

1                   A bill to be entitled  
2           An act relating to laser hair removal or reduction;  
3           amending ss. 20.165 and 20.43, F.S.; transferring the  
4           regulation of electrology from the Department of  
5           Health to the Department of Business and Professional  
6           Regulation; amending s. 478.42, F.S.; revising  
7           definitions; repealing ss. 478.43, 478.44, and 478.46,  
8           F.S., relating to the Board of Medicine, the  
9           Electrolysis Council, and temporary permits,  
10          respectively; amending s. 478.49, F.S.; providing  
11          certification requirements for licensed electrologists  
12          who perform laser hair removal or reduction;  
13          conforming a provision to changes made by the act;  
14          amending ss. 456.037, 478.45, 478.47, 478.50, 478.51,  
15          478.52, 478.53, and 478.55, F.S.; conforming  
16          provisions to changes made by the act; providing that  
17          the statutory powers, duties, and functions, records,  
18          personnel, property, and unexpended balances of  
19          appropriations, allocations, or other funds for the  
20          administration of ch. 478, F.S., relating to  
21          electrolysis are transferred by a type two transfer  
22          from the Department of Health to the Department of  
23          Business and Professional Regulation; declaring that  
24          the transfer may not affect the validity of any  
25          judicial or administrative action pending as of a

26 certain date; specifying that certain lawful orders  
27 remain in effect and enforceable; providing that  
28 certain permits and certifications issued by the  
29 Department of Health are valid; providing an effective  
30 date.

31  
32 Be It Enacted by the Legislature of the State of Florida:

33  
34 Section 1. Paragraph (a) of subsection (4) of section  
35 20.165, Florida Statutes, is amended to read:

36 20.165 Department of Business and Professional  
37 Regulation.—There is created a Department of Business and  
38 Professional Regulation.

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

- 41 1. Board of Architecture and Interior Design, created  
42 under part I of chapter 481.
- 43 2. Florida Board of Auctioneers, created under part VI of  
44 chapter 468.
- 45 3. Barbers' Board, created under chapter 476.
- 46 4. Florida Building Code Administrators and Inspectors  
47 Board, created under part XII of chapter 468.
- 48 5. Construction Industry Licensing Board, created under  
49 part I of chapter 489.
- 50 6. Board of Cosmetology, created under chapter 477.

51           7. Electrical Contractors' Licensing Board, created under  
52 part II of chapter 489.

53           8. Board of Employee Leasing Companies, created under part  
54 XI of chapter 468.

55           9. Board of Landscape Architecture, created under part II  
56 of chapter 481.

57           10. Board of Pilot Commissioners, created under chapter  
58 310.

59           11. Board of Professional Engineers, created under chapter  
60 471.

61           12. Board of Professional Geologists, created under  
62 chapter 492.

63           13. Board of Veterinary Medicine, created under chapter  
64 474.

65           14. Home inspection services licensing program, created  
66 under part XV of chapter 468.

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

69           16. Electrolysis licensing program, created under chapter  
70 478.

71           Section 2. Paragraph (g) of subsection (3) of section  
72 20.43, Florida Statutes, is amended to read:

73           20.43 Department of Health.—There is created a Department  
74 of Health.

75           (3) The following divisions of the Department of Health

76 | are established:

77 |       (g) Division of Medical Quality Assurance, which is  
78 | responsible for the following boards and professions established  
79 | within the division:

80 |       1. The Board of Acupuncture, created under chapter 457.

81 |       2. The Board of Medicine, created under chapter 458.

82 |       3. The Board of Osteopathic Medicine, created under  
83 | chapter 459.

84 |       4. The Board of Chiropractic Medicine, created under  
85 | chapter 460.

86 |       5. The Board of Podiatric Medicine, created under chapter  
87 | 461.

88 |       6. Naturopathy, as provided under chapter 462.

89 |       7. The Board of Optometry, created under chapter 463.

90 |       8. The Board of Nursing, created under part I of chapter  
91 | 464.

92 |       9. Nursing assistants, as provided under part II of  
93 | chapter 464.

94 |       10. The Board of Pharmacy, created under chapter 465.

95 |       11. The Board of Dentistry, created under chapter 466.

96 |       12. Midwifery, as provided under chapter 467.

97 |       13. The Board of Speech-Language Pathology and Audiology,  
98 | created under part I of chapter 468.

99 |       14. The Board of Nursing Home Administrators, created  
100 | under part II of chapter 468.

101           15. The Board of Occupational Therapy, created under part  
102 III of chapter 468.

103           16. Respiratory therapy, as provided under part V of  
104 chapter 468.

105           17. Dietetics and nutrition practice, as provided under  
106 part X of chapter 468.

107           18. The Board of Athletic Training, created under part  
108 XIII of chapter 468.

109           19. The Board of Orthotists and Prosthetists, created  
110 under part XIV of chapter 468.

111           ~~20. Electrolysis, as provided under chapter 478.~~

112           20.21. The Board of Massage Therapy, created under chapter  
113 480.

114           21.22. The Board of Clinical Laboratory Personnel, created  
115 under part III of chapter 483.

116           22.23. Medical physicists, as provided under part IV of  
117 chapter 483.

118           23.24. The Board of Opticianry, created under part I of  
119 chapter 484.

120           24.25. The Board of Hearing Aid Specialists, created under  
121 part II of chapter 484.

122           25.26. The Board of Physical Therapy Practice, created  
123 under chapter 486.

124           26.27. The Board of Psychology, created under chapter 490.

125           27.28. School psychologists, as provided under chapter

126 | 490.

127 |       ~~28.29.~~ The Board of Clinical Social Work, Marriage and  
128 | Family Therapy, and Mental Health Counseling, created under  
129 | chapter 491.

130 |       ~~29.30.~~ Emergency medical technicians and paramedics, as  
131 | provided under part III of chapter 401.

132 |       Section 3. Section 478.42, Florida Statutes, is amended to  
133 | read:

134 |       478.42 Definitions.—As used in this chapter, the term:

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

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

137 |       ~~(1)~~(3) "Department" means the Department of Business and  
138 | Professional Regulation Health.

139 |       ~~(2)~~(4) "Electrologist" means a person who engages in the  
140 | practice of electrolysis.

141 |       ~~(3)~~(5) "Electrolysis or electrology" means the permanent  
142 | removal of hair ~~by destroying the hair-producing cells of the~~  
143 | ~~skin and vascular system,~~ using equipment and devices that  
144 | ~~approved by the board which~~ have been cleared by and registered  
145 | with the United States Food and Drug Administration ~~and that are~~  
146 | ~~used pursuant to protocols approved by the board.~~

147 |       Section 4. Section 478.43, Florida Statutes, is repealed.

148 |       Section 5. Section 478.44, Florida Statutes, is repealed.

149 |       Section 6. Section 478.45, Florida Statutes, is amended to  
150 | read:

151 478.45 Requirements for licensure.—

152 (1) An applicant applying for licensure as an  
153 electrologist shall file a written application, accompanied by  
154 the application for licensure fee prescribed in s. 478.55, on a  
155 form provided by the department ~~board~~, showing to the  
156 satisfaction of the department ~~board~~ that the applicant:

157 (a) Is at least 18 years old.

158 (b) Is of good moral character.

159 (c) Possesses a high school diploma or a high school  
160 equivalency diploma.

161 (d) Has not committed an act in any jurisdiction which  
162 would constitute grounds for disciplining an electrologist in  
163 this state.

164 (e) Has successfully completed the academic requirements  
165 of an electrolysis training program, not to exceed 120 hours,  
166 and the practical application thereof as approved by the  
167 department ~~board~~.

168 (2) Each applicant for licensure must ~~shall~~ successfully  
169 pass a written examination developed by the department or a  
170 national examination that has been approved by the department  
171 ~~board~~. The examinations must ~~shall~~ test the applicant's  
172 knowledge relating to the practice of electrology, including the  
173 applicant's professional skills and judgment in the use of  
174 electrolysis techniques and methods, and any other subjects that  
175 ~~which~~ are useful to determine the applicant's fitness to

176 | practice.

177 |         (3) The department, ~~upon approval of the board,~~ may adopt  
 178 | a national examination in lieu of any part of the examination  
 179 | required by this section. The department board, ~~with the~~  
 180 | ~~assistance of the council,~~ shall establish standards for  
 181 | acceptable performance.

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

186 |         (5) The department shall conduct licensure examinations at  
 187 | least two times a year. The department shall give public notice  
 188 | of the time and place of each examination at least 60 days  
 189 | before it is administered and shall mail notice of such  
 190 | examination to each applicant whose application is timely filed,  
 191 | pursuant to department board rule.

192 |         (6) The department may not issue a license to any  
 193 | applicant who is under investigation in another jurisdiction for  
 194 | an offense that ~~which~~ would be a violation of this chapter,  
 195 | until such investigation is complete. Upon completion of such  
 196 | investigation, if the applicant is found guilty of such offense,  
 197 | the department board shall apply the applicable provisions of s.  
 198 | 478.52.

199 |         Section 7. Section 478.46, Florida Statutes, is repealed.

200 |         Section 8. Section 478.47, Florida Statutes, is amended to



201 read:

202 478.47 Licensure by endorsement.—The department shall  
 203 issue a license by endorsement to any applicant who submits an  
 204 application and the required fees as set forth in s. 478.55 and  
 205 who holds an active license or other authority to practice  
 206 electrology in a jurisdiction whose licensure requirements are  
 207 determined by the department ~~board~~ to be equivalent to the  
 208 requirements for licensure in this state.

209 Section 9. Section 478.49, Florida Statutes, is amended to  
 210 read:

211 478.49 License and certification required.—

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

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

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

224 Section 10. Subsections (2) and (4) of section 478.50,  
 225 Florida Statutes, are amended to read:

226 478.50 Renewal of license; delinquent status; address  
 227 notification; continuing education requirements.—

228 (2) A license that is not renewed at the end of the  
 229 biennium prescribed by the department automatically reverts to  
 230 delinquent status. The department ~~board~~ shall adopt rules  
 231 establishing procedures, criteria, and fees as set forth in s.  
 232 478.55 for reactivation of an inactive license.

233 (4) (a) An application for license renewal must be  
 234 accompanied by proof of the successful completion of 20 hours of  
 235 continuing education courses or proof of successfully passing a  
 236 reexamination for licensure within the immediately preceding  
 237 biennium which meets the criteria established by the department  
 238 ~~board~~. Both the continuing education and reexamination shall  
 239 contain education on blood-borne diseases.

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

244 (c) Continuing education programs shall be approved by the  
 245 department ~~board~~. Applications for approval shall be submitted  
 246 to the department ~~board~~ not less than 60 days or ~~nor~~ more than  
 247 360 days before they are held.

248 Section 11. Subsections (2), (3), and (11) of section  
 249 478.51, Florida Statutes, are amended to read:

250 478.51 Electrology facilities; requisites; facility

251 licensure; inspection.-

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

255 (3) The department ~~board~~ shall adopt rules governing the  
 256 licensure and operations of such facilities, personnel, safety  
 257 and sanitary requirements, and the licensure application and  
 258 granting process.

259 (11) Renewal of license registration for electrology  
 260 facilities shall be accomplished pursuant to rules adopted by  
 261 the department ~~board~~.

262 Section 12. Section 478.52, Florida Statutes, is amended  
 263 to read:

264 478.52 Disciplinary proceedings.-

265 (1) The following acts constitute grounds for denial of a  
 266 license or disciplinary action, as specified in s. 455.227(2) ~~s.~~  
 267 ~~456.072(2)~~:

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

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

273 (c) Being convicted or found guilty of, or entering a plea  
 274 of nolo contendere to, regardless of adjudication, a crime, in  
 275 any jurisdiction, which directly relates to the practice of

276 electrology.

277 (d) Willfully making or filing a false report or record,  
 278 willfully failing to file a report or record required for  
 279 electrologists, or willfully impeding or obstructing the filing  
 280 of a report or record required by this act or inducing another  
 281 person to do so.

282 (e) Circulating false, misleading, or deceptive  
 283 advertising.

284 (f) Unprofessional conduct, including any departure from,  
 285 or failure to conform to, acceptable standards related to the  
 286 delivery of electrolysis services.

287 (g) Engaging or attempting to engage in the illegal  
 288 possession, sale, or distribution of any illegal or controlled  
 289 substance.

290 (h) Willfully failing to report any known violation of  
 291 this chapter.

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

295 (j) Engaging in the delivery of electrolysis services  
 296 without an active license.

297 (k) Employing an unlicensed person to practice  
 298 electrology.

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

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

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

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

309 (p) Judicially determined mental incompetency.

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

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

316 1. The department may, upon probable cause, compel a  
 317 licensee to submit to a mental or physical examination by  
 318 physicians designated by the department. The cost of an  
 319 examination shall be borne by the licensee, and her or his  
 320 failure to submit to such an examination constitutes an  
 321 admission of the allegations against her or him, consequent upon  
 322 which a default and a final order may be entered without the  
 323 taking of testimony or presentation of evidence, unless the  
 324 failure was due to circumstances beyond her or his control.

325 2. A licensee who is disciplined under this paragraph

326 shall, at reasonable intervals, be afforded an opportunity to  
327 demonstrate that she or he can resume the practice of  
328 electrology with reasonable skill and safety.

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

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

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

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

340 (v) Violating any provision of this chapter or chapter 455  
341 ~~456~~, or any rules adopted pursuant thereto.

342 (2) The department ~~board~~ may enter an order denying  
343 licensure, ~~or~~ imposing any of the penalties in s. 455.227(2), or  
344 imposing costs as provided in s. 455.227(3) ~~s. 456.072(2)~~  
345 against any applicant for licensure or licensee who is found  
346 guilty of violating any provision of subsection (1) of this  
347 section or who is found guilty of violating any provision of s.  
348 455.227(1) ~~s. 456.072(1)~~.

349 (3) The department ~~board~~ may not issue or reinstate a  
350 license to a person it has deemed unqualified until it is

351 satisfied that such person has complied with the terms and  
 352 conditions of the final order and that the licensee can safely  
 353 practice electrology.

354 (4) The department board, ~~with the assistance of the~~  
 355 ~~council~~, may, by rule, establish guidelines for the disposition  
 356 of disciplinary cases involving specific types of violations.  
 357 The guidelines may include minimum and maximum fines, periods of  
 358 supervision on probation, or conditions upon probation or  
 359 reissuance of a license.

360 Section 13. Subsection (6) of section 478.53, Florida  
 361 Statutes, is amended to read:

362 478.53 Penalty for violations.—It is a misdemeanor of the  
 363 first degree, punishable as provided in s. 775.082 or s.  
 364 775.083, to:

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

367 Section 14. Subsection (1) of section 478.55, Florida  
 368 Statutes, is amended to read:

369 478.55 Fees; facility; disposition.—

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

- 372 (a) License application fee: a fee not to exceed \$100.
- 373 (b) Examination fee: a fee not to exceed \$300.
- 374 (c) Initial licensure fee: a fee not to exceed \$100.
- 375 (d) Renewal fee: a fee not to exceed \$100 biennially.

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

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

379 Section 15. Subsection (5) of section 456.037, Florida  
 380 Statutes, is amended to read:

381 456.037 Business establishments; requirements for active  
 382 status licenses; delinquency; discipline; applicability.—

383 (5) This section applies to any business establishment  
 384 registered, permitted, or licensed by the department to do  
 385 business. Business establishments include, but are not limited  
 386 to, dental laboratories, ~~electrology facilities,~~ massage  
 387 establishments, pharmacies, and pain-management clinics required  
 388 to be registered under s. 458.3265 or s. 459.0137.

389 Section 16. (1) All of the statutory powers, duties, and  
 390 functions, records, personnel, property, and unexpended balances  
 391 of appropriations, allocations, or other funds for the  
 392 administration of chapter 478, Florida Statutes, relating to  
 393 electrolysis are transferred by a type two transfer, as defined  
 394 in s. 20.06(2), Florida Statutes, from the Department of Health  
 395 to the Department of Business and Professional Regulation.

396 (2) The transfer of regulatory authority under chapter  
 397 478, Florida Statutes, provided by this section may not affect  
 398 the validity of any judicial or administrative action pending as  
 399 of 11:59 p.m. on the day before the effective date of this  
 400 section to which the Department of Health is at that time a



401 party, and the Department of Business and Professional  
402 Regulation is substituted as a party in interest in any such  
403 action.

404 (3) All lawful orders issued by the Department of Health  
405 implementing or enforcing or otherwise in regard to any  
406 provision of chapter 478, Florida Statutes, issued before the  
407 effective date of this section shall remain in effect and  
408 enforceable after the effective date of this section unless  
409 thereafter modified in accordance with law.

410 (4) Notwithstanding the transfer of regulatory authority  
411 under chapter 478, Florida Statutes, provided by this section,  
412 persons and entities holding in good standing any permit under  
413 chapter 478, Florida Statutes, as of 11:59 p.m. on the day  
414 before the effective date of this section are, as of the  
415 effective date of this section, deemed to hold in good standing  
416 a permit in the same capacity as that for which the permit was  
417 formerly issued.

418 (5) Notwithstanding the transfer of regulatory authority  
419 under chapter 478, Florida Statutes, provided by this section,  
420 persons holding in good standing any certification issued under  
421 chapter 478, Florida Statutes, or rules adopted pursuant  
422 thereto, as of 11:59 p.m. on the day before the effective date  
423 of this section are, as of the effective date of this section,  
424 deemed to be certified in the same capacity in which they were  
425 formerly certified.

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426 | Section 17. This act shall take effect July 1, 2018. |