

By Senator Grimsley

26-00619-18

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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; amending s. 478.49, F.S.; requiring that
8 a licensee who uses a laser or pulsed-light device in
9 certain procedures be certified by a nationally
10 recognized electrology organization; conforming a
11 provision to changes made by the act; repealing s.
12 478.43, F.S., relating to the Board of Medicine;
13 repealing s. 478.44, F.S., relating to the
14 Electrolysis Council; repealing s. 478.46, F.S.,
15 relating to temporary permits; amending ss. 456.037,
16 478.45, 478.47, 478.50, 478.51, 478.52, 478.53, and
17 478.55, F.S.; conforming provisions to changes made by
18 the act; transferring the statutory powers, duties,
19 functions, records, personnel, property, and
20 unexpended balances of appropriations, allocations, or
21 other funds for the administration of ch. 478, F.S.,
22 relating to electrolysis, from the Department of
23 Health to the Department of Business and Professional
24 Regulation; providing that the transfer does not
25 affect the validity of any judicial or administrative
26 action pending as of a certain date; providing that
27 certain lawful orders remain in effect and
28 enforceable; providing for the continued validity of
29 licenses and temporary permits issued by the

26-00619-18

2018744__

30 Department of Health; providing an effective 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 Regulation.—
37 There is created a Department of Business and Professional
38 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 under
42 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. Electrolysis licensing program, created under chapter
54 478.

55 9.8- Board of Employee Leasing Companies, created under
56 part XI of chapter 468.

57 10. Home inspection services licensing program, created
58 under part XV of chapter 468.

26-00619-18

2018744__

59 ~~11.9.~~ Board of Landscape Architecture, created under part
60 II of chapter 481.

61 12. Mold-related services licensing program, created under
62 part XVI of chapter 468.

63 ~~13.10.~~ Board of Pilot Commissioners, created under chapter
64 310.

65 ~~14.11.~~ Board of Professional Engineers, created under
66 chapter 471.

67 ~~15.12.~~ Board of Professional Geologists, created under
68 chapter 492.

69 ~~16.13.~~ Board of Veterinary Medicine, created under chapter
70 474.

71 ~~14. Home inspection services licensing program, created~~
72 ~~under part XV of chapter 468.~~

73 ~~15. Mold-related services licensing program, created under~~
74 ~~part XVI of chapter 468.~~

75 Section 2. Paragraph (g) of subsection (3) of section
76 20.43, Florida Statutes, is amended to read:

77 20.43 Department of Health.—There is created a Department
78 of Health.

79 (3) The following divisions of the Department of Health are
80 established:

81 (g) Division of Medical Quality Assurance, which is
82 responsible for the following boards and professions established
83 within the division:

84 1. Emergency medical technicians and paramedics, as
85 provided under part III of chapter 401.

86 ~~2.1.~~ The Board of Acupuncture, created under chapter 457.

87 ~~3.2.~~ The Board of Medicine, created under chapter 458.

26-00619-18

2018744__

88 ~~4.3.~~ The Board of Osteopathic Medicine, created under
89 chapter 459.

90 ~~5.4.~~ The Board of Chiropractic Medicine, created under
91 chapter 460.

92 ~~6.5.~~ The Board of Podiatric Medicine, created under chapter
93 461.

94 ~~7.6.~~ Naturopathy, as provided under chapter 462.

95 ~~8.7.~~ The Board of Optometry, created under chapter 463.

96 ~~9.8.~~ The Board of Nursing, created under part I of chapter
97 464.

98 ~~10.9.~~ Nursing assistants, as provided under part II of
99 chapter 464.

100 ~~11.10.~~ The Board of Pharmacy, created under chapter 465.

101 ~~12.11.~~ The Board of Dentistry, created under chapter 466.

102 ~~13.12.~~ Midwifery, as provided under chapter 467.

103 ~~14.13.~~ The Board of Speech-Language Pathology and
104 Audiology, created under part I of chapter 468.

105 ~~15.14.~~ The Board of Nursing Home Administrators, created
106 under part II of chapter 468.

107 ~~16.15.~~ The Board of Occupational Therapy, created under
108 part III of chapter 468.

109 ~~17.16.~~ Respiratory therapy, as provided under part V of
110 chapter 468.

111 ~~18.17.~~ Dietetics and nutrition practice, as provided under
112 part X of chapter 468.

113 ~~19.18.~~ The Board of Athletic Training, created under part
114 XIII of chapter 468.

115 ~~20.19.~~ The Board of Orthotists and Prosthetists, created
116 under part XIV of chapter 468.

26-00619-18

2018744__

- 117 ~~20. Electrolysis, as provided under chapter 478.~~
- 118 21. The Board of Massage Therapy, created under chapter
- 119 480.
- 120 22. The Board of Clinical Laboratory Personnel, created
- 121 under part III of chapter 483.
- 122 23. Medical physicists, as provided under part IV of
- 123 chapter 483.
- 124 24. The Board of Opticianry, created under part I of
- 125 chapter 484.
- 126 25. The Board of Hearing Aid Specialists, created under
- 127 part II of chapter 484.
- 128 26. The Board of Physical Therapy Practice, created under
- 129 chapter 486.
- 130 27. The Board of Psychology, created under chapter 490.
- 131 28. School psychologists, as provided under chapter 490.
- 132 29. The Board of Clinical Social Work, Marriage and Family
- 133 Therapy, and Mental Health Counseling, created under chapter
- 134 491.
- 135 ~~30. Emergency medical technicians and paramedics, as~~
- 136 ~~provided under part III of chapter 401.~~
- 137 Section 3. Section 478.42, Florida Statutes, is amended to
- 138 read:
- 139 478.42 Definitions.—As used in this chapter, the term:
- 140 ~~(1) "Board" means the Board of Medicine.~~
- 141 ~~(2) "Council" means the Electrolysis Council.~~
- 142 (1)(3) "Department" means the Department of Business and
- 143 Professional Regulation Health.
- 144 (2)(4) "Electrologist" means a person who engages in the
- 145 practice of electrolysis.

26-00619-18

2018744__

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

152 Section 4. Section 478.49, Florida Statutes, is amended,
153 and subsection (3) is added to that section, to read:

154 478.49 License and certification required.-

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

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

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

167 Section 5. Section 478.43, Florida Statutes, is repealed.

168 Section 6. Section 478.44, Florida Statutes, is repealed.

169 Section 7. Section 478.46, Florida Statutes, is repealed.

170 Section 8. Subsection (5) of section 456.037, Florida
171 Statutes, is amended to read:

172 456.037 Business establishments; requirements for active
173 status licenses; delinquency; discipline; applicability.-

174 (5) This section applies to any business establishment

26-00619-18

2018744__

175 registered, permitted, or licensed by the department to do
176 business. Business establishments include, but are not limited
177 to, dental laboratories, ~~electrology facilities~~, massage
178 establishments, pharmacies, and pain-management clinics required
179 to be registered under s. 458.3265 or s. 459.0137.

180 Section 9. Section 478.45, Florida Statutes, is amended to
181 read:

182 478.45 Requirements for licensure.—

183 (1) An applicant applying for licensure as an electrologist
184 shall file a written application, accompanied by the application
185 for licensure fee prescribed in s. 478.55, on a form provided by
186 the department board, showing to the satisfaction of the
187 department board that the applicant:

188 (a) Is at least 18 years old.

189 (b) Is of good moral character.

190 (c) Possesses a high school diploma or a high school
191 equivalency diploma.

192 (d) Has not committed an act in any jurisdiction which
193 would constitute grounds for disciplining an electrologist in
194 this state.

195 (e) Has successfully completed the academic requirements of
196 an electrolysis training program, not to exceed 120 hours, and
197 the practical application thereof as approved by the department
198 board.

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

26-00619-18

2018744__

204 applicant's professional skills and judgment in the use of
205 electrolysis techniques and methods, and any other subjects that
206 ~~which~~ are useful to determine the applicant's fitness to
207 practice.

208 (3) The department, ~~upon approval of the board,~~ may adopt a
209 national examination in lieu of any part of the examination
210 required by this section. The department board, ~~with the~~
211 ~~assistance of the council,~~ shall establish standards for
212 acceptable performance.

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

217 (5) The department shall conduct licensure examinations at
218 least two times a year. The department shall give public notice
219 of the time and place of each examination at least 60 days
220 before it is administered and shall mail notice of such
221 examination to each applicant whose application is timely filed,
222 pursuant to department board rule.

223 (6) The department may not issue a license to any applicant
224 who is under investigation in another jurisdiction for an
225 offense that ~~which~~ would be a violation of this chapter, until
226 such investigation is complete. Upon completion of such
227 investigation, if the applicant is found guilty of such offense,
228 the department board shall apply the applicable provisions of s.
229 478.52.

230 Section 10. Section 478.47, Florida Statutes, is amended to
231 read:

232 478.47 Licensure by endorsement.—The department shall issue

26-00619-18

2018744__

233 a license by endorsement to any applicant who submits an
234 application and the required fees as set forth in s. 478.55 and
235 who holds an active license or other authority to practice
236 electrology in a jurisdiction whose licensure requirements are
237 determined by the department board to be equivalent to the
238 requirements for licensure in this state.

239 Section 11. 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

26-00619-18

2018744__

262 360 days before they are held.

263 Section 12. 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 13. Section 478.52, Florida Statutes, is amended to
278 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 bribery,
284 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.

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

26-00619-18

2018744__

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 this
306 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.

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

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

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

318 (n) Delegating professional responsibilities to a person
319 the licensee knows, or has reason to know, is unqualified by

26-00619-18

2018744__

320 training, experience, or licensure to perform.

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

323 (p) Judicially determined mental incompetency.

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

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

330 1. The department may, upon probable cause, compel a
331 licensee to submit to a mental or physical examination by
332 physicians designated by the department. The cost of an
333 examination shall be borne by the licensee, and her or his
334 failure to submit to such an examination constitutes an
335 admission of the allegations against her or him, consequent upon
336 which a default and a final order may be entered without the
337 taking of testimony or presentation of evidence, unless the
338 failure was due to circumstances beyond her or his control.

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

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

346 (s) Disclosing the identity of or information about a
347 patient without written permission, except for information which
348 does not identify a patient and which is used for training

26-00619-18

2018744__

349 purposes in an approved electrolysis training program.

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

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

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

356 (2) The department board ~~board~~ may enter an order denying
357 licensure, ~~or~~ imposing any of the penalties in s. 455.227(2), or
358 imposing costs as provided in s. 455.227(3) ~~s. 456.072(2)~~
359 against any applicant for licensure or licensee who is found
360 guilty of violating any provision of subsection (1) of this
361 section or who is found guilty of violating any provision of s.
362 455.227(1) ~~s. 456.072(1)~~.

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

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

374 Section 14. Subsection (6) of section 478.53, Florida
375 Statutes, is amended to read:

376 478.53 Penalty for violations.—It is a misdemeanor of the
377 first degree, punishable as provided in s. 775.082 or s.

26-00619-18

2018744__

378 775.083, to:

379 (6) Practice or attempt to practice any permanent hair
380 removal except as described in s. 478.42(3) ~~s. 478.42(5)~~.381 Section 15. Subsection (1) of section 478.55, Florida
382 Statutes, is amended to read:

383 478.55 Fees; facility; disposition.—

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

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

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

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

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

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

391 (f) Inspection fee for facility: a fee not to exceed \$100
392 biennially.393 Section 16. (1) All of the statutory powers, duties,
394 functions, and its records, personnel, property, and unexpended
395 balances of appropriations, allocations, or other funds for the
396 administration of chapter 478, Florida Statutes, are transferred
397 by a type two transfer, as defined in s. 20.06(2), Florida
398 Statutes, from the Department of Health to the Department of
399 Business and Professional Regulation.400 (2) The transfer of regulatory authority under chapter 478,
401 Florida Statutes, provided by this section may not affect the
402 validity of any judicial or administrative action pending as of
403 11:59 p.m. on the day before the effective date of this section
404 to which the Department of Health is at that time a party, and
405 the Department of Business and Professional Regulation is
406 substituted as a party in interest in any such action.

26-00619-18

2018744__

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

413 (4) Notwithstanding the transfer of regulatory authority
414 under chapter 478, Florida Statutes, provided by this section,
415 persons and entities holding in good standing any license or
416 temporary permit issued under chapter 478, Florida Statutes, as
417 of 11:59 p.m. on June 30, 2018, are deemed to hold in good
418 standing a license or temporary permit in the same capacity as
419 that for which the license or temporary permit was formerly
420 issued.

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