

By Senator Grimsley

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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 with proof of a current national
26 certification for licensure renewal; providing
27 rulemaking authority to the board; requiring the board
28 to approve continuing education providers; amending s.
29 478.51, F.S.; providing applicability; amending s.

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30 478.52, F.S.; revising grounds for denial of a license
31 or disciplinary action; authorizing the department to
32 issue an order to compel a licensee to submit to a
33 mental or physical examination; providing recourse to
34 the department if a licensee refuses to comply with
35 the order; amending s. 478.53, F.S.; conforming
36 provisions to changes made by the act; providing an
37 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

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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 or
75 light-based device in a hair removal or reduction procedure that
76 does not remove the epidermis and is conducted under the direct
77 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:

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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~~
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

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

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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 electrologist
172 shall file a written application, accompanied by the application
173 for licensure fee prescribed in s. 478.55, on a form provided by
174 the ~~department~~ board, showing to the satisfaction of the

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175 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 of
184 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 a
198 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
201 board ~~council~~, shall establish standards for acceptable
202 performance.

203 (6) The department may not issue a license to any applicant

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204 who is under investigation in another jurisdiction for an
205 offense that ~~which~~ would be a violation of this chapter, until
206 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 issue
214 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

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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:

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

264 (12) This section does not apply to a licensed practitioner
265 who employs a licensed electrologist to perform electrolysis,
266 including the use of laser and light-based devices for hair
267 removal or reduction on the licensed practitioner's patients at
268 the licensed practitioner's place of practice. This subsection
269 does not restrict investigations conducted by the department for
270 violations of this chapter or chapter 456, chapter 458, or
271 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 this
279 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 reasonable
288 skill and safety because of a mental or physical condition or
289 illness, or the use of alcohol, controlled substances, or any
290 other substance which impairs one's ability to practice.

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291 1. In enforcing this paragraph, the department may, upon a
292 finding of the State Surgeon General or the State Surgeon
293 General's designee that probable cause exists that the licensee
294 is unable to practice because of the reasons stated in this
295 paragraph, issue an order to, compel a licensee to submit to a
296 mental or physical examination by physicians designated by the
297 department. If the licensee refuses to comply with such order,
298 the department may file a petition for enforcement in the
299 circuit court where the licensee resides or does business. The
300 licensee against whom the petition is filed may not be named or
301 identified by initials in any public court records or documents,
302 and the proceedings shall be closed to the public. The
303 department shall be entitled to the summary procedure provided
304 in s. 51.011 ~~The cost of an examination shall be borne by the~~
305 ~~licensee, and her or his failure to submit to such an~~
306 ~~examination constitutes an admission of the allegations against~~
307 ~~her or him, consequent upon which a default and a final order~~
308 ~~may be entered without the taking of testimony or presentation~~
309 ~~of evidence, unless the failure was due to circumstances beyond~~
310 ~~her or his control.~~

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

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

318 (r)~~(s)~~ Disclosing the identity of or information about a
319 patient without written permission, except for information which

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320 does not identify a patient and which is used for training
321 purposes in an approved electrolysis training program.

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

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

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

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

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

337 478.53 Penalty for violations.—It is a misdemeanor of the
338 first degree, punishable as provided in s. 775.082 or s.
339 775.083, to:

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

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