

**DEPARTMENT OF HEALTH
ELECTROLYSIS COUNCIL
GENERAL BUSINESS MEETING
January 27, 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
Ms. Teresa Ledesma

Staff Present

Allen Hall, Executive Director
Anna King, Program Administrator
Marci Poston, Regulatory Specialist II

Assistant Attorney General

Marlene Stern, Assistant Attorney General

Additional Persons Present

Ms. Sandra Allen, Esq.
Mr. Jon Pellet, Esq.
Mr. Gregory Absten, Executive Director, Professional Medical Association – National Council for Laser Certification
Ms. Rebecca Hewett, Board of Medicine Staff
Ms. Amie Young, J.D., MQA Bureau of Enforcement
Ms. Kerri Alexander

Call to Order – General Business Meeting 9:01 a.m.

Dr. Jolynn Greenhalgh requested that Tab 18 be taken out of order for ratification by the Council at the beginning of the meeting.

OLD BUSINESS

18. October 31, 2013 General Business Meeting Minutes

MOTION: Ms. Nilsa Lapeyrouse moved to approve the October 31, 2013 General Business Meeting Minutes. Dr. Jolynn Greenhalgh seconded the motion, which carried 4/0.

ADMINISTRATIVE PROCEEDINGS

ENDORSEMENT APPLICANT

1. Marci Binder

Ms. Binder was present and was not represented by Counsel.

Ms. Binder's application for endorsement was before the Council to determine whether the requirements for her California electrolysis license were equivalent to the requirements in Florida. Ms. Binder holds an active Electrologist license in California originally issued on August 29, 1986 and valid through August 31, 2014.

MOTION: Dr. Jolynn Greenhalgh moved to approve the application by Endorsement of Other State, California. Ms. Lina Grillo seconded the motion, which carried 4/0.

APPLICANT CERTIFICATION LIST

2. Examination Applicants

MOTION: Dr. Jolynn Greenhalgh moved to accept the examination application certification list. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

RULES REVIEW AND DEVELOPMENT

Review of Proposed Modifications for Related Rule Development (Tabs 3-5)

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

This rule was presented to the council for review at the October 31, 2013 General Business Meeting. The rule review was tabled. The Council was asked to discuss and vote on acceptance of the proposed draft language for the rule.

During the discussion, Dr. Jolynn Greenhalgh suggested that the requirement for national laser hair removal certification for licensed Electrologists be dropped. Ms. Judy Adams, a representative of the Electrolysis Society of Florida, stated that the society would be in support of that proposal.

Mr. Greg Absten, Executive Director of the Professional Medical Association (which has as a credentialing board the National Council on Laser Certification), offered that the American National Standards Institute's (ANSI) current standards recommend that laser room doors not be locked, in contrast to the requirement in found in paragraph (3)(g)6. of this rule. The Council agreed to remove this requirement in that paragraph as well as in paragraph (3)(a)1.

After further discussion, the Council agreed to the following modified proposed language:

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. The responsibility for electrolysis facility licensure lies with the owner of the electrolysis facility. Physicians licensed under Chapter 458 or 459, F.S., are not required to obtain an electrology facility license for electrology facilities which they own. An electrologist, employed by a physician licensed under Chapter 458 or 459, F.S., who is not the owner or operator of the electrology facility where he or she is employed, is not required to obtain an electrology facility license.

(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-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 ~~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 completion~~ of 30 hours of continuing education in laser or light-based hair removal or reduction for all electrologists using laser equipment in the facility- from an approved continuing education provider.

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

~~3~~ 2. For devices required to be registered, Proof ~~proof~~ of registration ~~of~~ for each laser or light-based device in use at the facility as required by Section 501.122, F.S.

~~4~~ 3. Written designation of laser safety officer.

~~5~~ 4. Appropriate sign on door of laser room.

~~6. Lock on door of laser room.~~

~~7~~ 5. Protective eyewear for all persons in laser room during operation of laser.

~~8~~ 6. Fire extinguisher in vicinity of laser room.

~~9~~ 7. Cold water and ice.

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

8. The written protocols required by Rule 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.

MOTION: Dr. Jolynn Greenhalgh moved to accept the proposed rule language. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

MOTION: Dr. Jolynn Greenhalgh moved that the change in the rule would not have a negative impact on small business. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

MOTION: Ms. Lina Grillo moved that the change in the rule would not have an economic impact on government or any entity in excess of \$200,000 within one year of the rule being implemented. Dr. Jolynn Greenhalgh seconded the motion, which carried 4/0.

Mr. Jon Pellet indicated that there would likely be an objection to the Council's finding that the proposed rule changes did not have an adverse impact on small business. Removal of the requirement for national laser hair removal certification would impact his client, the Society for Clinical and Medical Hair Removal, which currently serves as the only approved national laser hair removal certifying entity for Florida-licensed electrologists.

MOTION: Based on this clarification, Dr. Jolynn Greenhalgh moved to vacate the previous motion regarding the impact of the rule on small business and moved that the change in the rule would have a negative impact on small business. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

4. Rule 64B8-52.004, F.A.C., Requirements for Approval of Training Courses for Laser and Light-Based Hair Removal and Reduction.

This rule was presented to the council for review at the October 31, 2013 General Business Meeting. The rule review was tabled. The Council was asked to discuss and vote on acceptance of the proposed draft language for the rule.

During the discussion, the Council agreed to delete the post certification experience for instructors in paragraph 3 of the rule consistent with the discussion under Tab 3. It was determined that the 1 year of post-licensure recommendation be retained. Paragraph 4 relating to the requirements for approval of national laser hair removal certifying entities was stricken based on the Council's previous discussion to eliminate the national certification requirement.

MOTION: Dr. Jolynn Greenhalgh moved to accept the proposed rule language below. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

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. 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/MQAVEO/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~~ 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. An Applicant with training courses offered by an entity outside the state of Florida must submit the current facility license, if required by the state, and results of its facility's most recent inspection, if inspections are conducted by the state. In addition, out-of-state Applicants must provide: the state's safety and sanitary standards for electrology facilities, if the state has such standards, and documentation of how the Applicant complies with the standards; and documentation showing how the entity will comply with any of those standards in Rule 64B8-51.006(3)(g), which have not been not required of the Applicant as an out-of-state entity, except those pertaining to registration of laser equipment in the State of Florida.

(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~~ shall have one year of post-licensure 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, _____ - _____ -12.

MOTION: Dr. Jolynn Greenhalgh moved that the change in the rule would have a negative impact on small business. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

MOTION: Dr. Jolynn Greenhalgh moved that the change in the rule would not have an economic impact on government or any entity in excess of \$200,000 within one year of the rule being implemented. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

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

This rule was presented to the council for review at the October 31, 2013 General Business Meeting. The rule review was tabled. The Council was asked to discuss and vote on acceptance of the proposed draft language for the rule.

MOTION: Dr. Jolynn Greenhalgh moved to accept the proposed rule language below. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

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

~~(d) (c)~~ 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)(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.

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.

MOTION: Dr. Jolynn Greenhalgh moved that the change in the rule would have a negative impact on small business. Ms. Lina Grillo seconded the motion, which carried 4/0.

MOTION: Dr. Jolynn Greenhalgh moved that the change in the rule would not have an economic impact on government or any entity in excess of \$200,000 within one year of the rule being implemented. Ms. Lina Grillo seconded the motion, which carried 4/0.

Break at 10:51 a.m.

Reconvened at 10:56 a.m.

OTHER RULE DEVELOPMENT

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

The Council was asked to approve the January 2014 revision of the electrologist licensure application form for incorporation into rule and approve the language allowing applicants additional time to submit examination applications.

MOTION: Dr. Jolynn Greenhalgh moved to accept the proposed rule language below and the revised electrologist licensure application form with proposed amendments. Ms. Lina Grillo seconded the motion, which carried 4/0.

64B8-51.001 Manner of Application.

(1) All persons applying for licensure as an electrologist shall submit a signed application to the Executive Director of the Council on forms provided by the Council and approved and incorporated herein by reference by the Board as Form DH-MQA 1164, ~~8/09~~, (revised 1/14) Electrologist Application, which can be accessed through <http://www.flrules.org/Gaqteway/reference.asp?No=Ref-02642> or www.doh.state.fl.us/mqa. The initial application must be accompanied by the application fee, as set forth in Rule 64B8-51.007, F.A.C.

(2) All applications must include an official transcript from a school of electrology which identifies the credits taken by home study or correspondence courses and those taken in classroom settings.

(3) All applications for licensure by examination shall be filed with the Executive Director of the Council and shall be completed at least ~~120~~ 75 days prior to the examination. Applications filed after the deadline may be considered at the next meeting of the Council.

Rulemaking Authority 478.43(1), (4) FS. Law Implemented 456.0635, 478.45, FS. History–New 5-31-93, Formerly 21M-76.001, Amended 11-10-93, Formerly 61F6-76.001, Amended 5-29-96, Formerly 59R-51.001, Amended 12-23-97, 5-28-00, 8-9-01, 2-15-04, 10-31-05, 2-11-08, 5-7-09, 5-13-10.

MOTION: Dr. Jolynn Greenhalgh moved that the change in the rule would not have a negative impact on small business. Ms. Lina Grillo seconded the motion, which carried 4/0.

MOTION: Dr. Jolynn Greenhalgh moved that the change in the rule would not have an economic impact on government or any entity in excess of \$200,000 within one year of the rule being implemented. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

7. Rule 64B8-51.002, FA.C., Licensure by Examination

The Council previously approved a revised re-examination application form and proposed rule language to incorporate the form into rule in February 2012. Rule promulgation was delayed due to transitions in staff and the form required updates since originally approved. The Council was asked to approve the revised application form and draft language incorporating the form into rule.

MOTION: Dr. Jolynn Greenhalgh moved to approve the proposed rule language below and the revised re-exam application form. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

64B8-51.002 Licensure by Examination.

(1) Every applicant for licensure as an electrologist by examination shall demonstrate to the Council that the applicant:

(a) Is at least 18 years old.

(b) Is of good moral character.

(c) Possesses a high school diploma, a graduate equivalency diploma, college diploma, university diploma, or technical school diploma if such college, university, or technical school required high school or graduate equivalency diploma for admission.

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

(e) Has successfully completed the requirements of an electrolysis training program consisting of 120 hours academic training and a minimum of 200 hours of practical application.

(f) Is not otherwise disqualified by reason of a violation of Chapter 456, Part II or Chapter 478, F.S., or the rules promulgated thereunder.

(g) Has passed the examination required by Section 478.45(2), F.S.

(2) The Electrolysis Licensure Examination shall be the International Board of Electrologist Certification (IBEC) national examination.

(3) The minimum passing score for the examination shall be set by the national examination provider.

(4) A candidate for licensure by examination who fails to pass the examination shall be required to retake the examination prior to issuance of a license. The application for re-examination of the licensure examination, as referenced in paragraph (2) of this rule, shall be made on the Re-examination Application form DH-MQA 1262 hereby adopted (1/14) and incorporated by reference. Upon notice from the testing vendor of an applicant's unsuccessful scores, the Council Office will send the re-examination form to affected applicants.

Specific Authority 478.43(1), (4) FS. Law Implemented 456.017, 456.0635, 478.45 FS. History--New 5-31-93, Formerly 21M-76.002, 61F6-76.002, Amended 7-11-95, Formerly 59R-51.002, Amended 11-13-97, 2-17-00, 5-28-00,

MOTION: Dr. Jolynn Greenhalgh moved that the change in the rule would not have a negative impact on small business. Ms. Lina Grillo seconded the motion, which carried 4/0.

MOTION: Dr. Jolynn Greenhalgh moved that the change in the rule would not have an economic impact on government or any entity in excess of \$200,000 within one year of the rule being implemented. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

8. Rule 64B8-52.003, F.A.C., Procedure for Approval of Attendance at Continuing Education Courses.

The Council previously approved proposed changes to this rule. During the August 1, 2013 meeting, the Board of Medicine approved the language with modifications. Back before the Council for review were the modifications from the Board of Medicine.

During the discussion, Ms. Sandra Allen and Mr. Jon Pellet addressed the Council. Following discussion, it was agreed that the only updates to the version of the rule language approved by the Board of Medicine would be in the history section as proposed by Ms. Marlene Stern.

MOTION: Dr. Jolynn Greenhalgh moved to accept the proposed rule language below. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

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 courses taken for continuing education credit shall be relevant to the practice of electrology, as defined in Section 478.42(5), Florida Statutes, and shall meet the purpose of enhancing the electrolysis practice skills and electrolysis knowledge of the licensee. All licensees shall be awarded contact hours for continuing education completed under the following categories:

(a) 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 or~~

(b) 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. and~~

(3) A licensee may earn continuing education credit for taking an academic course related to electrology practice, offered by a college, university, or post-secondary institution. Licensees shall be awarded 10 hours of CE credit per semester hour for any such academic course he or she completes successfully. The licensee shall provide verification upon request of the Department.

~~(3)~~ (4) HIV/AIDS and blood-borne disease continuing education requirements.

(a) Each new 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) (5) 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)~~ ~~(6)~~ 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)~~ ~~(7)~~ 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)~~ ~~(8)~~(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)~~ FS. Law Implemented 456.013, 456.033, 478.43(4), 478.50(2), ~~(4)(a), (b)~~ FS. 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.

MOTION: Dr. Jolynn Greenhalgh moved that the changes in the rule would not have a negative impact on small business. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

MOTION: Dr. Jolynn Greenhalgh moved that the change in the rule would not have an economic impact on government or any entity in excess of \$200,000 within one year of the rule being implemented. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

9. Rule Change Proposal from Amie Young, Bureau of Enforcement
- Rule 64B8-55.004, F.A.C., Mediation
 - Rule 64B8-55.002, F.A.C., Citations

The Council considered a proposal from the MQA Bureau of Enforcement requesting changes to 64B8-55.002, F.A.C., Citations and 64B8-55.004, F.A.C., Mediation, in an effort to reduce time spent on minor violations and allow resources to be directed to more serious violations. The Council was also provided with additional proposed modifications to Rule 64B8-55.002, F.A.C., from Ms. Stern.

Following discussion, the Council agreed to accept Ms. Young's proposal. Ms. Marlene Stern will bring back proposed rule language incorporating the proposed changes for the Council's review at a future meeting.

The Council reviewed and had an extensive discussion on Ms. Stern's proposed language for Rule 64B8-55.002, F.A.C.

MOTION: Following discussion, Dr. Jolynn Greenhalgh moved to accept the proposed changes below recommended by Ms. Stern. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

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, unless otherwise specified in this rule, 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, sanitary, and well lit; allowing for circulation of air sufficient to eliminate objectionable odors.
(64B8-51.006(3)(a), F.A.C.)

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

(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.)

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

~~(e) Failure to have required locking doors.
(64B8-51.006(3)(a)1., F.A.C.)~~

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

(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.)

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

(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.)

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

(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.)

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

(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):

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

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.

(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

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

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.)

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. First time violation \$150, Subsequent violations \$300
(64B8-51.006(3), (g), 4., F.A.C.)
- (b) Appropriate sign on door of laser room as required by ANSI Standard Z136.1-2000, in effect on June 1, 2006, incorporated herein by reference, available from American National Standards Institute, 25 West 43rd Street, 4th Floor, New York, N.Y. 10036. First time violation \$150, Subsequent violations \$300.
(64B8-51.006(3)(g)5., F.A.C.)
- (c) Cold water and ice. First time violation \$150, Subsequent violation \$300.
(64B8-51.006(3)(g), 9., F.A.C.)
- ~~(d) Lock on door of laser room. First time violation \$150, Subsequent violation \$300.
(64B8-51.006(3)(g), 6., F.A.C.)~~
- (e) Fire extinguisher in vicinity of laser room. First time violation \$150, Subsequent violation \$300.
(64B8-51.006(3)(g), 8., F.A.C.)
- (f) Written protocols that are signed, dated, and maintained in a readily available location on the premises where the electrologist practices. First time violation \$200, Subsequent violation \$400.
(64B8-56.002(4)(a), F.A.C.)
- (g) Copy of protocols filed with the Department of Health. First time violation \$200, Subsequent violation \$400.
(64B8-56.002(4)(a), F.A.C.)
- ~~(h) Professional liability coverage that includes coverage for incidents arising from laser usage in an amount not less than \$100,000. First time violation \$250, Subsequent violation \$500
(64B8-56.006(4)(c), F.A.C.)~~
- (i) 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 510.122, F.S. First time violation \$300, Subsequent violation \$600.

At least one piece of properly registered laser equipment located within the electrology facility.
(64B8-51.006 (3)(g), 3., F.A.C.)
- (j) Protective eyewear for all persons in laser room during operation of laser. First time violation \$300, Subsequent violation \$600.
(64B8-51.006(3)(g), 7., F.A.C.)
- (k) Proof of completion of 30 hours of post-licensure education in laser hair removal for all electrologists using laser equipment in the facility. First time violation \$500, Subsequent violation \$1,000.
(64B8-52.004 F.A.C.)
- ~~(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. First time violation \$500, Subsequent violation \$1,000.
(64B8-56.002(2)(b), F.A.C.) [may have to be revised]~~

(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
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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.

MOTION: Dr. Jolynn Greenhalgh moved that the changes proposed would not have a negative impact on small business. Ms. Lina Grillo seconded the motion, which carried 4/0.

MOTION: Dr. Jolynn Greenhalgh moved that the change in the rule would not have an economic impact on government or any entity in excess of \$200,000 within one year of the rule being implemented. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

Break at 12:03 p.m.

Reconvened at 12:19 p.m.

REPORT OF ASSISTANT ATTORNEY GENERAL, MARLENE STERN

10. Rule Status Report

Ms. Stern mentioned that the rules referenced in her report were covered during the Rules Review & Development portion of the instant meeting and that she had no additional information to cover under the report provided in the agenda material for this item.

11. Sunshine Laws Refresher

Ms. Stern provided a refresher on the Sunshine Laws.

REPORTS

12. Dr. Jolynn Greenhalgh, Council Chair

Dr. Greenhalgh had no items to report.

13. Allen Hall, Executive Director

- Cash Balance Report
- Expenditures by Function

Informational item.

NEW BUSINESS

14. 2014 Council Elections

CHAIR-Dr. Jolynn Greenhalgh

VICE CHAIR–Ms. Lina Grillo

UNLICENSED ACTIVITY LIAISON–Ms. Lina Grillo

BUDGET LIAISON-Dr. Jolynn Greenhalgh

EDUCATION LIAISON-Ms. Nilsa Lapeyrouse

LEGISLATIVE LIAISON-Dr. Jolynn Greenhalgh

HEALTHY WEIGHT LIAISON-Dr. Jolynn Greenhalgh

MOTION: Ms. Nilsa Lapeyrouse moved to approve the list of candidate assignments as nominated. Ms. Teresa Ledesma seconded the motion, which carried 4/0.

15. 2014 Delegation of Authority & Conviction Records Guidelines

During the first meeting of each calendar year, the Council is presented with the Delegation of Authority & Convictions Records Guidelines for review, any suggested changes and approval.

MOTION: Ms. Nilsa Lapeyrouse moved to accept the updated delegation of authority. Dr. Jolynn Greenhalgh seconded the motion, which carried 4/0.

MOTION: Dr. Jolynn Greenhalgh moved to accept the conviction records guidelines. Ms. Nilsa Lapeyrouse seconded the motion, which carried 4/0.

OLD BUSINESS

16. Inquiry to Council re: Rule 64B8-51.006, F.A.C., Rule Governing Licensure & Inspection of Electrology Facilities.

Discussion on this item was tabled to the April 2014 meeting.

17. Proposed Revision to 2014 Meeting Calendar

The Electrolysis Council staff reviewed the previously approved meeting dates to ensure there were no scheduling conflicts with holidays or religious observances. Upon further review, staff proposed the Thursday, April 17, 2014 meeting date be re-scheduled to Monday, April 14, 2014, at 9:00 a.m., due to Friday, April 18th being Good Friday.

MOTION: Dr. Jolynn Greenhalgh moved to accept the proposed April 14, 2014 meeting date. Ms. Lina Grillo seconded the motion, which carried 4/0.

OTHER BUSINESS AND INFORMATION

19. Final Order: Gro Anny Tinjar Adelman, EO1146

Informational item.

ADJOURNMENT

The meeting adjourned at 1:05 p.m.