

FILED DATE OCT 20 2014

Department of Health

By: 

Deputy Agency Clerk

**STATE OF FLORIDA
BOARD OF MEDICINE**

In re: PETITION FOR DECLARATORY STATEMENT
OF THE SOCIETY FOR CLINICAL AND
MEDICAL HAIR REMOVAL, INC.

FINAL ORDER ON PETITION FOR DECLARATORY STATEMENT

This matter came before the Board of Medicine (hereinafter the "Board") on August 1, 2014, in Orlando, Florida for consideration of the Petition for Declaratory Statement Before the Board of Medicine (attached hereto as Exhibit A). The Notice of Petition for Declaratory Statement was published on May 2, 2014 in Volume 40, No. 86, of the Florida Administrative Register.

The Petition, filed by the Society for Clinical and Medical Hair Removal, Inc. (hereinafter the "Petitioner" or "SCHMR"), seeks an interpretation of Sections 458.348(3) and (6), Florida Statutes, and Rules 64B8-56.002, 64B8-51.006, 64B8-52.003, and 64B8-52.004 and, Florida Administrative Code. The question presented is whether the cited statutes and rules require electrologists who use laser equipment for hair removal to maintain current certification as Certified Medical Electrologists ("CMEs"). See Petition at ¶¶ 8, 9 and 12. The Petitioner is the entity that issues the CME certification and explains that "the CME certification . . . tests for advanced knowledge and skill in needle modalities as well as laser and light-based hair removal modalities." Petition at ¶ 5. To obtain the CME certification, the electrologist must first obtain the Certified Clinical Electrologist certification, also a product of the Petitioner. Petition at ¶¶ 4 and 5.

FINDINGS OF FACT

The facts set forth in the Petition (Exhibit A) are accepted for purposes deciding this Petition. See Rule 28-105.003, Fla. Admin. Code, ("The agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts.").

CONCLUSIONS OF LAW

1. The Board has authority to issue this Final Order pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.
2. The Petition is in substantial compliance with the provisions of Section 120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code.
3. For purposes of determining standing, Petitioner is a non-profit organization with 307 Florida-licensed electrologists as members. Pet. at ¶¶ 1-2. Petitioner "is in doubt about whether its members and other SCMHR certified electrologists may practice electrology using laser and light-based devices in Florida absent current CME certification without violating the Board of Medicine's rules and thereby subjecting the electrologists to discipline." Pet. at ¶11. Petitioner has a substantial interest in the answer to the question presented in its Petition.
4. The rules and statutes at issue cover a range of topics much broader than CME certification, and Petitioner did not identify the specific rule paragraphs for which it seeks an interpretation. The Board has determined that the specific rule paragraphs requiring interpretation are as follows:

Rule 64B8-56.002 Equipment and Devices; Protocols for Laser and Light-Based Devices.

(2) An electrologist may not use laser or light-based devices for hair removal or reduction unless they:

- (b) Have been certified in the use of laser or light-based devices for hair removal or reduction by a national certification organization approved by the [Electrolysis] Council and the Board.

Rule 64B8-51.006 Rule Governing Licensure and Inspection of Electrology Facilities.

(3) Electrology Facility Safety and Sanitary Requirements

(g) In electrology facilities wherein laser equipment is used for hair removal, the following shall be provided:

2. Proof of certification as Certified Medical Electrologist for all electrologists using laser equipment in the facility.

Rule 64B8-52.004 Requirements for Approval of Training Courses for Laser and Light-Based Hair Removal or Reduction.

(3) The instructors of each laser and light-based removal course have one year of post-certification experience. Verifiable documentation of this experience must be submitted to the Council with the application.

Rule 64B8-55.002 Citations.

(5) The Board designates the following as electrology citations violations in laser and light-based hair removal. Failure to have:

(l) Proof of certification as Certified Medical Electrologist for all persons who use laser equipment in the facility, who are not exempt and are licensed electrologists.

Section 458.348(3), Florida Statutes, is one of the laws implemented by Rule 64B8-56.002 and states: All protocols relating to electrolysis or electrology using laser or light-based hair removal or reduction . . . shall require the person performing such service to be appropriately trained and work only under the direct supervision and responsibility of a physician licensed under this chapter or chapter 459. Section 458.348(6) states: This section is self-executing and does not require or provide authority for additional rulemaking.

5. The cited rules and statutes require that the CME certification be obtained one time and that the CME credential need not be continually renewed. The rationale for the Board's decision is provided in the paragraphs below.

6. The Board first notes that no rule or statute expressly requires that the CME credential be continually updated. The cited rules and statutes can only be harmonized if the CME certification is obtained once, after the electrologist has taken the laser training course required in Rule 64B8-52.004(2), and before he or she begins to offer laser hair removal to the public.

7. Rule 64B8-56.002(2)(b), Florida Administrative Code, is the provision that actually sets the requirement to obtain CME certification, and that rule uses the past tense (“[h]ave been certified”), indicating a CME credential does not have to be continually updated. The rule governing inspection of electrology facilities where lasers are used (64B8-51.006), and the citation rule (64B8-55.002), each require proof of certification to be present in the facility at all times, thus the present tense is used. The requirement to obtain a CME certification and the requirement to have proof of having obtained a CME certification are two different things. Thus, the past tense is used in Rule 64B8-56.002(2)(b) for the one-time requirement to obtain the CME certification, and the present tense is used in Rules 64B8-51.006 and 64B8-55.002 for the ongoing requirement to show proof of having obtained CME certification.

8. The rule setting forth the requirements for the 30 hour laser training course (64B8-52.004) requires the instructors to have one year of “post-certification” experience. This rule only makes sense if certification is required one time. If instructors were required to continually maintain a CME credential, then the plain meaning of the rule would be that instructors have to stop teaching for one year after each certification in order to get one year of post-certification experience. Put another way, if electrologists were required to maintain a current CME credential, then the rule would have reflected that requirement by specifying that the post-certification experience pertains to the initial certification and not subsequent certifications.

9. The above interpretation reflects the Board's understanding of the rules and gives meaning to the text of each rule.

10. This interpretation comports with another important aspect of the regulation of electrologists, specifically the requirement for continuing education.

11. Section 476.50(4)(a), Florida Statutes, establishes a 20 hour continuing education ("CE") requirement for license renewal each biennium, whether the practitioner uses laser or epilator equipment. The Petitioner did not object to statements made at the Board meeting that more than 20 hours of CE per biennium is required to keep the CME credential current; that maintaining a current CME credential costs more than compliance with Section 476.50(4)(a), Florida Statutes; that the Department does not monitor whether the Petitioner's CE requirement to maintain a current CME credential is met; and that the Department does not plan to start such monitoring. The Department only monitors compliance with the 20 hour CE requirement and has never monitored compliance with the CE requirement for maintaining a current CME credential.

12. Petitioner states that the CME tests for advanced knowledge and skill. See Petition at ¶ 5. If licensed electrologists pass the CME certification test, then the continuing education requirement in Chapter 476 is sufficient to and intended to enable electrologists to maintain their skills in and knowledge of laser usage.

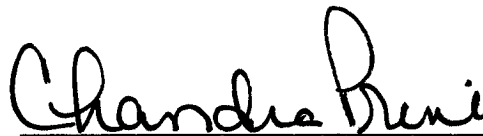
13. For all the foregoing reasons, electrologists who wish to use laser or light-based equipment are required to obtain the CME certification one time and have proof of having obtained that certification present at all times.

14. The Board's response to this Petition addresses solely the question propounded by the Petitioner and only addresses issues regarding the practice of medicine and not the practice of nursing or any other profession. The Board's conclusion is based solely on the Board's

application of the factual circumstances outlined in the Petition to the pertinent statutory and rule provisions set forth above.

This Final Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 16 day of October, 2014.



Chandra Prine, Acting Executive Director
for Nabil El Sanadi, M.D., Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF THE NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEALS, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by: U.S. Mail and electronic mail to **Jon M. Pellett, Esq.**, Barr, Murman, Tonelli, P.A., 201 East Kennedy Blvd., Suite 1700, Tampa , FL 33602, JPellett@barrmurman.com; and by electronic mail to **Allen Hall** and **Anna King**, Electrolysis Council, 4052 Bald Cypress Way, Bin C05, Tallahassee, FL 32399, Allen.Hall@flhealth.gov and Anna.King@flhealth.gov, and **Marlene Stern, Esq.**, Office of the Attorney General, The Capitol, PL-01, Tallahassee, FL 32399, Marlene.Stern@myfloridalegal.com, this 20th day of October, 2014.

Angel Sanders

Deputy Agency Clerk

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the Healthiest State in the Nation

MEMORANDUM

Date: October 14, 2014

To: Lucy C. Gee, M.S., Division Director
Division of Medical Quality Assurance

From: Allison M. Dudley, J.D. Bureau Chief
Bureau of Health Care Practitioner Regulation

Subject: Delegation of Authority

Effective October 14, 2014, Chandra Prine, Program Operations Administrator will have delegated authority as the Acting Executive Director of the Board of Medicine until further notice.

STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF MEDICINE

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Angel Sauter*
DATE: APR 29 2014

In re: SOCIETY FOR CLINICAL AND
MEDICAL HAIR REMOVAL, INC.

PETITION FOR DECLARATORY STATEMENT
BEFORE THE FLORIDA BOARD OF MEDICINE

COMES NOW, THE PETITIONER, the Society for Clinical and Medical Hair Removal, Inc. (SCMHR), through its undersigned counsel and pursuant to Section 120.565, Florida Statutes submits this Petition for Declaratory Statement before the Florida Board of Medicine.

Petitioner is in doubt about the application of Sections 458.348(3) and 458.348(6), Florida Statutes and Rules 64B8-51.006, 6B8-52.003, and 64B8-52.004, and 64B8-56.002, Florida Administrative Code to its particular set of circumstances and requests that the Board of Medicine issue a declaratory statement. As grounds for its request, Petitioner states the following:

1. Petitioner, the Society for Clinical and Medical Hair Removal, Inc. (SCMHR) is an international non-profit organization with members licensed as electrologists in the State of Florida.
2. There are currently 307 electrologists in the State of Florida who are also members of SCMHR¹.
3. SCMHR supports all methods of hair removal and is dedicated to the research of new technology that will keep its members at the pinnacle of their profession,

¹ Includes a small number of persons who were previously licensed in Florida or who are students preparing for licensure.

offering safe, effective hair removal to their clients. SCMHR also serves the public by providing information on the newest technology in hair removal. SCMHR offers the only national certification for electrologists to gauge/show their knowledge of electrology including the use of laser and light based devices for hair removal and reduction.

4. SCMHR offers four certifications to qualified practitioners. Pertinent to its petition, for electrologists licensed in Florida, there are two certifications: (1) the "Certified Clinical Electrologist" (CCE), for those electrologists using the needle modality in hair removal and reduction; and (2). the next certification, to which the CCE is a prerequisite, the "Certified Medical Electrologist" (CME) for those using laser and light based devices for hair removal and reduction. SCMHR also offers two other certifications: Certified Laser Hair Removal Professional (CLHRP), and the Certified Pulse Light Hair Removal Professional (CPLHRP), both designed for allied health practitioners; including physicians, nurses, electrologists and others authorized in the jurisdiction where they reside to practice either laser or light-based hair removal. These certifications are for practitioners who may not personally practice electrology using needle hair removal modalities or who may practice in jurisdictions where an electrology license is not required to use the lasers or light based devices.

5. The CME certification obtained by Florida electrologists tests for advanced knowledge and skill in needle modalities as well as laser and light-based hair removal modalities. To obtain the CME certification, the electrologist must hold a current CCE certification from SCMHR. See attached as Composite Exhibit "A" SCMHR's Frequently Asked Questions on CCE and CME certification and examination content.

6. In Florida, there are currently 151 electrologists holding just the CCE certification offered by SCMHR. The CCE certification is valid for 5 years and requires either re-certification by examination or proof of completion of 75 hours of continuing education of which 24 hours may be done through home study courses.

7. In Florida, there are currently 973 electrologists holding the dual CCE/CME certification offered by SCMHR. The CCE/CME certification is valid for 5 years and for re-certification, it requires completion of an examination or a total combined of 75 hours of continuing education of which 24 hours may be done through home study courses.

8. Based on statements made by the Electrolysis Council at publically noticed meetings and/or comments made by the Electrolysis Society of Florida, Electrolysis Association of Florida and/or Department of Health staff working for the Electrolysis Council to individual electrologists that electrologists need not maintain CME certification to use laser and light based devices, Petitioner is in doubt as to whether current CME certification is required under the Florida Board of Medicine rules for its member electrologists wishing to use laser and light-based devices for hair removal and reduction services.

9. Petitioner is also in doubt as to whether its member electrologists wishing to use laser and light-based devices must maintain certification throughout the time the electrologists are using the devices for hair removal and reduction or whether its member electrologists are required to obtain initial CME certification and then may let that certification lapse after the initial 5 years certification period but continue to utilize laser and light-based devices in their practices.

10. Statements made by the Electrolysis Council at publically noticed meetings and/or statements made by the Department of Health staff working for the Electrolysis Council and/or the professional associations suggest that SCMHR members and others holding certification through SCMHR do not need to maintain current CME certification, that they only need to obtain that certification once before using laser and light-based devices and then may let it lapse. See attached minutes from the April 14, 2014 Electrolysis Council meeting as Exhibit "B."

11. SCMHR is in doubt about whether its members and other SCMHR - certified electrologists may practice electrology using laser and light-based devices in Florida absent current CME certification without violating the Board of Medicine's rules and thereby subjecting the electrologists to license discipline.

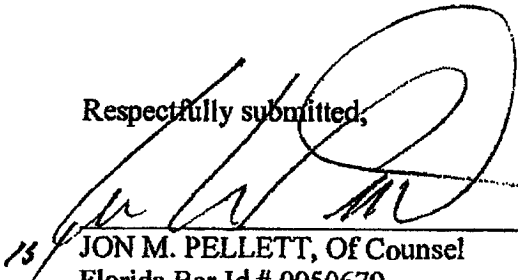
12. The statements by the Electrolysis Council in its publically noticed meetings that maintaining current CME certification is not required by the Board of Medicine's rules for electrologists to continue to provide services using laser and light based devices affects the substantial interests of the members of SCMHR, it places the members of SCMHR and other SCMHR certified electrologists in jeopardy for license discipline for any non-compliance with the Board's rules, and it affects the operation and functioning of SCMHR. The statements and discussions before the Council over the past few years including its meeting of April 14, 2014 have resulted in confusion within the profession and it impacts the individual membership with SCMHR and its certified individuals.

13. Petitioner is represented by undersigned counsel whose address, telephone number, and telephone facsimile number is as listed below.

14. Petitioner is seeking a declaratory statement concerning the application of Sections 458.348(3) and 458.348(6), Florida Statutes and Rules 64B8-51.006, 6B8-52.003, and 64B8-52.004, and 64B8-56.002, Florida Administrative Code to its particular set of circumstances. See attached rules and statute as Composite Exhibit "C." These provisions substantially affect Petitioner's interests, as they directly relate and impact on its members practicing in the State of Florida and on its certification of electrologists using laser and light based devices for hair removal and reduction.

WHEREFORE, Petitioner requests that the Board of Medicine issue a declaratory statement advising Petitioner regarding the application of Sections 458.348(3) and 458.348(6), Florida Statutes and Rules 64B8-51.006, 6B8-52.003, and 64B8-52.004, and 64B8-56.002, Florida Administrative Code to its particular set of circumstances and determining whether its members must obtain and maintain certification in the use of laser and light-based devices to continue utilizing laser and light-based devices for hair removal or reduction.

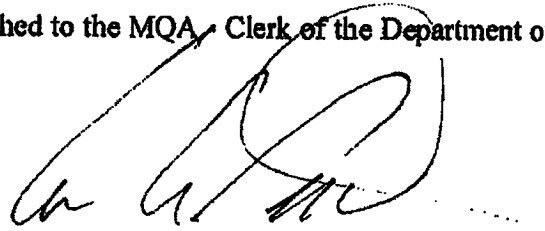
Respectfully submitted,


15 JON M. PELLETT, Of Counsel
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ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Allison Dudley, Executive Director, Florida Board of Medicine, 4052 Bald

Cypress Way, Bin C03, Tallahassee, Florida 32399 via email: Allison.dudley@flhealth.gov & crystal.sanford@flhealth.gov and to Allen Hall, Executive Director – Electrolysis Council, 4052 Bald Cypress Way, Bin C05 Tallahassee, Florida 32399 via email at allen.hall@flhealth.gov and Anna.King@flhealth.gov and additional copies have been furnished to Ed Tellechea, Senior Assistant Attorney General & Counsel to the Board of Medicine, and Marlene Stern, Assistant Attorney General, Office of the Attorney General, The Capitol, PL-01, Tallahassee, Florida 32399 via email: Ed.Tellechea@myfloridalegal.com & Marlene.Stern@myfloridalegal.com , and that a true and correct copy has been furnished to the MQA, Clerk of the Department of Health via efile this April 29, 2014.



15/ Jon M. Pellett

Frequently Asked Questions About The Certified Medical Electrologist (CME) Exam

1. What is the CME and for whom is it written?

The Certified Medical Electrologist (CME) is intended for experienced electrologists who also practices laser hair removal. About 40% of this exam is in regards to lasers and their use, 60% of this exam consists of advanced electrology questions. Those areas include dermatology, pre and post treatment care, and patient assessments. The CME is currently the ONLY certification that demonstrates an electrologist's knowledge of laser and light-based hair removal technologies.

2. What are the eligibility requirements of becoming CME-certified?

The International Commission for Hair Removal Certification (ICHRC), the Society for Clinical and Medical Hair Removal's certification committee, strongly recommends that one be a practicing electrologist or have recently completed electrology training prior to taking the CME examination. It is recommended that an electrologist be in active practice for one year before sitting for the examination.

In order to sit for the CME you must be a current Certified Clinical Electrologist (CCE). You may not apply for the CME exam without providing proof of your CCE status.

3. What should I expect from the exam?

The CME consists of 100 multiple-choice questions. Content assessments for this exam is available in the exam study guide, by contacting the home office, or on SCMHR's website. Practicing electrologists, physicians, nurses and educators from the United States and Canada developed the exam questions. The ICHRC hand-picked these exam writers based on their expertise in the field.

This exam must be administered by an SCMHR proctor or an agent of SCMHR. This exam cannot be proctored at a community college or learning center.

4. Can I study for the exam?

The areas tested include knowledge and skill you develop from being in practice, as well as those learned from initial training. If you are a good practitioner and have had appropriate training, you should have no difficulty passing the examination. The examination is designed to recognize competent practitioners. Prior to most exams proctored by a SCMHR proctor, a 3-hour Certification Preparation Seminar (CPS) is offered. This session is based on the examination outline and study guide. Anyone who purchases the study guide (\$125) will receive a coupon to take the CPS free.

5. After I take the exam, how will I know the results?

Those successfully completing the exam will receive a score and certificate from ICHRC. It takes approximately 4-6 weeks to receive the certificate due to the processing time involved with obtaining test results, printing and mailing. You may begin to use the designation as soon as you have been notified that you have passed the exam.

Those who do not pass the exam will receive a letter detailing scores in each specific exam area.

6. Does my certification expire?

Certification expires five years after the date of the original certification. You must be recertified every five years by either retaking the examination or by accumulating and registering 7.5 (75 hours) of CEUs.

7. What does CEU stand for?

CEU stands for Continuing Education Unit. One CEU is equal to 10 contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction. Up to 2.4 CEUs (24 hours) may be home studies. CEU certificates should be mailed, faxed or emailed to the home office within six months of completion. CEUs will NOT be granted without the proper documentation.

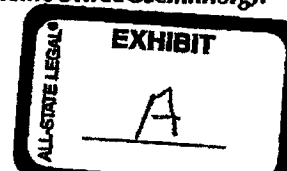
8. What is the purpose of the recertification requirements?

The ICHRC enforces these requirements to ensure that each certified person obtains current information in professional development, explores new knowledge in specific content areas, masters new skills and techniques, and conducts his or her professional practice in a safe and ethical manner.

9. How can I be recertified?

You must either meet the CEU requirements or pass the current applicable examination. You must submit application for recertification (along with payment) at least 2 weeks before your certification expires.

PLEASE CONTACT THE HOME OFFICE TO OBTAIN AN APPLICATION (HomeOffice@scmhr.org).



CME EXAMINATION CONTENT

ASSESSMENT

Task 1: Compile a patient record by observing and questioning to determine the nature and extent of the problem.

Knowledge of:

- Components of a patient record
- Ethnic differences and their impact on assessment process
- Skin conditions
- Pharmacological conditions

Skill in:

- Organizing patient information
- Recognizing ethnic variances
- Performing assessment activity in a manner that is consistent with patients' rights and needs
- Using observation techniques to obtain accurate physical data

Task 2: Integrate results, discuss options and recommend treatment techniques necessary to solve the problem.

Knowledge of:

- Hair removal theories
- Body Image
- Theories of stress and coping
- Aging process

Skill in:

- Disseminating information about treatment options
- Explaining treatment options based upon personal history
- Selecting relevant assessment data to develop an individual plan of treatment

Task 3: Make referrals to appropriate health professional for treatment determination.

Knowledge of:

- Appropriate communication with other allied health professionals
- Medical terminology
- Professional ethics

Skill in:

- Communicating effectively
- Developing research skills
- Interfacing with professionals

DEVELOPMENT AND IMPLEMENTATION OF A TREATMENT PLAN

Task 1: Inform patient about the most effective modality to be used to treat their problem.

Knowledge of:

- Needle and laser modalities
- Functioning of equipment

Skill in:

- Communicating effectively
- Teaching/Educating

Task 2: Prepare patient, physically and psychologically, to facilitate safe, effective and comfortable treatment.

Knowledge of:

- Typical patient fears
- Relaxation techniques
- Disinfection and sterilization
- Manufacturer's specifications and instructions
- Wavelength of laser being used
- Proper types of protective laser eye glasses
- Patient preparation techniques, including waxing and shaving
- Topical preparations
- Professional ethics

Skill in:

- Applying disinfection and sterilization principles
- Implementing manufacturers' instructions
- Applying waxing and shaving techniques
- Applying topical preparations
- Applying proper technique in the use of protective laser eye glasses
- Interpreting non-verbal cues
- Communicating effectively

Task 3: Implement conditions for a safe and secure environment by adhering to relevant guidelines in order to enhance effective operation

Knowledge of:

- Functioning of equipment
- Laser safety principles for environment, practitioner, and patient
- Disinfection and sterilization
- Professional ethics
- State or Federal Regulations

Skill in:

- Communicating effectively
- Implementing disinfection and sterilization
- Carrying out procedures as determined by local or national jurisdiction

Task 4: Operate and maintain equipment safely

Knowledge of:

- Laser tissue interaction
- Concepts of photothermolytic energy and density principles
- Techniques specific to type of laser system being used
- Disinfection agents
- Equipment
- Skin tolerances

Skill in:

- Operating lasers safely and responsibly for hair removal
- Applying disinfection agents properly
- Setting appropriate laser fluence level in accordance with area being treated and laser spot size
- Documentation and interpretation of error reports
- Communicating effectively

Task 5: Application of appropriate post-treatment preparations to treated area and provide patient with appropriate post-treatment instructions

Knowledge of:

- Documentation
- Anatomy and physiology
- Principles of infection prevention, control, and wound healing
- Psychology

Skill in:

- Prioritizing and decision making
- Applying theories of coping and stress
- Communicating effectively with patients and other health professionals
- Using observation techniques to obtain accurate physical data
- Conducting analysis based on observable facts
- Monitoring assessment techniques to enhance continuous improvement

Frequently Asked Questions About the Certified Clinical Electrologist (CCE) Certification

1. **What is the CCE the exams and for whom are they written?**
The Certified Clinical Electrologist (CCE) is based on the needle-modality only and is based on one's current knowledge and practice.
2. **What are the eligibility requirements of becoming certified?**
The International Commission for Hair Removal Certification (ICHRC), the Society for Clinical and Medical Hair Removal's certification committee, strongly recommends that one be a practicing electrologist or have recently completed electrology training prior to taking the CCE examination. It is recommended that an electrologist be in active practice for one year before sitting for the examination.
3. **What should I expect from the exam?**
The CCE consists of 100 multiple-choice questions. A content assessment for this exam is available in the CCE/CME study guide, by contacting the home office, or on SCMHR's website. Committees made up of practicing electrologists, physicians, nurses and educators from the United States and Canada developed the exam questions. The ICHRC hand-picked these exam writers based on their expertise in the field.
4. **Where and when can I take the CCE exam?**
The exam can be proctored at a community college or learning center (ie, Sylvan or Huntington) in your area. You are responsible for contacting the proctoring site and making arrangements. Proctoring fees are your responsibility and separate from any exam fees paid to the Society.

Your exam packet will arrive at your designated proctoring site approximately three weeks after the Home Office receives your application. Those requesting less than three weeks to process the application will be subject to a \$250 "rush" fee, which includes expedited shipping.
5. **Can I study for the exam?**
The areas tested include knowledge and skill you develop from being in practice, as well as those learned from initial training. If you are a good practitioner and have had quality training, you should have no difficulty passing the examination. The CCE is designed to recognize competent practitioners.
6. **After I take the exam, how will I know the results?**
Those successfully completing the exam will receive a score and certificate from ICHRC. It takes approximately 4-6 weeks to receive the certificate due to the processing time involved with obtaining test results, printing and mailing. You may begin to use the designation as soon as you have been notified that you have passed the exam.

Those who do not pass the exam will receive a letter detailing scores in each specific exam area.
7. **Does my certification expire?**
Certification expires five years after the date of the original certification. You must be recertified every five years by either retaking the examination or by accumulating and registering 7.5 (75 hours) of CEUs.
7. **What does CEU stand for?**
CEU stands for Continuing Education Unit. One CEU is equal to 10 contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction. Up to 2.4 CEUs (24 hours) may be home studies. CEU certificates should be mailed, faxed or emailed to the home office within six months of completion. CEUs will NOT be granted without the proper documentation.
8. **What is the purpose of the recertification requirements?**
The ICHRC enforces these requirements to ensure that each certified person obtains current information in professional development, explores new knowledge in specific content areas, masters new skills and techniques, and conducts his or her professional practice in a safe and ethical manner.
9. **How can I be recertified?**
You must either meet the CEU requirements or pass the current applicable examination. You must submit application for recertification (along with payment) at least 2 weeks before your certification expires.

CCE EXAMINATION CONTENT

The ICHRC certification examination is a comprehensive test, which focuses on electrolysis theory and practice. The examination will consist of 100 multiple-choice questions from among the following content areas:

ASSESSMENT

25%

- Patient History
- Nature and extent of hair problem
- Screening for underlying conditions
- Evaluating data
- Treatment considerations
- Making appropriate referrals

TREATMENT

75%

Preparation of Patient

- Psychological
- Counseling
- Use of relaxing techniques application of topical agents
- Positioning
- Draping
- Comfort considerations

Examination

- Of skin
- Of hair
- Equipment selection, preparation, and procedures
- Proper sterilization and sanitation

Epilation Techniques

- Use of electric current
- Anatomy and physiology of hair and follicle
- Use of equipment

Post Treatment Care

- Topical
- Instructions to patient
- Scheduling
- Documentation

Equipment

- Maintenance and inspection
- Adjustment and repair
- Documentation

The Florida

Electrolysis Council

Draft Minutes

April 14, 2014

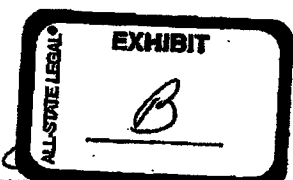
Telephone Conference Call

1-888-670-3525

Participant Code 4389078941 #

Jolynn Greenhalgh, Ph.D.
Chair

Lina Grillo
Vice Chair



Minutes

**DEPARTMENT OF HEALTH
ELECTROLYSIS COUNCIL
GENERAL BUSINESS MEETING**

April 14, 2014

9:00 a.m. EST

CONFERENCE CALL

1-888-670-3525

When prompted, enter the following conference code number: **4389078941**, followed by the "#" sign.

Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the Council's website.

Members Present

Dr. Jolynn Greenhalgh, Chair
Ms. Nilsa Lapeyrouse
Ms. Lina Grillo

Staff Present

Allen Hall, Executive Director
Anna King, Program Administrator
Pauline Walker, Regulatory Specialist II

Additional Persons Present

Gregory Absten, Executive Director
Professional Medical Education

Assistant Attorney General

Marlene Stern, Assistant Attorney General

Call to Order

Dr. Jolynn Greenhalgh, Chair called the meeting to order at 9:01 a.m.

ADMINISTRATIVE PROCEEDINGS

EXAMINATION APPLICANT

1. Tina Bitar, Exam Applicant
Ms. Bitar's application by examination was before the Council to determine whether the training she received in Indiana is "substantially equivalent" to the Electrolysis training requirements in Florida. The Council approved Ms. Bitar's application and her name was added to the June 21, 2014 list to take the IBEC examination.

MOTION: Ms. Lina Grillo moved to approve Ms. Bitar's application by examination; Ms. Nilsa Lapeyrouse seconded the motion, which carried 3/0.

Minutes

APPLICATION CERTIFICATION LIST

2. Examination Applicants

Dr. Greenhalgh moved to accept the Application Ratification checklist. Ms. Lapeyrouse seconded the motion, which carried 3/0.

OLD BUSINESS

7. January 27, 2014 General Business Meeting Minutes

Dr. Greenhalgh moved to accept the minutes of the January 27, 2014 General Business Meeting, Ms. Nilsa Lapeyrouse seconded the motion, which carried 3/0.

9. Rescheduling July 2014 Council Meeting.

The Council agreed to reschedule the July 14, 2014 General Business Meeting to Monday, July 7, 2014 at 9:00 a.m. E.S.T.

REPORT OF ASSISTANT ATTORNEY GENERAL, MARLENE STERN

3. Rule Status Report

Rule 64B8-51.001, F.A.C., Manner of Application

Rule 64B8-51.002 F.A.C., Licensure by Examination

Rule 64B8-56.002, F.A.C. Equipment and Devices: Protocols for Laser and Light-Based Devices.

Rule 64B8-52.004, F.A.C. Requirements for Approval of Training courses for Laser and Light-Based hair removal or Reduction.

Rule 64B8-51.006, F.A.C Rule Governing Licensure & Inspection of Electrology Facilities

Rule 64B8-55.002, F.A.C. Citations

Ms. Stern reported on the presentation of the Council's rules regarding national certification to the Board of Medicine on April 3, 2014. Currently, Electrologists must possess certification as a Certified Medical Electrologist (CME) through the Society for Clinical and Medical Hair Removal, Inc. (SCMHR). The Board determined that national certification should be retained; however, the Council has stated that one-time certification is adequate and does not have to be renewed.

In response to the Board of Medicine's request to increase laser hair removal training, Gregory Absten, E.D., Professional Medical Education (*National Council on Laser Certification*) offered to provide comparative information on training required in Arizona and Texas for the Council's review. Council staff will also research requirements in other states for the Council's consideration.

Ms. Stern indicated that Mr. Jon Pellet, SCMHR attorney, may be filing a Petition for Declaratory Statement regarding the certification issue with the Council.

Minutes

All other rules, not related to certification, will be presented at a future Board of Medicine Rule/Legislative Committee Meeting.

REPORTS

4. Dr. Jolynn Greenhalgh, Council Chair, provided input on the report provided by Ms. Stern regarding the Board of Medicine meeting of April 3, 2014.
All other rules, not related to certification will be presented at a future Board of Medicine Rules/Legislative Committee Meeting.
5. Allen Hall, Executive Director
 - Cash Balance Report
 - Expenditures by Function
 - Legislative UpdateMr. Hall presented these items for informational purposes only.

NEW BUSINESS

6. Determining Impact of Rule Changes Using SERC Checklist

Council will be required to have a more detailed discussion on "why" a Statement of Estimated Regulatory Costs (SERC) is or is not needed each time they are voting on proposed rule language. The SERC checklist will be included with all future rule development proposals placed on the Council's meeting agendas.
8. Inquiry to Council regarding Rule 64B-51.006, F.A.C, Rule Governing Licensure & Inspection of Electrology Facilities

The Council determined that no changes are needed to the rule and that Cavicide cannot be used as a sterilizer in lieu of the rule requirements. The inquirer may listen to meeting audio of details.

OTHER BUSINESS AND INFORMATION

10. Final Order: Barbara Jean Decavalcante, EO596

This item was provided for informational purposes only.

ADJOURNMENT

The meeting adjourned at 9:57 a.m.

64B8-51.006 Rule Governing Licensure and Inspection of Electrology Facilities.

(1) Definitions. An electrology facility is that portion of any establishment or place wherein electrolysis is performed. An electrology facility may be part of a residence.

(2) Electrology Facility Licensure.

(a) No one may operate an electrology facility without a license to do so from the Department of Health.

(b) To obtain the license, the applicant shall provide information to the Department as required by this rule on a form provided by the Department and approved and incorporated herein by reference by the Board as Form DH-MQA 1213, entitled "Application for Electrolysis Facility Licensure," effective 3/13, which can be obtained from <http://www.flrules.org/Gateway/reference.asp?No=Ref-02754> or the Department at The Florida Department of Health, Electrolysis Council, Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3256, and is available on the web at: <http://www.doh.state.fl.us/mqa>. The applicant must pay a \$100 application fee, which is nonrefundable, \$100 inspection fee, \$100 licensure fee and a \$5.00 unlicensed activity fee.

(3) Electrology Facility Safety and Sanitary Requirements.

(a) An electrology facility shall be clean, sanitary, and well-ventilated. It shall also allow for circulation of air sufficient to eliminate odors.

1. Any room wherein electrolysis is performed shall have four fixed, permanent walls at least six feet tall from the floor and shall have doors capable of being locked. Permanent walls means a vertical continuous structure of wood, plaster, masonry, or other similar building material, which is physically connected to the electrology facility floor. This requirement shall not apply to electrology facilities which are located in an electrolysis training facility so long as the unwallied area where electrolysis is performed is used for instructional purposes only.

2. There shall be a sink with hot and cold running water within the electrology facility. This sink may also serve as the sink in the toilet and lavatory facilities required under paragraph (3)(c) of this rule.

(b) The following documents shall be displayed in an area that is visible to the general public entering the facility:

1. The electrology facility license.
2. The current license of the electrologist.
3. The most recent inspection sheet from the Department of Health.
4. A current copy of Rule 64B8-51.006, F.A.C.

(c) Toilet and Lavatory Requirements. Each electrology facility shall provide, on the premises or in the same building, a separate room containing toilet and lavatory facilities which shall have at least one toilet and one sink with running water, and shall be equipped with toilet tissue, soap dispenser with soap or other hand cleaning material, disposable towels or wall-mounted electric blow dryer and a waste receptacle. The toilet and lavatory facilities and all fixtures and components shall be clean, in good repair, well-lighted and adequately ventilated to remove objectionable odors.

(d) No animals shall be allowed to enter or be in the room wherein electrolysis is performed except those trained to assist the hearing impaired, visually impaired, or the physically impaired.

(e) The electrology facility shall have the following equipment:

1. An FDA registered needle-type epilation device in working order;
2. Clean and sterile needles/probes and forceps/tweezers;
3. Needle holder tips;
4. A treatment table or treatment chair with a non-porous surface capable of being disinfected;
5. Disposable paper drapes or sanitary cloth drapes stored in a closed container or compartment;
6. Sanitary waste receptacles for the disposal of used gloves, paper supplies, cotton balls, and other noninfectious items;
7. Single use, disposable towels;
8. A sharps container for disposal of used needles/probes;
9. A treatment lamp or magnifier lamp capable of being cleaned with disinfectant;
10. A magnifying device which shall be a magnifier lamp, optical loupe or microscope capable of being cleaned and disinfected;
11. Tuberculocidal hospital grade disinfectant registered by the Environmental Protection Agency, household bleach or wiping cloths pre-saturated with disinfectant for wiping non-porous surfaces;
12. If eye shields are used, eye shields capable of being cleaned with disinfectant;
13. Covered containers for needles/probes and forceps/tweezers which containers are capable of being cleaned and sterilized;



14. Betadine, 3% U.S. Pharmaceutical grade hydrogen peroxide, or 70% isopropyl alcohol, or wrapped single use wipes saturated with 70% isopropyl alcohol;

15. Clean, non-sterile materials such as cotton balls, cotton strips, cotton swabs, gauze pads, and gauze strips;

16. If cloth towels are used, they shall be laundered and sanitized, which are stored in a closed container or compartment, and there shall be a covered sanitary container for holding used cloth towels;

17. A sterilizer which shall be either an autoclave or a dry heat sterilizer, and color change indicators for use with either sterilizer. The endodontic dry heat "glass bead sterilizer" shall not be used for instrument sterilization;

18. Monthly records of sterilizer biological test monitoring which shall be made available to the Agency or Department upon request;

19. A holding container for soaking and cleaning contaminated instruments; and

20. Non-sterile disposable examination gloves.

(f) An appointment book shall be maintained and kept on the electrology facility premises which lists the name of each person who has received electrolysis treatment.

(g) In electrology facilities wherein laser equipment is used for hair removal, the following shall be provided:

1. Proof of certification of 30 hours of continuing education in laser hair removal for all electrologists using laser equipment in the facility.

2. Proof of certification as Certified Medical Electrologist for all electrologists using laser equipment in the facility.

3. Proof of registration of laser as required by Section 501.122, F.S.

4. Written designation of laser safety officer.

5. Appropriate sign on door of laser room.

6. Lock on door of laser room.

7. Protective eyewear for all persons in laser room during operation of laser.

8. Fire extinguisher in vicinity of laser room.

9. Cold water and ice.

10. At least one piece of properly registered laser equipment located within the electrology facility.

(4) Inspections. The Department shall inspect all electrology facilities in the following manner:

(a) All licensed facilities shall be inspected once per biennium.

(b) All facilities applying for initial licensure shall be inspected prior to licensure.

(5) Transfer of Ownership or Location of the Electrology Facility.

(a) No license for an electrology facility may be transferred from the name of the original licensee to another.

(b) An electrology facility license may be transferred from one location to another only upon approval by the Department which approval shall be granted upon compliance with all requirements set out below in subparagraphs 1. through 3. Only the licenses for electrology facilities which have passed inspection at the original location are eligible for transfer to another location. In order to begin practice at the new location, the electrology facility license holder must first perform all of the following procedures:

1. File a completed application for transfer prior to the date of the transfer on forms prescribed by the Department, as referenced in paragraph (2)(b) of this rule, which application must be processed by the Council office;

2. Surrender the current license with the application; and

3. Pay \$100 to have the new location inspected to determine compliance with Rule 64B8-51.006, F.A.C. The electrology facility license holder transferring the license shall be permitted to perform electrolysis in the new facility, only after the application has been processed by the Council office and notification provided to the licensee, prior to inspection for a period of 60 days commencing with the first day electrolysis is performed in the new facility. The required inspection must be performed within the 60 day period or electrolysis services must cease until the inspection is performed.

(6) Renewal of Facility Licensure. Facility licensure shall be renewed at the end of each biennium prescribed by the Department. The licensee shall receive ninety (90) days notice of the need to renew the facility license. The notice shall be sent to the licensee at the last known address of the facility. Failure to receive the notice will not excuse the licensee from the requirement to renew the facility license, and failure to renew shall result in the license becoming delinquent. If the delinquent licensee does not apply for renewal of the license within six months of the license becoming delinquent, the license shall become null and any subsequent licensure shall be as a result of applying and meeting all requirements for new licensure. A facility may not operate without a license. To timely renew the facility license, including the six month "grace period" provided for, the licensee must pay

the renewal fee of \$100 and the inspection fee of \$100.

(7) No license for operation of an electrology facility may be transferred from the name of the licensee to the name of another person. If a facility is sold, the new owner must apply to the Department for licensure and no electrolysis services may be performed in the facility after the sale until the new owner has received the required license from the Department. A person purchasing an electrology facility may apply to the Department for licensure prior to the date of purchase.

Rulemaking Authority 456.037, 478.43(1), (4), 478.51(3) FS. Law Implemented 456.037(2), (3), (5), 456.0635, 478.49, 478.51 FS. History-New 11-16-93, Formerly 61F6-76.006, Amended 5-11-95, 6-26-96, Formerly 59R-51.006, Amended 12-23-97, 12-22-98, 2-17-00, 3-25-01, 4-8-02, 6-16-03, 7-29-10, 6-19-13.

64B8-52.003 Procedure for Approval of Attendance at Continuing Education Courses.

(1) During the license renewal period of each biennium, an application for renewal will be mailed to each licensee at the last address provided to the Board. Failure to receive any notification during this period does not relieve the licensee of responsibility of meeting the continuing education requirements. The application for renewal shall include a form on which the licensee shall state whether the licensee has completed the required continuing education and what number of hours were completed in the relevant biennium or year. The licensee must retain such receipts, vouchers, certificates, or other papers as may be necessary to document completion of the appropriate continuing education offerings listed on the renewal form for a period of not less than 4 years from the date the offering was taken. The Council will audit at random a number of licensees as is necessary to assure that the continuing education requirements are met. Failure to document compliance with the continuing education requirements or the furnishing of false or misleading information regarding compliance shall be grounds for disciplinary action pursuant to Section 478.52(1)(a), F.S.

(2) All licensees shall be awarded contact hours for attendance at all offerings that are approved by the Electrolysis Society of Florida (ESF), or the Electrolysis Association of Florida (EAF), or the American Electrology Association, or the Society of Clinical and Medical Hair Removal, and all offerings from other states which are approved by the states' licensing agency or professional electrology organization which offerings have been approved by the American Electrology Association, or the Society of Clinical and Medical Hair Removal, or any technical school, college or university course taken and successfully completed for the first time by the licensee in a subject area relevant to electrolysis. The licensee shall provide verification upon request of the Department.

(3) HIV/AIDS and blood-borne disease continuing education requirements.

(a) Each licensee is required to complete no later than upon first renewal an approved course on HIV/AIDS education. Approved offerings in HIV/AIDS are those that meet the requirements of Section 465.033, F.S. Courses approved by any Board within the Division of Medical Quality Assurance of the Department of Health pursuant to Section 456.033, F.S., are approved by this council.

(b) One hour of each biennium must be obtained by each licensee in an approved course on blood-borne diseases.

(4) Two (2) hours each biennium must be obtained by each licensee in approved offerings on prevention of medical errors, including a study of root-cause analysis, error reduction and prevention, and patient safety.

(5) Up to ten hours per biennium of the continuing education required for license renewal may be in the form of approved home study courses.

(6) Up to 2 hours each biennium may be obtained in the area of risk management by a licensee by attending a Board meeting in which another licensee is being disciplined, or by serving as volunteer expert witness in a disciplinary case.

(7)(a) A maximum of 6 contact hours shall be awarded per biennium for each of the following or a combination of the following:

(b) The presentation of an electrology related course or program as either the lecturer of the course or program or as the author of the course materials. Each licensee who is participating as either a lecturer or author of an electrology related course or program shall receive credit for the portion of the offering he/she presented or authored up to the total hours awarded for the offering.

1. Continuing education credit shall be awarded to a lecturer or author for the initial presentation of each electrology related course or program only; repeat presentations of the same course or program shall not be granted credit.

2. In order for a continuing education credit to be awarded to each licensee participating as either lecturer or author, the format of the electrology related course or program must conform with all applicable sections of this rule chapter.

3. The number of contact hours to be awarded to each licensee who participates in an electrology related course or program as either a lecturer or author is based on the 50 minute contact hour employed within this rule chapter.

Rulemaking Authority 478.43(1), (4), 478.50(2), (4)(a), (b) F.S. Law Implemented 456.013, 456.033, 478.43(4), 478.50(2), (4)(a), (b) F.S. History- New 6-1-93, Formerly 21M-77.003, 61F6-77.003, Amended 5-11-95, Formerly 59R-52.003, Amended 2-9-98, 2-16-99, 2-17-00, 9-21-00, 8-13-02, 4-26-09.

64B8-52.004 Requirements for Approval of Training Courses for Laser and Light-Based Hair Removal or Reduction.

The Electrolysis Council will approve laser and light-based hair removal or reduction continuing education training courses upon application if the following requirements are met:

(1) Continuing education providers seeking initial approval by the Council shall pay a fee of \$250, and shall complete and submit to the Council the application form entitled "Application for Laser and Light Based Hair Removal or Reduction Continuing Education Provider", form DOH/MQA/EO/LASER/CEU/07/23/01, which is hereby incorporated by reference and became effective July 23, 2001, copies of which may be obtained from the Council office at 4052 Bald Cypress Way, BIN C-05, Tallahassee, Florida 32399-3255. Continuing education providers seeking renewal of provider status shall also pay a \$250 fee each biennium. To receive Council approval, a continuing education program:

(a) Should be submitted for the Council's approval not less than 60 days nor more than 360 days prior to the date the offering is scheduled;

(b) Shall have its sponsor submit to the Council at least the following:

1. A statement of the educational goals and objectives of the program;
2. A detailed course outline or syllabus, including such items as method of instruction, testing materials, if any;
3. A current curriculum vitae of the course instructor(s);
4. The procedure to be used for recording attendance of those attendees seeking to apply for continuing education credit and the procedure for certification by the course's registrar of attendance;
5. A sample certificate of completion; and
6. A copy of the electrolysis facility license and the most recent Department of Health Inspection sheet from the location where the continuing education training course is offered demonstrating compliance with paragraph 64B8-51.006(3)(g), F.A.C.

(2) The course consists of thirty (30) hours of instruction, which may include 15 hours of home-study didactic training, in the use of laser and light-based hair removal or reduction devices, including:

(a) Biology of hair;

(b) Laser and light-based device terminology;

(c) Basic electricity;

(d) Laser and light-based hair removal physics, including:

1. The theory of traditional light.
2. The theory of coherent light.
3. The electromagnetic spectrum.
4. The different types of laser and light-based hair removal devices.
5. The history of laser and light-based device development.
6. The history of medical laser and light-based device development.
7. Understanding photonic principles and how a laser and light-based device works.
8. Hair removal laser and light-based device delivery systems.

(e) Safety and precautions, including:

1. Federal and quasi-federal regulatory agencies and their roles in safety.
2. Treatment room considerations.
3. Eye safety for the operator and the patient.
4. Fire safety.

(f) Laser and light based tissue interaction, including:

1. Grothus draper law.
2. Reflection, transmission, scatter and absorption.
3. The melanin and hemoglobin absorption curve at various hair removal device wavelengths.
4. Depth of penetration and wavelength.
5. Possible effects of absorption of light energy.
6. Selective photothermolysis, including:
 - a. Wavelength.
 - b. Pulse duration.
 - c. Energy fluence.

- d. Spot size.
- (g) Sanitation;
- (h) Fitzpatrick skin typing;
- (i) The patient intake form;
- (j) The consultation;
- (k) Proper documentation of patient case history and consent forms;
- (l) Pre-treatment patient preparation including test spot considerations and the Nikolski sign;
- (m) Treatment contra-indications including the recognition of disease conditions of the skin;
- (n) Handpiece and spot size considerations;
- (o) Fluence setting;
- (p) Stretch technique;
- (q) Use of grid stamp;
- (r) Post-treatment procedures, including:
 - 1. Application of ice and medication.
 - 2. Instructions to patients.
- (s) Expected outcomes including erythema and edema;
- (t) Possible adverse outcomes;
- (u) Follow-up care;
- (v) The concept of using needle-type epilators to complement laser and light-based hair removal or reduction devices; and
- (w) At least five (5) hours of hands-on experience with laser and light-based devices to include hair removal or reduction from all areas of the body.

(3) The instructors of each laser and light-based hair removal course have one year of post-certification experience. Verifiable documentation of this experience must be submitted to the Council with the application.

Specific Authority 456.025(7), 478.43 FS. Law Implemented 456.025(7), 478.42(5), 478.43(3), 478.50 FS. History- New 10-3-00, Amended 12-24-01, 12-26-02, 8-17-04, 7-3-06, 2-18-09.

64B8-56.002 Equipment and Devices; Protocols for Laser and Light-Based Devices.

(1) The Board of Medicine approves the following equipment and devices for the permanent removal of hair by licensed electrologists if they are used pursuant to requirements established by the Board.

(a) Needle type epilators.

(b) Laser and light-based hair removal or reduction devices cleared by the United States Food and Drug Administration (FDA) for hair removal or reduction.

(2) An electrologist may not use laser or light-based devices for hair removal or reduction unless they:

(a) Have completed training in laser and light-based hair removal and reduction that meets the requirements set forth in Rule 64B8-52.004(2) and (3), F.A.C.;

(b) Have been certified in the use of laser and light-based devices for the removal or reduction of hair by a national certification organization approved by the Council and the Board;

(c) Are using only the laser and light-based hair removal or reduction devices upon which they have been trained; and

(d) Are operating under the direct supervision and responsibility of a physician properly trained in hair removal and licensed pursuant to the provisions of Chapter 458 or 459, F.S.

(3)(a) The supervising physician, initially upon assuming duties as the supervisor and semiannually thereafter, shall review and inspect the techniques, procedures, and equipment utilized by the electrologist in the performance of laser and light-based hair removal or reduction.

(b) The supervising physician shall ensure that the electrologist has received semi-annual training in the areas of infection control, sterilization, and emergency procedures.

(4)(a) The supervising physician and the electrologist shall develop jointly written protocols regarding the medical condition for individuals to receive laser and light-based hair removal or reduction treatment; specific conditions and the procedure for identifying conditions that require direct evaluation or specific consultation by the physician; treatment of routine minor problems resulting during or from laser and light-based hair removal or reduction; and detailed procedures to be followed in the event of emergency situations developing during the performance of or as a result of laser and light-based hair removal or reduction. These written protocols must be signed, dated, and maintained in a readily available location on the premises where the electrologist practices. One copy shall be maintained by the supervising physician and one copy must be filed with the Department of Health. The written protocols which are kept on the premises of the electrologist will be readily available for inspection and review by agents of the Department of Health or the Board of Medicine. The parties to a protocol must notify the Department within 30 days of the termination of their professional relationship.

(b) The written protocol shall include and require that the initial consultation with each patient must include an examination and assessment by a physician licensed pursuant to Chapter 458 or 459, F.S.

(c) The written protocol shall include a statement that the electrologist does and will maintain professional liability coverage that includes coverage for incidents arising from laser usage in an amount not less than \$100,000.

(5) Pursuant to Section 456.072(1)(l), F.S., any physician who knows that any electrologist is engaged in unsafe practice must report that electrologist to the Department of Health immediately.

(6) Any physician who provides supervision to an electrologist must keep the Board informed of the number of electrologists the physician is supervising. No physician is authorized to supervise more than four (4) electrologists at any one time.

Specific Authority 478.43 FS. Law Implemented 458.331(1)(v), 458.348(3), 478.42(5), 478.43(4) FS. History—New 9-12-01, Amended 2-28-02, 7-23-06, 3-12-08.

Online
SunshineSelect Year: The 2013 Florida StatutesTitle XXXII
REGULATION OF PROFESSIONS AND
OCCUPATIONSChapter 458
MEDICAL
PRACTICEView Entire
Chapter

458.348 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(1) NOTICE.—

(a) When a physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which relationship or orders contemplate the performance of medical acts, or when a physician enters into an established protocol with an advanced registered nurse practitioner, which protocol contemplates the performance of medical acts identified and approved by the joint committee pursuant to s. 464.003(2) or acts set forth in s. 464.012(3) and (4), the physician shall submit notice to the board. The notice shall contain a statement in substantially the following form:

I, (name and professional license number of physician), of (address of physician), have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with (number of persons) emergency medical technician(s), (number of persons) paramedic(s), or (number of persons) advanced registered nurse practitioner(s).

(b) Notice shall be filed within 30 days of entering into the relationship, orders, or protocol. Notice also shall be provided within 30 days after the physician has terminated any such relationship, orders, or protocol.

(2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE.—The joint committee created under s. 464.003(2) shall determine minimum standards for the content of established protocols pursuant to which an advanced registered nurse practitioner may perform medical acts identified and approved by the joint committee pursuant to s. 464.003(2) or acts set forth in s. 464.012(3) and (4) and shall determine minimum standards for supervision of such acts by the physician, unless the joint committee determines that any act set forth in s. 464.012(3) or (4) is not a medical act. Such standards shall be based on risk to the patient and acceptable standards of medical care and shall take into account the special problems of medically underserved areas. The standards developed by the joint committee shall be adopted as rules by the Board of Nursing and the Board of Medicine for purposes of carrying out their responsibilities pursuant to part I of chapter 464 and this chapter, respectively, but neither board shall have disciplinary powers over the licensees of the other board.

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

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

(4) **SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.**—A physician who supervises an advanced registered nurse practitioner or physician assistant at a medical office other than the physician's primary practice location, where the advanced registered nurse practitioner or physician assistant is not under the onsite supervision of a supervising physician, must comply with the standards set forth in this subsection. For the purpose of this subsection, a physician's "primary practice location" means the address reflected on the physician's profile published pursuant to s. 456.041.

(a) A physician who is engaged in providing primary health care services may not supervise more than four offices in addition to the physician's primary practice location. For the purpose of this subsection, "primary health care" means health care services that are commonly provided to patients without referral from another practitioner, including obstetrical and gynecological services, and excludes practices providing primarily dermatologic and skin care services, which include aesthetic skin care services.

(b) A physician who is engaged in providing specialty health care services may not supervise more than two offices in addition to the physician's primary practice location. For the purpose of this subsection, "specialty health care" means health care services that are commonly provided to patients with a referral from another practitioner and excludes practices providing primarily dermatologic and skin care services, which include aesthetic skin care services.

(c) A physician who supervises an advanced registered nurse practitioner or physician assistant at a medical office other than the physician's primary practice location, where the advanced registered nurse practitioner or physician assistant is not under the onsite supervision of a supervising physician and the services offered at the office are primarily dermatologic or skin care services, which include aesthetic skin care services other than plastic surgery, must comply with the standards listed in subparagraphs 1.-4. Notwithstanding s. 458.347(4)(e)6., a physician supervising a physician assistant pursuant to this paragraph may not be required to review and cosign charts or medical records prepared by such physician assistant.

1. The physician shall submit to the board the addresses of all offices where he or she is supervising an advanced registered nurse practitioner or a physician's assistant which are not the physician's primary practice location.

2. The physician must be board certified or board eligible in dermatology or plastic surgery as recognized by the board pursuant to s. 458.3312.

3. All such offices that are not the physician's primary place of practice must be within 25 miles of the physician's primary place of practice or in a county that is contiguous to the county of the physician's primary place of practice. However, the distance between any of the offices may not exceed 75 miles.

4. The physician may supervise only one office other than the physician's primary place of practice except that until July 1, 2011, the physician may supervise up to two medical offices other than the physician's primary place of practice if the addresses of the offices are submitted to the board before July 1, 2006. Effective July 1, 2011, the physician may supervise only one office other than the physician's primary place of practice, regardless of when the addresses of the offices were submitted to the board.

(d) A physician who supervises an office in addition to the physician's primary practice location must conspicuously post in each of the physician's offices a current schedule of the regular hours when the

physician is present in that office and the hours when the office is open while the physician is not present.

(e) This subsection does not apply to health care services provided in facilities licensed under chapter 395 or in conjunction with a college of medicine, a college of nursing, an accredited graduate medical program, or a nursing education program; not-for-profit, family-planning clinics that are not licensed pursuant to chapter 390; rural and federally qualified health centers; health care services provided in a nursing home licensed under part II of chapter 400, an assisted living facility licensed under part I of chapter 429, a continuing care facility licensed under chapter 651, or a retirement community consisting of independent living units and a licensed nursing home or assisted living facility; anesthesia services provided in accordance with law; health care services provided in a designated rural health clinic; health care services provided to persons enrolled in a program designed to maintain elderly persons and persons with disabilities in a home or community-based setting; university primary care student health centers; school health clinics; or health care services provided in federal, state, or local government facilities. Subsection (3) and this subsection do not apply to offices at which the exclusive service being performed is laser hair removal by an advanced registered nurse practitioner or physician assistant.

(5) **REQUIREMENTS FOR NOTICE AND REVIEW.**—Upon initial referral of a patient by another practitioner, the physician receiving the referral must ensure that the patient is informed of the type of license held by the physician and the type of license held by any other practitioner who will be providing services to the patient. When scheduling the initial examination or consultation following such referral, the patient may decide to see the physician or any other licensed practitioner supervised by the physician and, before the initial examination or consultation, shall sign a form indicating the patient's choice of practitioner. The supervising physician must review the medical record of the initial examination or consultation and ensure that a written report of the initial examination or consultation is furnished to the referring practitioner within 10 business days following the completion of the initial examination or consultation.

(6) **LIMITATION ON RULEMAKING.**—This section is self-executing and does not require or provide authority for additional rulemaking.

History.—ss. 1, 4, ch. 82-32; s. 33, ch. 83-215; s. 83, ch. 83-218; s. 65, ch. 86-220; ss. 25, 26, ch. 86-245; s. 4, ch. 88-361; s. 15, ch. 91-220; s. 4, ch. 91-429; ss. 40, 118, ch. 2000-318; s. 5, ch. 2006-251; s. 112, ch. 2007-5; s. 7, ch. 2007-167; s. 3, ch. 2009-177; s. 7, ch. 2010-37; s. 2, ch. 2010-55; s. 3, ch. 2012-170.