing procedures, criteria, and fees as set forth in s.
247 478.55 for reactivation of an inactive license.

248 (4) (a) An application for license renewal must be
249 accompanied by proof of the successful completion of 20 hours of
250 continuing education courses or proof of successfully passing a
251 reexamination for licensure within the immediately preceding
252 biennium which meets the criteria established by the department
253 ~~board~~. Both the continuing education and reexamination shall
254 contain education on blood-borne diseases.

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

259 (c) Continuing education programs shall be approved by the
260 department board. Applications for approval shall be submitted
261 to the department board not less than 60 days or ~~not~~ more than
262 360 days before they are held.

Amendment No. 1

263 Section 13. Subsections (2), (3), and (11) of section
264 478.51, Florida Statutes, are amended to read:

265 478.51 Electrology facilities; requisites; facility
266 licensure; inspection.—

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

270 (3) The department ~~board~~ shall adopt rules governing the
271 licensure and operations of such facilities, personnel, safety
272 and sanitary requirements, and the licensure application and
273 granting process.

274 (11) Renewal of license registration for electrology
275 facilities shall be accomplished pursuant to rules adopted by
276 the department ~~board~~.

277 Section 14. Section 478.52, Florida Statutes, is amended
278 to read:

279 478.52 Disciplinary proceedings.—

280 (1) The following acts constitute grounds for denial of a
281 license or disciplinary action, as specified in s. 455.227(2) ~~s.~~
282 ~~456.072(2)~~:

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

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

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Amendment No. 1

288 (c) Being convicted or found guilty of, or entering a plea
289 of nolo contendere to, regardless of adjudication, a crime, in
290 any jurisdiction, which directly relates to the practice of
291 electrology.

292 (d) Willfully making or filing a false report or record,
293 willfully failing to file a report or record required for
294 electrologists, or willfully impeding or obstructing the filing
295 of a report or record required by this act or inducing another
296 person to do so.

297 (e) Circulating false, misleading, or deceptive
298 advertising.

299 (f) Unprofessional conduct, including any departure from,
300 or failure to conform to, acceptable standards related to the
301 delivery of electrolysis services.

302 (g) Engaging or attempting to engage in the illegal
303 possession, sale, or distribution of any illegal or controlled
304 substance.

305 (h) Willfully failing to report any known violation of
306 this chapter.

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

310 (j) Engaging in the delivery of electrolysis services
311 without an active license.

Amendment No. 1

312 (k) Employing an unlicensed person to practice
313 electrology.

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

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

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

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

324 (p) Judicially determined mental incompetency.

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

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

331 1. The department may, upon probable cause, compel a
332 licensee to submit to a mental or physical examination by
333 physicians designated by the department. The cost of an
334 examination shall be borne by the licensee, and her or his
335 failure to submit to such an examination constitutes an
336 admission of the allegations against her or him, consequent upon

Amendment No. 1

337 which a default and a final order may be entered without the
338 taking of testimony or presentation of evidence, unless the
339 failure was due to circumstances beyond her or his control.

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

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

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

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

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

355 (v) Violating any provision of this chapter or chapter 455
356 ~~456~~, or any rules adopted pursuant thereto.

357 (2) The department ~~board~~ may enter an order denying
358 licensure, ~~or~~ imposing any of the penalties in s. 455.227(2), or
359 imposing costs as provided in s. 455.227(3) ~~s. 456.072(2)~~
360 against any applicant for licensure or licensee who is found
361 guilty of violating any provision of subsection (1) of this

Amendment No. 1

362 section or who is found guilty of violating any provision of s.
363 455.227(1) ~~s. 456.072(1)~~.

364 (3) The department board may not issue or reinstate a
365 license to a person it has deemed unqualified until it is
366 satisfied that such person has complied with the terms and
367 conditions of the final order and that the licensee can safely
368 practice electrology.

369 (4) The department board, ~~with the assistance of the~~
370 ~~council~~, may, by rule, establish guidelines for the disposition
371 of disciplinary cases involving specific types of violations.
372 The guidelines may include minimum and maximum fines, periods of
373 supervision on probation, or conditions upon probation or
374 reissuance of a license.

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

377 478.53 Penalty for violations.—It is a misdemeanor of the
378 first degree, punishable as provided in s. 775.082 or s.
379 775.083, to:

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

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

384 478.55 Fees; facility; disposition.—

385 (1) The department board shall establish by rule the
386 collection of fees for the following purposes:

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Amendment No. 1

- 387 (a) License application fee: a fee not to exceed \$100.
388 (b) Examination fee: a fee not to exceed \$300.
389 (c) Initial licensure fee: a fee not to exceed \$100.
390 (d) Renewal fee: a fee not to exceed \$100 biennially.
391 (e) Reactivation fee: a fee not to exceed \$100.
392 (f) Inspection fee for facility: a fee not to exceed \$100
393 biennially.

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

396 456.037 Business establishments; requirements for active
397 status licenses; delinquency; discipline; applicability.-

398 (5) This section applies to any business establishment
399 registered, permitted, or licensed by the department to do
400 business. Business establishments include, but are not limited
401 to, dental laboratories, ~~electrology facilities,~~ massage
402 establishments, pharmacies, and pain-management clinics required
403 to be registered under s. 458.3265 or s. 459.0137.

404 Section 18. (1) All of the statutory powers, duties, and
405 functions, records, personnel, property, and unexpended balances
406 of appropriations, allocations, or other funds for the
407 administration of chapter 478, Florida Statutes, relating to
408 electrolysis are transferred by a type two transfer, as defined
409 in s. 20.06(2), Florida Statutes, from the Department of Health
410 to the Department of Business and Professional Regulation.

Amendment No. 1

411 (2) The transfer of regulatory authority under chapter
412 478, Florida Statutes, provided by this section may not affect
413 the validity of any judicial or administrative action pending as
414 of 11:59 p.m. on the day before the effective date of this
415 section to which the Department of Health is at that time a
416 party, and the Department of Business and Professional
417 Regulation is substituted as a party in interest in any such
418 action.

419 (3) All lawful orders issued by the Department of Health
420 implementing or enforcing or otherwise in regard to any
421 provision of chapter 478, Florida Statutes, issued before the
422 effective date of this section shall remain in effect and
423 enforceable after the effective date of this section unless
424 thereafter modified in accordance with law.

425 (4) Notwithstanding the transfer of regulatory authority
426 under chapter 478, Florida Statutes, provided by this section,
427 persons and entities holding in good standing any permit under
428 chapter 478, Florida Statutes, as of 11:59 p.m. on the day
429 before the effective date of this section are, as of the
430 effective date of this section, deemed to hold in good standing
431 a permit in the same capacity as that for which the permit was
432 formerly issued.

433 (5) Notwithstanding the transfer of regulatory authority
434 under chapter 478, Florida Statutes, provided by this section,
435 persons holding in good standing any certification issued under

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Published On: 1/12/2018 7:25:47 PM

Amendment No. 1

436 chapter 478, Florida Statutes, or rules adopted pursuant
437 thereto, as of 11:59 p.m. on the day before the effective date
438 of this section are, as of the effective date of this section,
439 deemed to be certified in the same capacity in which they were
440 formerly certified.

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

442

443 -----

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T I T L E A M E N D M E N T

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Remove lines 6-7 and insert:

446

Regulation; amending ss. 458.348 and 459.025, F.S., removing the

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direct supervision requirement; amending s. 478.42, F.S.;

448

revising definitions; amending s. 478.43, F.S., providing

449

rulemaking authority to the Department of Business and

450

Professional Regulation; repealing ss. 478.44 and 478.46,