

1 A bill to be entitled
2 An act relating to electrolysis; amending s. 478.41,
3 F.S.; revising legislative findings; amending s.
4 478.42, F.S.; providing and revising definitions;
5 amending s. 478.43, F.S.; revising the powers and
6 duties of the Board of Medicine; amending s. 478.44,
7 F.S.; creating the Electrolysis Advisory Council
8 within the Department of Health; providing membership,
9 powers, and duties of the council; amending s. 478.45,
10 F.S.; revising the academic requirements for licensure
11 as an electrologist; providing that a national
12 examination may be provided by a department approved
13 national electrology organization; conforming
14 provisions to changes made by the act; repealing s.
15 478.46, F.S., relating to temporary permits to
16 practice electrolysis; amending s. 478.47, F.S.;
17 conforming provisions to changes made by the act;
18 amending s. 478.49, F.S.; requiring a licensee to
19 display his or her national certification if
20 applicable; providing certification and training
21 requirements for the use of specified devices by
22 licensed electrologists who perform laser hair removal
23 or reduction; amending s. 478.50, F.S.; requiring
24 licensees that use specified devices to provide the
25 Department of Health with proof of a current national

26 certification for licensure renewal; providing
27 rulemaking authority to the Board of Medicine;
28 requiring the board to approve continuing education
29 providers; amending s. 478.51, F.S.; providing
30 applicability; amending s. 478.52, F.S.; revising
31 grounds for denial of a license or disciplinary
32 action; authorizing the department to issue an order
33 to compel a licensee to submit to a mental or physical
34 examination; providing recourse to the department if a
35 licensee refuses to comply with the order; amending s.
36 478.53, F.S.; conforming provisions to changes made by
37 the act; providing an effective date.

38
39 Be It Enacted by the Legislature of the State of Florida:

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41 Section 1. Section 478.41, Florida Statutes, is amended to
42 read:

43 478.41 Purpose and intent.—The purpose of this chapter is
44 to provide for the licensure of persons who deliver electrolysis
45 services and to ensure that they meet certain requirements. It
46 is the finding of the Legislature that the practice of
47 electrology, including the use of laser and light-based devices
48 for hair removal or reduction by unskilled or incompetent
49 persons presents a danger to the public health and safety.
50 Because it is difficult for the public to make informed choices

51 related to electrolysis services and since the consequences of
 52 wrong choices can harm the public health and safety, it is the
 53 intent of the Legislature to prohibit the delivery of
 54 electrolysis services by persons who do not possess the
 55 necessary skills or who otherwise present a danger to the
 56 public. However, restrictions may be imposed only to the extent
 57 necessary to protect the public and in a manner that will not
 58 unreasonably affect the competitive market for the delivery of
 59 such services.

60 Section 2. Section 478.42, Florida Statutes, is amended to
 61 read:

62 478.42 Definitions.—As used in this chapter, the term:

- 63 (1) "Board" means the Board of Medicine.
- 64 (2) "Council" means the Electrolysis Advisory Council.
- 65 (3) "Department" means the Department of Health.
- 66 (4) "Electrologist" means a person who engages in the
 67 practice of electrolysis.

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

74 (6) "Hair removal or reduction" means the use of a laser
 75 or light-based device in a hair removal or reduction procedure

76 that does not remove the epidermis and is conducted under the
 77 direct supervision and responsibility of a licensed practitioner
 78 pursuant to s. 458.348 or s. 459.025.

79 (7) "Laser or light-based device" means an electronic
 80 medical device approved by the United States Food and Drug
 81 Administration for hair removal or reduction.

82 (8) "Licensed practitioner" means a person who is licensed
 83 or otherwise authorized to practice medicine in this state
 84 pursuant to chapter 458 or osteopathic medicine pursuant to
 85 chapter 459.

86 Section 3. Section 478.43, Florida Statutes, is amended to
 87 read:

88 478.43 Board of Medicine; powers and duties.—

89 (1) The board may request, ~~with~~ the assistance of the
 90 Electrolysis Advisory Council in setting, ~~is authorized to~~
 91 ~~establish~~ minimum standards for the delivery of electrolysis
 92 services. The board may and to adopt rules pursuant to ss.
 93 120.536(1) and 120.54 to implement the provisions of this
 94 chapter.

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

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

100 (3)(4) ~~The board, in consultation with the council, shall~~

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101 ~~recommend proposed rules, and the board shall adopt rules for~~
102 ~~standards of practice a code of ethics for electrologists and~~
103 ~~rules related to the curriculum and approval of electrolysis~~
104 ~~training programs, sanitary guidelines, the delivery of~~
105 ~~electrolysis services, continuing education requirements, and~~
106 ~~any other area related to the practice of electrology.~~

107 Section 4. Section 478.44, Florida Statutes, is amended to
108 read:

109 478.44 Electrolysis Advisory Council; creation; function;
110 powers and duties.-

111 (1) There is created the Electrolysis Advisory Council
112 within the Department of Health ~~under the supervision of the~~
113 ~~board.~~

114 (2) ~~(a)~~ The council shall consist of three ~~five~~ members who
115 must be licensed practitioners. The members shall be appointed
116 by the State Surgeon General for 3 year terms. The members may
117 not serve more than two consecutive terms ~~board. Three members~~
118 ~~must be licensed electrologists who have been actively engaged~~
119 ~~in the delivery of electrolysis services in this state for at~~
120 ~~least 4 consecutive years prior to their appointment and who are~~
121 ~~not affiliated with an electrolysis school or manufacturer or~~
122 ~~supplier of electrolysis equipment or supplies. Two consumer~~
123 ~~members must be residents of this state who have never been~~
124 ~~licensed electrologists, have no financial interest in the~~
125 ~~practice of electrology, and are not affiliated with an~~

126 ~~electrolysis school or a manufacturer or supplier of~~
127 ~~electrolysis equipment or supplies.~~

128 ~~(b) Initial council members who are licensed~~
129 ~~electrologists must be eligible for licensure at the time of~~
130 ~~their appointment. Electrologist members appointed after October~~
131 ~~1, 1996, must have been licensed in this state for at least 3~~
132 ~~years prior to their appointment.~~

133 (3) ~~The term of office for each council~~ shall meet at the
134 request of the State Surgeon General ~~member is 4 years. A member~~
135 ~~may not serve more than two consecutive terms. When a vacancy~~
136 ~~occurs on the council, any licensed electrologist may recommend~~
137 ~~one person to fill the vacancy, and any professional~~
138 ~~organization dealing with electrolysis, incorporated within the~~
139 ~~state as not for profit, which registers its interest with the~~
140 ~~board shall recommend at least twice as many persons to fill the~~
141 ~~vacancy as the number of vacancies to be filled, and the board,~~
142 ~~in its discretion, may appoint from the submitted names any of~~
143 ~~those persons so recommended. The board shall, when possible,~~
144 ~~appoint persons from different geographic areas.~~

145 (4) ~~(a)~~ Members of the council may not receive compensation
146 for their services, but are ~~The council shall annually elect~~
147 ~~from among its members a chair and vice chair.~~

148 ~~(b) The council shall meet at least twice a year and shall~~
149 ~~hold such additional meetings as are considered necessary by the~~
150 ~~board. Three members of the council constitute a quorum.~~

151 ~~(c) Unless otherwise provided by law, a council member~~
152 ~~shall be compensated \$50 for each day the member attends an~~
153 ~~official meeting of the council or participates in official~~
154 ~~council business. A council member is also entitled to~~
155 reimbursement for necessary travel expenses pursuant to s.
156 112.061, from the funds derived from fees collected pursuant to
157 s. 478.55. Travel out of state requires the prior approval of
158 ~~the State Surgeon General.~~

159 (5) The council may make recommendations to the board
160 relating to:

161 (a) Examination procedures and minimum application
162 requirements, including electrolysis training program
163 curriculums.

164 (b) Standards of practice.

165 (c) Improvement of continuing education programs.

166 (d) Other matters relating to the practice of electrology,
167 including facility requirements.

168 Section 5. Subsections (1), (2), (3), and (6) of section
169 478.45, Florida Statutes, are amended to read:

170 478.45 Requirements for licensure.—

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

- 176 (a) Is at least 18 years old.
- 177 (b) Is of good moral character.
- 178 (c) Possesses a high school diploma or a high school
179 equivalency diploma.
- 180 (d) Has not committed an act in any jurisdiction which
181 would constitute grounds for disciplining an electrologist in
182 this state.
- 183 (e) Has successfully completed the academic requirements
184 of an electrolysis training program, not to exceed 120 didactic
185 hours, and the practical application thereof as approved by the
186 department board.
- 187 (2) Each applicant for licensure shall successfully pass a
188 written examination developed by the department or a national
189 examination provided by a national electrology organization that
190 has been approved by the department ~~that has been approved by~~
191 ~~the board~~. The examinations shall test the applicant's knowledge
192 relating to the practice of electrology, including the
193 applicant's professional skills and judgment in the use of
194 electrolysis techniques and methods, and any other subjects
195 which are useful to determine the applicant's fitness to
196 practice.
- 197 (3) The department, ~~upon approval of the board,~~ may adopt
198 a national examination provided by a national electrology
199 organization in lieu of any part of the examination required by
200 this section. The department ~~board~~, with the assistance of the

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201 board council, shall establish standards for acceptable
202 performance.

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

210 Section 6. Section 478.46, Florida Statutes, is repealed.

211 Section 7. Section 478.47, Florida Statutes, is amended to
212 read:

213 478.47 Licensure by endorsement.—The department shall
214 issue a license by endorsement to any applicant who submits an
215 application and the required fees as set forth in s. 478.55 and
216 who holds an active license or other authority to practice
217 electrology in a jurisdiction whose licensure requirements are
218 determined by the department board to be equivalent to the
219 requirements for licensure in this state.

220 Section 8. Section 478.49, Florida Statutes, is amended to
221 read:

222 478.49 License and certification required.—

223 (1) A ~~No~~ person may not practice electrology or hold
224 herself or himself out as an electrologist in this state unless
225 she or he ~~the person~~ has been issued a license by the department

226 and holds an active license pursuant to ~~the requirements of~~ this
227 chapter.

228 (2) A licensee shall display her or his license, and if
229 applicable, national certification, in a conspicuous location in
230 her or his place of practice and provide it to the department ~~or~~
231 ~~the board~~ upon request.

232 (3) A licensee who uses a laser or light-based device for
233 hair removal or reduction shall be certified by a nationally
234 recognized electrology organization in the use of such devices
235 and shall have the appropriate training, as determined by the
236 board, for each such device used by the licensee.

237 Section 9. Subsection (4) of section 478.50, Florida
238 Statutes, is amended to read:

239 478.50 Renewal of license; delinquent status; address
240 notification; continuing education requirements.-

241 (4) (a) An application for license renewal must be
242 accompanied by proof of the successful completion of 20 hours of
243 continuing education courses or proof of successfully passing a
244 reexamination for licensure within the immediately preceding
245 biennium which meets the criteria established by the board. Both
246 the continuing education and reexamination shall contain
247 education on blood-borne diseases. For licensees using laser or
248 light-based devices for hair removal or reduction, the licensee
249 shall provide the department with proof of current certification
250 by a nationally recognized electrology organization in the use

251 of such devices.

252 (b) The board, ~~with the assistance of the council,~~ shall
253 promulgate rules regarding ~~approve~~ criteria for, and content of,
254 electrolysis training programs and continuing education courses
255 required for licensure and renewal as set forth in this chapter.

256 (c) Continuing education providers ~~programs~~ shall be
257 approved by the board. Applications for approval shall be
258 submitted to the board not less than 60 days nor more than 360
259 days before a continuing education program is ~~they are~~ held.

260 Section 10. Subsection (12) is added to section 478.51,
261 Florida Statutes, to read:

262 478.51 Electrology facilities; requisites; facility
263 licensure; inspection.-

264 (12) This section does not apply to a licensed
265 practitioner who employs a licensed electrologist to perform
266 electrolysis, including the use of laser and light-based devices
267 for hair removal or reduction on the licensed practitioner's
268 patients at the licensed practitioner's place of practice. This
269 subsection does not restrict investigations conducted by the
270 department for violations of this chapter or chapter 456,
271 chapter 458, or chapter 459.

272 Section 11. Paragraphs (h) and (m) and (p) through (v) of
273 subsection (1) and subsection (4) of section 478.52, Florida
274 Statutes, are amended to read:

275 478.52 Disciplinary proceedings.-

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

278 (h) Willfully failing to report any known violation of
 279 this chapter or chapter 456.

280 (m) Practicing or offering to practice beyond the scope
 281 permitted by law or accepting and performing professional
 282 responsibilities which the licensee knows, or has reason to
 283 know, she or he is not competent to perform.

284 ~~(p) Judicially determined mental incompetency.~~

285 (p) ~~(q)~~ Practicing or attempting to practice electrology
 286 under a name other than her or his own.

287 (q) ~~(r)~~ Being unable to practice electrology with
 288 reasonable skill and safety because of a mental or physical
 289 condition or illness, or the use of alcohol, controlled
 290 substances, or any other substance which impairs one's ability
 291 to practice.

292 1. In enforcing this paragraph, the department may, upon a
 293 finding of the State Surgeon General or the State Surgeon
 294 General's designee that probable cause exists that the licensee
 295 is unable to practice because of the reasons stated in this
 296 paragraph, issue an order to, compel a licensee to submit to a
 297 mental or physical examination by physicians designated by the
 298 department. If the licensee refuses to comply with such order,
 299 the department may file a petition for enforcement in the
 300 circuit court where the licensee resides or does business. The

301 licensee against whom the petition is filed may not be named or
 302 identified by initials in any public court records or documents,
 303 and the proceedings shall be closed to the public. The
 304 department shall be entitled to the summary procedure provided
 305 in s. 51.011 ~~The cost of an examination shall be borne by the~~
 306 ~~licensee, and her or his failure to submit to such an~~
 307 ~~examination constitutes an admission of the allegations against~~
 308 ~~her or him, consequent upon which a default and a final order~~
 309 ~~may be entered without the taking of testimony or presentation~~
 310 ~~of evidence, unless the failure was due to circumstances beyond~~
 311 ~~her or his control.~~

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

316 3. In any proceeding under this paragraph, the record of
 317 proceedings or the orders entered by the board may not be used
 318 against a licensee in any other proceeding.

319 (r)~~(s)~~ Disclosing the identity of or information about a
 320 patient without written permission, except for information which
 321 does not identify a patient and which is used for training
 322 purposes in an approved electrolysis training program.

323 (s)~~(t)~~ Practicing or attempting to practice ~~any permanent~~
 324 hair removal or reduction except as described in s. 478.42(5) or
 325 (6) or s. 478.49.

326 (t)~~(u)~~ Operating any electrolysis facility unless it has
 327 been duly licensed as provided in this chapter.

328 (u)~~(v)~~ Violating any provision of this chapter or chapter
 329 455 ~~456~~, or any rules adopted pursuant thereto.

330 (4) The board,~~with the assistance of the council,~~ may, by
 331 rule, establish guidelines for the disposition of disciplinary
 332 cases involving specific types of violations. The guidelines may
 333 include minimum and maximum fines, periods of supervision on
 334 probation, or conditions upon probation or reissuance of a
 335 license.

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

338 478.53 Penalty for violations.—It is a misdemeanor of the
 339 first degree, punishable as provided in s. 775.082 or s.
 340 775.083, to:

341 (6) Practice or attempt to practice any permanent hair
 342 removal except as described in s. 478.42(5) or (6) or s. 478.49.

343 Section 13. This act shall take effect July 1, 2017.