



Florida Electrolysis Council Rules Workshop Packet

**February 13, 2015
Embassy Suites Hotel
225 Shorecrest Drive
Altamonte Springs, FL
12:00 p.m. – 4:00 p.m. EST**

**Florida Electrolysis Council Office
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**DEPARTMENT OF HEALTH
ELECTROLYSIS COUNCIL
RULES WORKSHOP
FEBRUARY 13, 2015
12:00 p.m. EST
AGENDA**

**Embassy Suites Hotel
225 Shorecrest Drive
Altamonte Springs, FL**

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 Electrolysis Council's website.

12:00 p.m.

Call to Order – Rules Workshop

I. Opening Comments

Two primary purposes: 1) hear public comment on the Board of Medicine's directive to take a broader look at distinguishing licensure pathways for those who want to use primarily laser equipment, versus those who want to use an epilator only, versus those who want to use both modalities; 2) hear public comment on the need for certification by a national entity in addition to the laser training course required by rule (or by rule changes made to distinguish licensure pathways) and continuing education (CE) requirements.

II. Public Comment

The Electrolysis Council would like to hear public comment on the above topics. This includes but is not limited to public comment on the questions below.

Whether the current 320 hour training requirement in Rule 64B8-53.002, F.A.C., is necessary for electrologists who primarily want to use laser equipment?

For electrologists who primarily want to use laser equipment, what initial training requirements should be put in place? What changes, if any should be made to the 30 hour laser training course currently required by the electrology rules?

What training is needed when an electrologist uses a type of laser equipment that he or she has not used before?

For electrologists who primarily want to use laser equipment, what, if any, ongoing training requirements should be put in place in addition to the current continuing education requirements? For example, should the requirement for certification by a national entity continue to be required?

What are the economic impacts of any potential rule changes?

III. Concluding Comments

Board of Medicine Directive re: Laser Hair Removal Rules

**August 1, 2014
MEETING MINUTES EXCERPT**

**Florida Board of Medicine
Renaissance at Seaworld
6677 Sea Harbor Dr
Orlando, FL 32821
(407) 351-5555**

Society for Clinical and Medical Hair Removal, Inc. (SCHMR) 35, Addendum

Jon Pellet, Esquire was present representing SCHMR. Marlene Stern, Board counsel for the Council on Electrolysis also addressed the Board.

Dr. El Sanadi made a motion that was seconded by Dr. Rosenberg and carried with one opposed to grant the petition because the members read the rule as only needing to be certified once.

A motion was made, seconded and carried unanimously to require the Council enter into rulemaking immediately to clarify the issue of not requiring continuing certification to do laser hair removal.

A motion was made, seconded and carried unanimously to ask the Council to look at the rules in a broader way regarding laser hair removal.

Dr. El Sanadi agreed to create an ad hoc committee to handle these rules.

Mr. Tellechea stated he would bring a draft Final Order to the next meeting for the Board's review and approval.

Action taken: petition granted; Council to enter into rulemaking and to think of these rules in a broader way; create ad hoc committee; draft Final Order to next meeting

Rules Under Discussion

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. 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-lit. 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 unwallled 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. Unless the facility is new, monthly records of sterilizer biological test monitoring which shall be made available to the 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. For devices required to be registered, proof of registration for each laser or light-based device in use at the facility 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. The written protocols required by paragraph 64B8-56.002(4)(a), F.A.C.

(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, 12-25-14.

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 apply through the Department of Health's contracted continuing education system, CE broker, at www.cebroker.com. 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) Shall 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 electrology 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.

Rulemaking 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, 12-21-14.

64B8-53.002 Curriculum Standards for Electrolysis Training Programs.

In order to be approved by the Board, an electrolysis training program must meet the following curriculum standards:

(1) Academic instruction to be set out in school catalog.	Hours
(a) Introduction to electrolysis techniques through Galvanic, Thermolysis and Blend, history of permanent hair removal, general treatment procedures	15
(b) Principles of electricity, epilator functions, and adjustments.	5
(c) Integumentary System (skin and appendages).	10
(d) Circulatory (blood and lymph) and nervous system.	10
(e) Endocrine system, including related diseases.	10
(f) Biology of hair growth.	10

(g) Skin assessment, including types, effects of specific current, effects of temporary removal.	15
(h) Study of blood-borne pathogens with emphasis on hepatitis (all types), and HIV/AIDS.	10
(i) Microbiology of the skin (flora and fauna), sanitation and safety procedures including demonstrations in accordance with Rule 64B8-56.001, F.A.C.	10
(j) Clinic and office management, communications, professional ethics, bookkeeping, and patient management.	10
(k) Study of Chapter 64B8, F.A.C., as it relates to electrolysis, Chapter 478, F.S., and Chapter 456, Part II, F.S.	10
(l) Consultations.	5
Subtotal	120 hours
(2) Clinical Application	Hours
(a) Coordination skills with probe holder and forceps.	5
(b) Insertions	15
(c) Sanitation/Sterilization Procedures	10
(d) Hands on Equipment Instruction (Electrolysis)	5
(e) Hands on Equipment Instruction (Thermolysis)	5
(f) Hands on Equipment Instruction (Blend)	5
(g) Client Pre/Post Treatment	5
(h) Client Assessment	10
(i) General Treatment Procedures	105
(j) Consultations	15
(k) Visuals/Library	10
(l) Review/Exam Preparation	10
Subtotal	200
Total	320 hours

Specific Authority 478.43(4), 478.50(4)(b) FS. Law Implemented 478.43(4), 478.45(1)(e), 478.50(4)(b) FS. History—New 9-29-93, Formerly 61F6-78.002, 59R-53.002, Amended 11-13-97.

64B8-55.001 Disciplinary Guidelines.

(1) Purpose. Pursuant to Section 478.52(4), F.S., the Board provides within this rule disciplinary guidelines which shall be imposed upon applicants or licensees whom it regulates under Chapter 478, F.S. The purpose of this rule is to notify applicants and licensees of the ranges of penalties which will routinely be imposed unless the Board finds it necessary to deviate from the guidelines for the stated reasons given within this rule. Each range includes the lowest and highest penalty and all penalties falling between. The purposes of the imposition of discipline are to punish the applicants or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from violations.

(2) Sexual misconduct in the delivery of electrolysis services is sexual behavior or involvement as defined in Section 456.063(1), F.S.

(3) Violations and Range of Penalties. In imposing discipline upon applicants and licensees in proceedings pursuant to Sections 120.57(1) and 120.57(2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty as provided in Section 456.072(2), F.S., within the range corresponding to the violations set forth below. The identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATION

(a) Attempting to obtain a license by bribery, fraud, misrepresentation, or through error of the department or the council.

(478.52(1)(a), 456.072(1)(h), F.S.)

(a)1. Attempting to obtain an initial licensure by bribery or fraud.

(a)2. Attempting to renew a license by bribery or fraud.

(a)3. Obtaining or renewing a license by fraud.

(a)4. Obtaining or renewing a license through error of the department or the council.

(a)5. Obtaining or renewing a license through negligent misrepresentation.

(b) Action taken against license by another jurisdiction.

(478.52(1)(b), F.S.)

(c) Guilt of crime directly relating to practice.

(478.52(1)(c), F.S.)

(d) Filing a false report or failing to file a report as required.

(478.52(1)(d), F.S.)

(d)1. Negligently filing a false report or failing to file a report as required.

(d)2. Fraudulently filing a false report or failing to file

RECOMMENDED RANGE OF PENALTY

(a)1. Denial of application and \$10,000 fine.

(a)2. For the first offense, from revocation of the license with ability to reapply upon payment of a \$10,000 fine to permanent revocation. After the first offense, permanent revocation and a \$10,000 fine.

(a)3. For the first offense, from revocation of the license with ability to reapply upon payment of a \$10,000 fine to permanent revocation. After the first offense, permanent revocation and a \$10,000 fine.

(a)4. Revocation.

(a)5. For the first offense, from a \$250 fine and 3 hours of continuing education on ethics to suspension and a reprimand and a \$1,000 administrative fine.

(b)1. From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to suspension or denial of the license until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken, and an administrative fine ranging from \$250 to \$5,000. Impaired practitioners working in this state shall be evaluated to determine the need for referral to PRN.

(b)2. After the first offense, from imposition of discipline comparable to that which would have been imposed if a second or higher substantive violation had occurred in Florida to suspension or denial of license until it is unencumbered in the other jurisdiction, and an administrative fine from \$1,000 to \$5,000.

(c)1. From probation to revocation or denial of license, and an administrative fine ranging from \$250 to \$5,000.

(c)2. After the first offense, from a three-year probation with conditions to revocation or denial of the license, and an administrative fine ranging from \$350 to \$5,000.

(d)1. For the first offense, from a letter of concern or denial of application to one (1) year probation and an administrative fine from \$500 to \$5,000. After the first offense, from one (1) year probation to revocation, and an administrative fine from \$1,000 to \$5,000.

(d)2. For the first offense, from one (1) year probation to revocation

a report as required.

(e) False, deceptive or misleading advertising.
(478.52(1)(e), F.S.)

(e)1. Negligent false, deceptive, or misleading advertising.

(e)2. Fraudulent false, deceptive, or misleading advertising.

(f) Unprofessional conduct, failure to conform to acceptable standards.

(478.52(1)(f), F.S.)

(456.072(3)(b), F.S.)

(g) Possession, sale or distribution of illegal or controlled substance.

(478.52(1)(g), F.S.)

(h) Failure to report any known violation of Chapter 478, F.S.

(478.52(1)(h), F.S.)

(i) Repeated or willful violation of rule or order.

(478.52(1)(i), F.S.)

(j) Delivery of electrolysis services without an active license.

(478.52(1)(j), F.S.)

(k) Employing unlicensed person to practice electrology.

(478.52(1)(k), F.S.)

(l) Failure to perform legal obligation.

or denial of application, and a \$10,000 fine. After the first offense, from suspension to revocation and a \$10,000 fine.

(e)1. For the first offense, from a letter of concern to one (1) year suspension or denial or application, and an administrative fine from \$500 to \$2,500.

(e)2. For the first offense, from reprimand to up to one (1) year suspension or denial of application, and an administrative fine of \$10,000. After the first offense, from suspension up to revocation and a fine of \$10,000.

(f)1. For first-time violation where no actual patient harm occurred, citation and \$250 fine. For first-time violation where actual patient harm occurred from six months probation to revocation or denial, and an administrative fine from \$1,000 to \$2,500.

(f)2. After the first offense, from one year probation to revocation or denial, and an administrative fine from \$1,000 to \$5,000.

(g)1. From six months suspension to revocation or denial, and an administrative fine from \$1,000 to \$5,000.

(g)2. After the first offense, from one year suspension to revocation, and an administrative fine from \$1,500 to \$5,000.

(h)1. From a reprimand to probation or denial, and an administrative fine from \$250 to \$5,000.

(h)2. After the first offense, from one year probation to revocation or denial, and an administrative fine from \$350 to \$5,000.

(i)1. From six months suspension to revocation or denial, and an administrative fine from \$1,000 to \$2,500.

(i)2. After the first offense, from one year suspension to revocation or denial, and an administrative fine from \$1,500 to \$5,000.

(j)1. From probation to revocation or denial, and an administrative fine from \$250 to \$5,000.

(j)2. After the first offense, from one year suspension to revocation or denial, and an administrative fine from \$1,000 to \$5,000.

(k)1. From one year probation to denial or five years suspension followed by probation, and an administrative fine from \$250 to \$5,000.

(k)2. After the first offense, from one year suspension to denial or five years suspension followed by probation, and an administrative fine from \$1,000 to \$5,000.

(l)1. From a reprimand to probation up to one year

(478.52(1)(l), F.S.)

(m) Accepting and performing responsibilities for which licensee knows, or has reason to know, he or she is not competent to perform.

(478.52(1)(m), F.S.)

(n) Delegating professional responsibilities to unqualified person.

(478.52(1)(n), F.S.)

(o) Malpractice.

(478.52(1)(o), F.S.)

(p) Judicially determined mental incompetency.

(478.52(1)(p), F.S.)

(q) Practicing under a name other than that of licensee.

(478.52(1)(q), F.S.)

(q)1. Negligently practicing under a name other than that of the licensee.

(q)2. Fraudulently practicing under a name other than that of the licensee.

(r) Inability to practice because of mental or physical condition or use of alcohol or controlled substances.

(478.52(1)(r), F.S.)

(456.072(1)(v), F.S.)

(s) Being terminated from or failing to successfully complete an impaired practitioners treatment program.

or denial, and an administrative fine from \$250 to \$1,500.

(l)2. After the first offense, from probation to suspension or denial, and an administrative fine from \$1,000 to \$5,000.

(m)1. From six months probation to revocation or denial, and an administrative fine from \$500 to \$2,500.

(m)2. After the first offense, from one year probation to revocation or denial, and an administrative fine from \$1,000 to \$5,000.

(n)1. From probation to denial or two years suspension followed by probation, and an administrative fine from \$250 to \$5,000.

(n)2. After the first offense, from six months suspension followed by probation to revocation, and an administrative fine from \$1,000 to \$5,000.

(o)1. From two years probation to revocation or denial, and an administrative fine from \$250 to \$5,000.

(o)2. After the first offense, from one year suspension followed by probation to revocation or denial, and an administrative fine from \$1,000 to \$5,000.

(p) From probation to denial or indefinite suspension until licensee is able to demonstrate ability to practice with reasonable skill and safety followed by probation.

(q)1. For the first offense, form one (1) year suspension to revocation or denial of application, and an administrative fine from \$250 to \$5,000. After the first offense, revocation and an administrative fine from \$1,000 to \$5,000.

(q)2. For the first offense, revocation or denial of application, and an administrative fine of \$10,000.

(r)1. From probation to denial or indefinite suspension until licensee is able to demonstrate the ability to practice with reasonable skill and safety followed by probation, and an administrative fine from \$250 to \$5,000.

(r)2. For a second offense, from indefinite suspension until licensee is able to demonstrate the ability to practice with reasonable skill and safety followed by probation to revocation, and an administrative fine from \$1,000 to \$5,000.

(s)1. First Offense - Minimum stayed Suspension and Probation for a period of 1 year with a fine of \$500. to a Maximum of Suspension

- (t) Disclosing identity of or information about a patient.
(478.52(1)(s), F.S.)
- (u) Practicing permanent hair removal except as described in Section 478.52(5), F.S.
(478.52(1)(t), F.S.)
- (v) Providing electrolysis or allowing electrolysis to be performed in an unlicensed facility.
(478.51(1), F.S.)
- (w) Transferring an electrology facility license from the name of the original licensee to another.
(478.51(1), F.S.)
- (x) Sexual Misconduct.
(456.063, F.S.)
- (y) Failure to comply with continuing education requirements.
(478.50(4) and 478.52(1)(f), F.S.)
- (z) Failure to keep an electrology facility clean, sanitary, and well lit; allowing for circulation of air sufficient to eliminate objectionable odors.
(478.51(3), F.S.)
- (aa) Failure to have four fixed, permanent walls physically connected to the electrology facility floor at least six feet tall from the floor.
(478.51(3), F.S.)
- (bb) Failure to have required locking doors.
(478.51(3), F.S.)
- or denial of license until successful completion or receipt of a Written Confirmation from the program that further treatment is neither required nor indicated followed by a 1 year probation and a fine of \$1,000.
- (s)2. Subsequent Offenses - Minimum Suspension for 3 years or until licensee is able to demonstrate to the Board the ability to practice with reasonable skill and safety, whichever is longer and a fine of \$1,000. to a Maximum of revocation or denial of license and a \$2,000. fine.
- (t)1. From one year suspension to revocation or denial, and an administrative fine from \$250 to \$5,000.
- (t)2. For a second offense, revocation, and an administrative fine from \$1,000 to \$5,000.
- (u)1. From two years probation to revocation or denial, and an administrative fine from \$250 to \$5,000.
- (u)2. After the first offense, from one year suspension followed by probation to revocation or denial, and an administrative fine from \$1,000 to \$5,000.
- (v) For second and subsequent offenses: from two years probation to revocation or denial and an administrative fine from \$250 to \$5,000.
- (w) Denial of application as an electrologist and denial of application for facility license. Revocation of facility license to electrologist who accepts or transfers facility license. Revocation of electrology license.
- (x) Denial of licensure, or if licensed, six months suspension to revocation and an administrative fine of \$500 to \$10,000.
- (y) Second and subsequent violations: from probation up to one year to suspension up to one year and an administrative fine from \$1,000 to \$2,500; and completion of all incomplete continuing education credits.
- (z) Third and subsequent offenses: from reprimand to suspension until compliance and an administrative fine of \$500.
- (aa) Third and subsequent offenses: from reprimand to suspension until compliance and an administrative fine of \$500.
- (bb) Third and subsequent offenses: from reprimand to suspension until compliance and an administrative fine of \$500.

(cc) Failure to have a sink with hot and cold running water within the electrology facility.

(478.51(3), F.S.)

(dd) Failure to provide, on the premises or in the same building, a separate room containing toilet and lavatory facilities.

(478.51(3), F.S.)

(ee) Allowing animals in the room wherein electrolysis is performed except those trained to assist the hearing impaired, visually impaired or physically impaired.

(478.51(3), F.S.)

(ff) Failure to have any one of the following items/equipment in the facility (the failure to have any one of the items/equipment shall constitute a separate offense):

1. An FDA registered needle type epilation device in working order;
2. Clean and sterile needles (e.g., probes) and forceps (e.g., tweezers);
3. Sanitary waste receptacles for the disposal of used gloves, paper supplies, cotton balls, and other non infectious items;
4. A sharps container for disposal of used needles;
5. A sterilizer which shall be either an autoclave or a dry heat sterilizer and color change indicators for use with either sterilizer;
6. Monthly records of sterilizer biological test monitoring which shall be made available to the Department upon request;
7. A holding container for soaking and cleaning contaminated instruments.

(gg) Failure to maintain an appointment book.

(478.51(3), F.S.)

(hh) Failure to display any one of the following documents in an area that is visible to the general public entering the facility (the failure to display any one of the documents shall constitute a separate offense):

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.

(ii) Failure to have any one of the following items/equipment (the failure to have any one of the items/equipment shall constitute a separate offense):

(cc) Third and subsequent offenses: from reprimand to suspension until compliance and an administrative fine of \$500.

(dd) Third and subsequent offenses: from reprimand to suspension until compliance and an administrative fine of \$500.

(ee) Third and subsequent offenses: from reprimand to one month suspension and until compliance, and an administrative fine of \$500.

(ff) Third and subsequent offenses: from reprimand to one month suspension and until compliance, and an administrative fine of \$500.

(gg) Third and subsequent offenses: from reprimand to suspension until compliance and an administrative fine of \$500.

(hh) Fourth and subsequent offenses: from reprimand to suspension until compliance and an administrative fine of \$350.

(ii) Fourth and subsequent offenses: from reprimand to suspension until compliance and an administrative fine of \$350.

1. Needle holder tips;
2. A treatment table or chair with a nonporous surface capable of being disinfected;
3. Disposable paper drapes or sanitary cloth drapes stored in a closed container or compartment;
4. Single use disposable towels;
5. A treatment lamp or magnifier lamp capable of being cleaned with disinfectant;
6. A magnifying device which shall be a magnifier lamp, optical loupe or microscope capable of being cleaned and disinfected;
7. Tuberculocidal hospital grade disinfectant detergent registered by the Environmental Protection Agency, household bleach or wiping cloths presaturated with disinfectant for wiping nonporous surfaces;
8. If eye shields are used, eye shields capable of being cleaned with disinfectant;
9. Covered containers for needles and forceps which containers are capable of being cleaned and sterilized;
10. Betadine, 3% U.S. pharmaceutical grade hydrogen peroxide or 70% isopropyl alcohol or mapped single use wipes saturated with 70% isopropyl alcohol;
11. Clean, non-sterile materials such as cotton balls, cotton strips, cotton swabs, gauze pads, and gauze strips;
12. Laundered and sanitized cloth towels stored in a closed container or compartment;
13. A covered sanitary container for holding used cloth towels;
14. Non-sterile disposable examination gloves.

(jj) Operating an unlicensed electrolysis facility.
(478.52(1)(u), F.S.)

(kk) Failure to report, within 30 days a conviction, finding of guilt, or plea of nolo contendere, regardless of adjudication, to a crime, to the Board.
(456.072(1)(w), F.S.)

(ll) Using information from accident reports, or from news sources that use such information for the solicitation of people involved in such accidents.
(456.072(1)(x), F.S.)

(mm) Testing positive for a drug on employment drug screening

(jj) From denial of licensure if committed prior to licensure, or suspension until compliance to revocation, and a fine from \$250 to \$2,500.

(kk)1. 3 months probation to 2 years suspension, and a fine of \$500 to \$5,000.

(kk)2. After the first offense, from 1 year probation to revocation, and a fine from \$1000 to \$5,000.

(ll)1. Up to six months probation and/or a fine of up to \$500.

(ll)2. After the first offense, from one year probation to one year suspension, and a fine from \$1,000 to \$5,000.

(mm)1. Probation to revocation or denial licensure, and administrative fine from \$250 to \$2,500.

(456.072(1)(z), F.S.)

(nn) Violating any provision of Chapter 478 or 456, F.S., or any rule of the Board or Department.

(478.52(1)(v), F.S.)

(oo) Performing or attempting to perform electrolysis on the wrong patient, a wrong-site procedure, a wrong procedure, an unauthorized procedure, or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.

(456.072(1)(aa), F.S.)

(ll)2. After the first offense, probation to revocation, and administrative fine from \$2,500 to \$5,000.

(nn) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation and a fine of \$250 to \$1,000.

(oo)1. For the first offense, from one year probation with conditions and a \$1,000 fine to one year suspension, two years probation and a \$5,000 fine.

(oo)2. For the second offense, from one year suspension, two years probation with conditions and a \$5,000 fine to revocation and a \$10,000 fine.

(4) Aggravating and Mitigating Circumstances. Based upon consideration of aggravating and mitigating factors present in an individual case, the Board may deviate from the penalties recommended above. The Board shall consider as aggravating or mitigating factors the following:

- (a) Exposure of patient or public to injury or potential injury, physical or otherwise: none, slight, severe, or death;
- (b) Legal status at the time of the offense: no restraints, or legal constraints;
- (c) The number of counts or separate offenses established;
- (d) The disciplinary history of the applicant or licensee in any jurisdiction and the length of practice;
- (e) Pecuniary benefit or self-gain inuring to the applicant or licensee;
- (f) Any other relevant mitigating or aggravating factors.

(5) Stipulations or Settlements. The provisions of this rule are not intended and shall not be construed to limit the ability of the Board to dispose informally of disciplinary actions by stipulation, agreed settlement, or consent order pursuant to Section 120.57(4), F.S.

(6) Letters of Guidance. The provisions of this rule cannot and shall not be construed to limit the authority of the probable cause panel of the Board to direct the Department to send a letter of guidance pursuant to Section 456.073(3), F.S., in any case for which it finds such action appropriate. However, the Department shall not recommend a letter of guidance in lieu of finding probable cause if the subject has already been issued a letter of guidance for a related offense.

(7) Other Action. The provisions of this rule are not intended to and shall not be construed to limit the ability of the Board to pursue or recommend that the Department pursue collateral civil or criminal actions when appropriate.

Specific Authority 456.072, 456.079, 478.52(4) FS. Law Implemented 456.072, 456.073, 456.079, 478.52(4) FS. History—New 11-16-93, Formerly 61F6-80.001, Amended 1-2-95, Formerly 59R-55.001, Amended 2-9-98, 10-12-98, 3-1-00, 9-28-00, 5-30-01, 8-8-01, 10-8-02, 7-8-03, 7-18-06.

64B8-55.002 Citations.

(1) "Citation" means an instrument which meets the requirements set forth in Section 456.077, F.S., which is served upon a licensee for the purpose of assessing a penalty in an amount established by this rule.

(2) In lieu of the disciplinary procedures contained in Section 456.073, F.S., the Department may issue a citation to the subject within six months after the filing of the complaint which is the basis for the citation.

(3) All citations include a requirement that the subject correct the violation, if remediable, within a specified period of time not to exceed 60 days, and impose whatever obligations necessary to remedy the offense.

(4) The Board designates the following as citation violations:

(a) Failure to provide satisfaction including the costs incurred within 45 days of receipt of the Department's notification of a check dishonored for insufficient funds.

(a) A \$100.00 fine.

(b) Failure to notify the Department of a change of address within sixty days.

(b) A \$100.00 fine.

(c) Failure to keep an electrology facility clean,

(c) First time violation – a \$150.00 fine, second

sanitary, and well lit; allowing for circulation of air sufficient to eliminate objectionable odors.

(64B8-51.006(3)(a), F.A.C.)

(d) Failure to have four fixed, permanent walls physically connected to the electrology facility floor at least six feet tall from the floor.

(64B8-51.006(3)(a)1., F.A.C.)

(e) Failure to have required locking doors.

(64B8-51.006(3)(a)1., F.A.C.)

(f) Failure to have a sink with hot and cold running water within the electrology facility.

(64B8-51.006(3)(a)2., F.A.C.)

(g) Failure to provide, on the premises or in the same building, a separate room containing toilet and lavatory facilities.

(64B8-51.006(3)(c), F.A.C.)

(h) Animals in the room wherein electrolysis is performed except those trained to assist the hearing impaired, visually impaired or physically impaired.

(64B8-51.006(3)(d), F.A.C.)

(i) Failure to have any one of the following items/equipment in the facility (the failure to have any one of the items/equipment shall constitute a separate citation):

1. An FDA registered needle type epilation device in working order.

(64B8-51.006(3)(e)1., F.A.C.)

2. Clean and sterile needles (e.g. probes) and forceps (e.g. tweezers).

(64B8-51.006(3)(e)2., F.A.C.)

3. Sanitary waste receptacles for the disposal of used gloves, paper supplies, cotton balls, and other non infectious items.

(64B8-51.006(3)(e)6., F.A.C.)

4. A sharps container for disposal of used needles.

(64B8-51.006(3)(e)8., F.A.C.)

5. A sterilizer which shall be either an autoclave or a dry heat sterilizer and color change indicators for use with either sterilizer.

(64B8-51.006(3)(e)17., F.A.C.)

6. Monthly records of sterilizer biological test monitoring which shall be made available to the Department upon request.

(64B8-51.006(3)(e)18., F.A.C.)

7. A holding container for soaking and cleaning contaminated instruments.

(64B8-51.006(3)(e)19., F.A.C.)

(j) Failure to maintain an appointment book.

time violation – a \$300.00 fine.

(d) First time violation – a \$150.00 fine, second time violation – a \$300.00 fine.

(e) First time violation – a \$150.00 fine, second time violation – a \$300.00 fine.

(f) First time violation – a \$150.00 fine, second time violation – a \$300.00 fine.

(g) First time violation – a \$150.00 fine, second time violation – a \$300.00 fine.

(h) First time violation – a \$150.00 fine, second time violation – a \$300.00 fine.

(i) First time violation – a \$150.00 fine, second time violation – a \$300.00 fine.

(j) First time violation – a \$150.00 fine, second

(64B8-51.006(3)(f), F.A.C.)

(k) Failure to display any one of the following documents in an area that is visible to the general public entering the facility (the failure to display any one of the documents shall constitute a separate citation):

1. The electrology facility license.

(64B8-51.006(3)(b)1., F.A.C.)

2. The current license of the electrologist.

(64B8-51.006(3)(b)2., F.A.C.)

3. The most recent inspection sheet from the Department of Health.

(64B8-51.006(3)(b)3., F.A.C.)

4. A current copy of Rule 64B8-51.006, F.A.C.

(64B8-51.006(3)(b)4., F.A.C.)

(l) Failure to have any one of the following items/equipment (the failure to have any one of the items/equipment shall constitute a separate violation):

1. Needle holder tips.

(64B8-51.006(3)(e)3., F.A.C.)

2. A treatment table or chair with a nonporous surface capable of being disinfected.

(64B8-51.006(3)(e)4., F.A.C.)

3. Disposable paper drapes or sanitary cloth drapes stored in a closed container or compartment.

(64B8-51.006(3)(e)5., F.A.C.)

4. Single use disposable towels.

(64B8-51.006(3)(e)7., F.A.C.)

5. A treatment lamp or magnifier lamp capable of being cleaned with disinfectant.

(64B8-51.006(3)(e)9., F.A.C.)

6. A magnifying device which shall be a magnifier lamp, optical loupe or microscope capable of being cleaned and disinfected.

(64B8-51.006(3)(e)10., F.A.C.)

7. Tuberculocidal hospital grade disinfectant detergent registered by the Environmental Protection Agency, household bleach or wiping cloths presaturated with disinfectant for wiping nonporous surfaces.

(64B8-51.006(3)(e)11., F.A.C.)

8. If eye shields are used, eye shields capable of being cleaned with disinfectant.

(64B8-51.006(3)(e)12., F.A.C.)

9. Covered containers for needles and forceps which containers are capable of being cleaned and Sterilized.

(64B8-51.006(3)(e)13., F.A.C.)

time violation – a \$300.00 fine.

(k) First time violation – a \$50.00 fine, second time violation – a \$100.00 fine, third time violation – \$200.00 fine.

(l) First time violation – a \$50.00 fine, second time violation – a \$100.00 fine, third time violation – \$200.00 fine.

10. Betadine, 3% U.S. pharmaceutical grade hydrogen peroxide or 70% isopropyl alcohol or mapped single use wipes saturated with 70% isopropyl alcohol.

(64B8-51.006(3)(e)14., F.A.C.)

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

(64B8-51.006(3)(e)15., F.A.C.)

12. Laundered and sanitized cloth towels stored in a closed container or compartment.

(64B8-51.006(3)(e)16., F.A.C.)

13. A covered sanitary container for holding used cloth towels.

(64B8-51.006(3)(e)16., F.A.C.)

14. Non-sterile disposable examination gloves.

(64B8-51.006(3)(e)20., F.A.C.)

(m) Failure to comply with continuing education requirements.

(64B8-52.002, F.A.C.)

(n) Providing electrolysis services in an unlicensed facility.

(o) Permitting an unlicensed person to provide electrolysis services.

(p) Providing electrolysis services with a delinquent license or null/void license.

(q) Unprofessional conduct, failure to conform to acceptable standards.

(r) Failure to timely pay required fees and fines.

(s) Advertising any discounted or free service without including the required statement, Section 456.062, F.S.

(m) First time violation – \$500 fine; and completion of all incomplete continuing education credits.

(n) First time violation – \$250 fine.

(o) First time violation – \$250 fine.

(p) First time violation – \$250 fine.

(q) First time violation where no actual patient harm occurred – \$250 fine.

(r) For first time violation, a \$250 fine.

(s) A \$100.00 fine.

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

(a) Written designation of laser safety officer.

(64B8-51.006(3), (g), 4., F.A.C.)

First time violation \$150, Subsequent violations \$300

(b) Appropriate sign on door of laser room as required by ANSI Standard Z136.1-2000, in effect on June 1, 2006, available from American National Standards Institute, 25 West 43rd Street, 4th Floor, New York, N.Y. 10036.

(64B8-51.006(3)(g)5., F.A.C.)

First time violation \$150, Subsequent violations \$300.

(c) Cold water and ice.

(64B8-51.006(3)(g), 9., F.A.C.)

First time violation \$150, Subsequent violation \$300.

(d) Lock on door of laser room.

(64B8-51.006(3)(g), 6., F.A.C.)

First time violation \$150, Subsequent violation \$300.

(e) Fire extinguisher in vicinity of laser room.

(64B8-51.006(3)(g), 8., F.A.C.)

First time violation \$150, Subsequent violation \$300.

- | | |
|---|---|
| (f) Written protocols that are signed, dated, and maintained in a readily available location on the premises where the electrologist practices.
(64B8-56.002(4)(a), F.A.C.) | First time violation \$200, Subsequent violation \$400. |
| (g) Copy of protocols filed with the Department of Health.
(64B8-56.002(4)(a), F.A.C.) | First time violation \$200, Subsequent violation \$400. |
| (h) Professional liability coverage that includes coverage for incidents arising from laser usage in an amount not less than \$100,000.
(64B8-56.006(4)(c), F.A.C.) | First time violation \$250, Subsequent violation \$500 |
| (i) At least one piece of properly registered laser equipment located within the electrology facility.
(64B8-51.006 (3)(g), 3., F.A.C.) | First time violation \$300, Subsequent violation \$600. |
| (j) Protective eyewear for all persons in laser room during operation of laser.
(64B8-51.006(3)(g), 7., F.A.C.) | First time violation \$300, Subsequent violation \$600. |
| (k) Proof of completion of 30 hours of post-licensure education in laser hair removal for all electrologists using laser equipment in the facility.
(64B8-52.004 F.A.C.) | First time violation \$500, Subsequent violation \$1,000. |
| (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.
(64B8-56.002(2)(b), F.A.C.) | First time violation \$500, Subsequent violation \$1,000. |

(6) In addition to the penalties established in this rule, the Department shall recover the costs of investigation. The penalty specified in the citation shall be the sum of the penalty established by this rule plus the Department's cost of investigation.

(7) If the subject disputed any matter contained in the citation, within thirty days after service, the Department shall follow the procedure set forth in Section 456.073, F.S. Otherwise, the citation shall become a final order of the Board.

Specific Authority 456.077(1), (2) FS. Law Implemented 456.072(3)(b), 456.077(1), (2), 478.51, 478.52 FS. History—New 11-16-93, Formerly 61F6-80.002, Amended 1-2-95, Formerly 59R-55.002, Amended 11-13-97, 10-12-98, 2-11-01, 2-20-02, 11-12-02, 7-16-03, 2-12-07.

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 subsections 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. 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.

(5) Pursuant to Section 456.072(1)(i), 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.

Rulemaking 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, 11-4-14.

Public Comments as of January 29, 2015

From: Jon Pellett [mailto:JPellett@barrmurman.com]
Sent: Thursday, December 11, 2014 9:56 AM
To: zzzz Feedback, MQA_Electrolysis
Cc: Hall, Allen; King, Anna; Sanford, Crystal; Prine, Chandra; 'Ed Tellechea'; 'Marlene.Stern@myfloridalegal.com'
Subject: FW: Laser Claim examples

Below and attached please find additional information for consideration at the rules workshops being conducted by Board of Medicine and Electrolysis Council in connection with its rule making efforts on laser and light based devices.

The entity providing the information is a professional liability carrier for electrologists. The information was furnished to my clients, SCMHR.



/s/ Jon M. Pellett, Of Counsel
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Tampa, Florida 33602
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imposed by the Internal Revenue Service, or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein. Consultation with a qualified tax representative is recommended.

From: Susan Etter <susan.etter@ppibcorp.com>

Subject: Laser Claim examples

Date: December 10, 2014 10:27:49 AM CST

Attached please find the laser claim snippets. Please note these are typically laser/ipl claims that we deal with on a regular basis, but most of these stem from states like NY that have virtually no training requirements at all. As a rule, NY gives us the most laser claims as they have the least amount of regulation in that state for these procedures.

Thank you,

Susan Etter

Professional Program Insurance Brokerage

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Websites: www.ppibcorp.com

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A) Summary of Claim:

Claim of burn on bikini area from laser hair removal. Skin type V

Interviewed Insured as well as claimant, the Insured believes that the technician used incorrect settings and has since fired the technician. Claimant is of Indian decent, skin type V. Thinks that the technician used way to high of a setting for someone with that skin type. Claimant had to be taken by ambulance for treatment. Claimant will be forwarding us a demand package upon completion of treatment for the alleged burn. Liability seems clear; the claimant's medical bills were only \$2,759.88. Claimant is currently demanding \$100,000.

B) Summary of Claim:

Claim of burn on face from laser hair removal. Skin type V

Interviewed both insured and claimant's counsel. Insured confirmed that in mid treatment, the laser power switch shut off due to power overload. When Technician turned the laser back on, it defaulted back to factory settings. The technician didn't know and continued treatment which resulted in burns to claimant's cheek bones down to the neck. Claimant filed suit, which we filed our responses. Claimants counsel demanded \$1,000,000.

C) Summary of Claim:

Claim of burn on lip from laser hair removal. Skin type IV

Interviewed Insured as well as Claimants attorney. According to the Insured Claimant went for consultation. Technician told claimant to wait to proceed with laser hair removal, because claimant had recently tweezed their lip area. However, Claimant insisted and the technician preformed laser hair removal although contraindicated.

D) Summary of Claim:

Claim of mild burn and blister on chin following laser hair removal treatment. Insured used same non-FDA approved machine as he did in previous claim after being told to cease and desist, but has stopped using since this incident.

Interviewed Insured. Insured confirmed that he used the same non-FDA approved machine as he did in previous claim.

E) Summary of Claim:

Claim of burn on cheeks from laser hair removal treatment. Skin type VI

Interviewed insured as well as claimant's attorney. Insured preformed a test patch. Test patch cleared, as such technician proceeded with the laser hair removal treatment. Claimant called

insured to report that their cheeks had swelled, Insured went to claimants home and observed burns on both cheeks.

A) Summary of Claim:

Claim of burn on legs and bikini area. Skin Type III-IV

Interviewed Insured. Claimant complained that something was not feeling right and that laser felt hot, but did not stop treatment. About a week later, Claimant called to complain that they suffered burns and she is treating with a dermatologist.

The Florida
Electrolysis Council

Minutes

Rules Workshop
December 10, 2014
9:30 a.m. EST

Florida Department of Health
Southwood Capital Circle Office Complex
4052 Bald Cypress Way, Conference Room 301
Tallahassee, FL

Jolynn Greenhalgh, DNP, ARNP
Chair

Lina Grillo, LE
Vice-Chair

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 Electrolysis Council's website.

Members Present

Ms. Jolynn Greenhalgh, DNP, ARNP, Chair
Ms. Nilsa Lapeyrouse

Staff Present

Allen Hall, Executive Director
Anna King, Program Administrator

Members Absent

Ms. Lina Grillo

Attorney General's Office

Marlene Stern, Assistant Attorney General
Florida Electrolysis Council

Edward Tellechea, Chief Attorney
Florida Board of Medicine

Court Reporter

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9:30 a.m.

Call to Order – Rules Workshop

Ms. Marlene Stern, Assistant Attorney General, opened the workshop with introductions of the Council members and staff present. Ms. Stern stated that this meeting was noticed to obtain public comment on the following rules:

- 64B8-51.006 Rule Governing Licensure and Inspection of Electrology Facilities
- 64B8-52.004 Requirements for Approval of Training Courses for Laser and Light-Based Hair Removal or Reduction
- 64B8-53.002 Curriculum Standards for Electrolysis Training Programs
- 64B8-55.001 Disciplinary Guidelines
- 64B8-56.002 Equipment and Devices; Protocols for Laser and Light-Based Devices

The focus of the workshop was on the Board of Medicine's directive to take a broader look at distinguishing licensure pathways for those who want to primarily use laser equipment versus those who want to use epilator and laser equipment.

Mr. Edward Tellechea added that the Board was interested in seeing the regulatory structure catch up with modern practice and streamlining requirements to remove those which were harsh or unnecessary. The Board's goal is to make it easier for small businesses to operate more efficiently.

Comments were received from workshop attendees in the order each signed into address the Council. Below are brief summaries of the comments offered by each participant. A full transcript of the rules workshop may be obtained by ordering same from the court reporting service, *For the Record*, of Tallahassee, FL.

Ms. Jessica A. Brasington, licensed Florida Electrologist, addressed the Council. Ms. Brasington indicated her support for traditional Electrolysis training being retained and required for all licensed Electrologists, even those who only plan to offer laser hair removal services. Ms. Brasington indicated that the electrolysis curriculum provided foundational knowledge for licensees, which would assist in providing optimal services to clients.

In terms of the number of hours of practical hands on laser hair removal training, Ms. Brasington indicated she did not believe the 5 hours currently required for the 30-hour laser hair removal continuing education course was sufficient. Ms. Brasington indicated the hands on training in laser should be incorporated throughout the training program to include 10 to 20 hours of hands-on with the laser equipment. She added that when new lasers are introduced in a practice, the laser companies also often offer up to 2 days of in-house training; however, the 30-hour course is needed to provide the general knowledge needed for operation of any laser for hair removal.

Mr. Jon Pellet, Esquire, representative for the Society for Clinical and Medical Hair Removal (SCMHR), and, Dr. Catherine Anne Walton, licensed Florida Chiropractic Physician, Massage Therapist, Licensed Practical Nurse and Electrologist, addressed the Council. Mr. Pellet inquired concerning the scheduling of a separate workshop to discuss the rules regarding laser hair removal certification. Ms. Stern confirmed that a separate workshop would be scheduled.

Mr. Pellet indicated that the SCMHR is willing to support lobbying for the indirect supervision of licensed Electrologists providing laser hair removal services. Currently, Florida law and rule requires that licensed Electrologists must have direct supervision by a physician licensed under Chapter 458 or 459, Florida Statutes, any time laser hair removal services are provided.

Mr. Pellet also mentioned that although SCMHR is neutral with regard to the facility inspection requirements, some of his other clients have expressed that the rule requirements for traditional electrolysis equipment to be on site, in laser-only facilities, is an unnecessary expense and burden on Electrologists. Mr. Tellechea indicated that the Board of Medicine has previously expressed concerns about the impact of those provisions as well.

Mr. Pellet also commented that a curriculum outline had been previously submitted to the Council Office at some point in 2010 – 2011, on behalf of Vector Institute. Council staff will look into whether this document is still available and provide for future consideration.

Dr. Walton stated that it appears, based on requirements in other health care professions for which she holds a license, that trends are towards more education and training, rather than less. Dr. Walton indicated that she believed laser hair removal training should be incorporated in the electrolysis training.

Mr. Ronald Brunette, licensed Florida Electrologist, 320-hour electrolysis training school owner and 30-hour laser hair removal continuing education provider, indicated he also believes that the traditional Electrolysis Council training is a good foundation for all Electrologists. Upon inquiry, Mr. Brunette indicated that he believed the cost of incorporating laser hair removal

training into the electrolysis training curriculum would be significant due to the cost of lasers potentially ranging between \$50,000 and \$150,000.

Ms. Jennifer Brannan, licensed Florida Electrologist, provided information as an individual who provided laser services in another state. Ms. Brannan indicated the extraordinary cost of being able to continue practice when moving to Florida due to the number of requirements and lack of availability of electrolysis training in the area of the state to which she relocated. Ms. Brannan indicated that she is in favor of three pathways for training and licensure: 1) laser only; 2) electrolysis only and 3) electrolysis and laser hair removal combined. Ms. Brannan indicated that she did not believe that the 30-hour continuing education class in laser hair removal was sufficient.

Mr. Larry Gonzalez, Esquire, spoke on behalf of his client, the Electrolysis Society of Florida (ESF), Inc. Mr. Gonzalez stated that the ESF has drafted a bill and has sponsors to eliminate the requirement for direct supervision of Electrologists when they are providing laser hair removal services. Mr. Gonzalez further stated that all required training should be included in the basic curriculum and that any existing overlapping requirements should be addressed. It was also mentioned that the rule regarding electrolysis facility requirements should be revised to distinguish between the requirements for electrolysis and laser-only facilities.

Ms. Dulce Canaveral, licensed Florida Electrologist, 320-hour electrolysis training school owner and 30-hour laser hair removal continuing education provider, indicated that there are currently overlaps in the electrolysis and laser hair removal training requirements. Ms. Canaveral indicated that she believed the transition of incorporating the laser requirements into the electrolysis curriculum would be a relatively easy transition. Ms. Canaveral mentioned that a training scenario might include the required 120 academic hours with 100 hours of practical electrolysis training and 100 hours of laser training. Ms. Nilsa Lapeyrouse indicated that 50 hours would be more than enough in terms of practical training in Electrolysis.

Mr. Pellet offered that there will be an adverse impact on “some” small businesses regardless of what changes are made. It was stated that focus should also be given to ongoing education and training and that legislative changes may be required.

Prior to the adjournment of the meeting, it was stated that once the final rule changes are determined, a future effective date should be included in the rule to allow time for the schools to make the required updates to the curriculum.

The meeting adjourned at approximately 1:00 p.m.