

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

October 17, 2016

10:00 a.m. EST

CONFERENCE CALL

1-888-670-3525

When prompted, enter the following conference code number:

7811783909, followed by the # sign.

PUBLIC BOOK ADDENDUM

Tab 1 – Avalon Training Information

Tab 3 – Boca Beauty Facility Inspection Report

Tab 5 – Rule 64B8-55.001, F.A.C., Disciplinary Guidelines

Tab 6 – JAPC Letters

Tab 7 – Chair’s Report Cover

Tab 14 – LaserBlazers CIE Letter and Facility Inspection Status

Thomas, Kimberly

From: Julia Avalon <javalon17@gmail.com>
Sent: Thursday, September 29, 2016 11:44 PM
To: Thomas, Kimberly
Subject: Re: Status of Florida EO Application File#-3458

Hi Ms Thomas,

I appreciate your emails and apologize in the delay of my response. We had a tragedy in our family. I will try to find out the information you requested and send it to you by Monday.

You also have a record of the supplement course by the institute of aesthetic training that meets all of the requirements as the whole curriculum took place in a live classroom setting. This was an extensive program geared towards MDs, PAs, NP and other medical professionals that not only covered the basics but also focused on advanced knowledge and techniques of hair removal, including electrolysis. The owner and instructor of the program, Marla Kragel, is currently devoting her time and efforts to helping women in under developed countries by raising awareness and funds to help educate young girls and women. With her extensive travel schedule to rural villages around the world, she was a bit harder to reach at the initial time of my application.

I would also like to request that all of the original documents that are provided be returned to me.

All the best,

Julia Avalon

On Sep 22, 2016, at 12:19 PM, Thomas, Kimberly <Kimberly.Thomas2@flhealth.gov> wrote:

Hello Ms. Avalon,
Do you think American Institute of Education may have a record of the number of home study hours?

Kimberly Thomas
Regulatory Specialist II
Florida Electrolysis Council
Department of Health
Division of Medical Quality Assurance
4052 Bald Cypress Way, BIN C05
Tallahassee, FL 32399-3255
Phone: 850-245-4444 X2510
Fax: 850-414-6860

<http://www.floridahealth.gov/licensing-and-regulation/index.html>

There have been changes to the license renewal process. Please visit www.ceatrenewal.com to learn more!

DOH Mission & Vision: To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts. Our vision is to be the **Healthiest State** in the Nation.

MQA Mission: To protect the public through health care licensure, enforcement and information. Our focus is to be the nation's leader in quality health care regulation.

Please note: Florida has a very broad public records law. Most written communications to or from other state officials regarding state business are public records available to the public and media upon requested. Your e-mail communications may therefore be subject to public disclosure.



**STATE OF FLORIDA
DEPARTMENT OF HEALTH
INVESTIGATIVE SERVICES**
INV412 - A-B Electrolysis Facility and Training School



File # 871
Insp # 5615

NAME BOCA BEAUTY ACADEMY		PERMIT NUMBER 775	DATE OF INSPECTION 10/04/2016	
DOING BUSINESS AS				
STREET ADDRESS 7820 GLADES RD STE 175			TELEPHONE # 561-487-1191	EXT
CITY BOCA RATON		COUNTY PALM BEACH	STATE/ZIP FL/33434	

Additional Information

Inspection Employee Tracking

License Number	EO2914	Person Employed	MARIANA LOREDANA ANGHEL
Date Entered	10/4/2016		
License Number	EO2586	Person Employed	PETRANE S REDDICK
Date Entered	10/4/2016		

Owner Contact

Last Name	BOCA BEAUTY ACADEMY	First Name	SCHOOL
Phone	561-487-1191		

License Relations

WORKS AT

CHAZEN, ELINOR L	License # 430
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INV 412 A - Electrolysis Facility

Electrolysis Facility Requirements

Electrologist license active. [478.49(1), F.S.]	Yes
Electrologist license visibly displayed. [478.49(2), F.S.] [64B8-51.006(3)(b)2., F.A.C.]	Yes
Electrolysis facility properly licensed. [478.51(1), F.S.]	Yes
Facility license conspicuously displayed. [478.51(2), F.S.] [64B8-51.006(3)(b)1., F.A.C.]	Yes
Facility does not employ unlicensed persons to practice electrology. [478.52(1)(k), F.S.]	Yes
Needle holder tips and clean and sterile needles/probes. [64B8-51.006(3)(e)2., 3., F.A.C.]	Yes
Betadine, 3% pharmaceutical grade hydrogen peroxide or 70% isopropyl alcohol or single use wipes saturated with 70% isopropyl alcohol, clean non-sterile cotton balls. [64B8-51.006(3)(e)14., 15., F.A.C.]	Yes
Room where electrolysis is performed has 4 permanently fixed walls at least 6 feet high permanently connected to the floor and doors capable of being locked. [64B8-51.006(3)(a)1., F.A.C.]	Yes
FDA registered needle-type epilation device. [64B8-51.006(3)(e)1., F.A.C.]	Yes
Treatment table/chair with nonporous surface capable of being disinfected. [64B8-51.006(3)(e)4., F.A.C.]	Yes
Non-sterile disposable examination gloves. [64B8-51.006(3)(e)20., F.A.C.]	Yes
Sink with hot and cold running water within the electrolysis facility. [64B8-51.006(3)(a)2., F.A.C.]	Yes
Magnifier/optical loupe or microscope capable of being cleaned and disinfected. [64B8-51.006(3)(e)10., F.A.C.]	Yes
Single use, disposable towels. Sanitary waste receptacles for disposal of used gloves, paper supplies, cotton balls and other noninfectious items. [64B8-51.006(3)(e)6., 7., F.A.C.]	Yes
Only autoclave or dry heat sterilizer (glass bead sterilizer not acceptable) [64B8-51.006(3)(e)17., F.A.C.]	Yes
Clean and sterile forceps/tweezers and EPA registered tuberculocidal hospital grade disinfectant/household bleach/pre-saturated disinfectant cloths for wiping non-porous surfaces. [64B8-51.006(3)(e)2., 11., F.A.C.]	Yes
Electrolysis facility is clean, sanitary, well lit, and allows for circulation of air odors. [64B8-51.006(3)(a), F.A.C.]	Yes
Eye shields capable of being cleaned w/disinfectant, if used. [64B8-51.006(3)(e)12., F.A.C.]	Yes
Holding container for soaking and cleaning contaminated instruments. [64B8-51.006(3)(e)19., F.A.C.]	Yes
Covered container for forceps/tweezers, needles/probes capable of being sterilized. [64B8-51.006(3)(e)13., F.A.C.]	Yes

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Insp # 5615

BOCA BEAUTY ACADEMY

File # 871

Sharps container for disposal of used needles/probes. [64B8-51.006(3)(e)8., F.A.C.]	Yes
Most recent inspection sheet visibly displayed. [64B8-51.006(3)(b)3., F.A.C.]	Yes
Current copy of rule 64B8-51.006, F.A.C. visibly displayed. [64B8-51.006(3)(b)4., F.A.C.]	Yes
Unless the facility is new, monthly records of sterilizer biological test monitoring which shall be made available to the Agency or Department upon request. [64B8-51.006(3)(e)18., F.A.C.] <i>FACILITY DOES NOT ACTUALLY TREAT CLIENTS;</i>	Yes
Appointment book maintained on premises listing names of persons receiving electrolysis treatment. [64B8-51.006(3)(f), F.A.C.] <i>FACILITY DOES NOT MAKE APPOINTMENT, THEY DO NOT TREAT ANYONE;</i>	Yes
Toilet and lavatory fixtures and components clean, in good repair, well lighted and in an adequately ventilated location to remove objectionable odors. [64B8-51.006(3)(c), F.A.C.]	Yes
Minimum of one toilet and sink with running water provided in a separate room on the premise or in the same building, equipped with toilet tissue, soap, or other hand cleaning material, disposable towels or electric blow dryer and a waste receptacle. [64B8-51.006(3)(c), F.A.C.]	Yes
The only animals present are those trained to assist hearing/visually impaired or physically disabled. [64B8-51.006(3)(d), F.A.C.]	Yes

Laser Hair Removal Requirements

Proof of certification as Certified Medical Electrologist for all electrologists using laser equipment in the facility. [64B8-51.006(3)(g)2., F.A.C.]	
Proof of certification of 30 hours of continuing education in laser hair removal for all electrologists using laser equipment in the facility. [64B8-51.006(3)(g)1., F.A.C.]	
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. [64B8-51.006(3)(g)3, F.A.C.]	
Laser room labeled with sign, with doors capable of being locked. [64B8-51.006(3)(g)5.6., F.A.C.]	
Fire extinguisher in the vicinity of laser room. [64B8-51.006(3)(g)8., F.A.C.]	
Written designation of laser safety officer. [64B8-51.006(3)(g)4., F.A.C.]	
Protective eyewear for all persons in laser room during laser operation and cold water and ice ready available. [64B8-51.006(3)(g) 7.,9., F.A.C.]	
The written protocols required by paragraph 64B8-56.002(4)(a), F.A.C. [64B8-51.006(3)(g)10., F.A.C.]	
Licensed electrologist to perform laser hair removal under the "direct supervision (on the premises) and responsibility of a physician trained in hair removal and licensed pursuant to the provisions of Chapter 458 or 459, F.S." [64B8-56.002(2)(d), F.A.C.] [64B8-2.001(1)(a), F.A.C.]	

INV 412 B - Electrolysis Training School

Electrolysis Training School Requirements

All students during the clinical portion of an electrolysis training program shall have access to a full work station consisting of the following: (Only one student shall be assigned to each work station.) [64B8-53.001(6), F.A.C.]	Yes
All students during the clinical portion of an electrolysis training program shall have access to U.S. FDA registered short wave, blend, and galvanic epilator with multiple needle apparatus devices. [64B8-53.003(1)(a) to (c), F.A.C.]	Yes
Magnifying device or treatment lamp. [64B8-53.003(1)(d), F.A.C.]	Yes
Treatment table or treatment chair. [64B8-53.003(1)(e), F.A.C.]	Yes
Operator stool or chair. [64B8-53.003(1)(f), F.A.C.]	Yes
Autoclave with chemical biological indicators. [64B8-53.003(1)(g), F.A.C.]	Yes
Dry heat sterilizer with chemical biological indicators. [64B8-53.003(1)(h), F.A.C.]	Yes
Needles/probes of various sizes. [64B8-53.003(1)(i), F.A.C.]	Yes
Forceps/tweezers. [64B8-53.003(1)(j), F.A.C.]	Yes
Needle holder tips. [64B8-53.003(1)(k), F.A.C.]	Yes
Ultrasonic cleaner with enzyme dissolving detergent. [64B8-53.003(1)(l), F.A.C.]	Yes
Covered holding containers for contaminated instruments. [64B8-53.003(1)(m), F.A.C.]	Yes
Sharps container for disposal of used needles and other sharp instruments in accordance with 64E-16, F.A.C. [64B8-53.003(1)(n), F.A.C.]	Yes
Non-sterile disposable examination gloves. [64B8-53.003(1)(o), F.A.C.]	Yes
Waste receptacles. [64B8-53.003(1)(p), F.A.C.]	Yes
Soaps. [64B8-53.003(1)(q), F.A.C.]	Yes
Paper towels. [64B8-53.003(1)(r), F.A.C.]	Yes
Paper table coverings. [64B8-53.003(1)(s), F.A.C.]	Yes
Tuberculocidal hospital grade disinfectant detergent. [64B8-53.003(1)(t), F.A.C.]	Yes
Betadine, 3% U.S. pharmaceutical grade hydrogen peroxide and 70% isopropyl alcohol or wrapped, single use wipes saturated with 70% isopropyl alcohol. [64B8-53.003(1)(u), F.A.C.]	Yes
Clean non-sterile materials such as cotton balls, cotton strips, cotton swabs, gauze pads, and gauze strips. [64B8-53.003(1)(v), F.A.C.]	Yes
Clean, covered containers for creams, lotions and ointments with single use spatulas or containers which are pump or tube type dispensers. [64B8-53.003(1)(w), F.A.C.] <i>EACH STUDENT IS ISSUED A KIT WITH NECESSARY CREAMS, LOTIONS WITH LOCKING CAPS;</i>	Yes
Magnifying device which shall be a magnifying lamp, optical loupe or microscope. [64B8-53.003(1)(x), F.A.C.]	Yes

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Reference books/textbooks in the following areas: electrolysis, dermatology, anatomy & medical dictionary. [64B8-53.003(1)(y), F.A.C.] <i>STUDENTS ARE ISSUED TEXT BOOKS AND THEY ARE BELONG TO THE STUDENT AND THE STUDENT GETS TO KEEPS (SCHOOL BROCHURE OBTAINED);</i>	Yes
Glass bead sterilizers shall not be used in place of an autoclave or a dry heat sterilizer. [64B8-53.003(2), F.A.C.]	Yes

Remarks:

RUTH PATTERSON, VP OPERATIONS, PAMELA CRIADO, DIRECTOR OF EDUCATION ASSISTED WITH INSPECTION;

SCHOOL DOES NOT ACTIVELY OPERATE A LASER HAIR REMOVAL APPARATUS; CURRENTLY CUTERA (IN THE PAST CANDELA) BRINGS THE LASER APPARATUS FOR THE 30 HOUR COURSE AND DOES NOT OPERATE IT ON THE PUBLIC;

ELECTROLYSIS TRAINING OPTIONS ARE 1) ELECTROLYSIS (320 HRS); 2) AND/OR PARAMEDICAL WHICH INCLUDES SKINCARE (650 HOURS); LASER HAIR REMOVAL IS OFFERED AS PART OF THE PARAMEDICAL COURSE AND IS 30 CLOCK HOURS ALONE & A SEPARATE TEXT BOOK IS ISSUED TO THE STUDENT, MILADY LASERS & LIGHT THERAPY;

OFFER ADVISE TO CENTRALIZE FACILITY LICENSES & PERMITS; AND STORE MISCELLANEOUS SMALLER ITEMS IN CONTAINERS RATHER THEN JUST IN THE DRAWERS;

RPATTERSON@BOCABEAUTYACADEMY.EDU (561-487-1191)

I have read and have had this inspection report and the laws and regulations concerned herein explained, and do affirm that the information given herein is true and correct to the best of my knowledge. I have received a copy of the Licensee Bill of Rights.

Investigator/Sr. Pharmacist Signature:

SAXON, NINA



Date:10/4/2016

Representative:

RUTH PATTERSON VP OPER



Date:10/4/2016

Recommended Language for Rule 64B8-55.001

64B8-55.001

(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	RECOMMENDED RANGE OF PENALTY
(a) through (mm) No change.	
(nn) Willfully failing to comply with s. 627.64194 or s. 641.513 , F.S. with such frequency as to indicate a general business practice. (Section 456.072(1)(oo), F.S.)	(nn) First offense: from a letter of concern to a reprimand and an administrative fine in the amount of \$500.00 to \$2,500.00. Second and subsequent offenses: from a reprimand to revocation and an administrative fine in the amount of \$2,500.00 to \$5,000.00.

Rulemaking 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, _____.

Notice of Proposed Rule

DEPARTMENT OF HEALTH**Board of Medicine**

RULE NO.: RULE TITLE:

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

PURPOSE AND EFFECT: The Council proposes the rule amendment to clarify the requirements for electrolysis facility licensure, inspection, and operation; allows for the operation of separate modalities, and requires only the equipment necessary for the modality practiced at the facility.

SUMMARY: The rule amendment clarifies the owner of an electrology facility must obtain a facility license while neither physicians nor their employees are required to obtain an electrology facility license; identifies facility requirements separately for each modality; not a change in position but rather a clarification that all electrologists practicing laser or light-based hair removal and reduction are required to have passed the CME certification test by SCMHR. Form DH5008-MQA-09/2015 is created to apply for inspection for adding or switching to a new electrology modality. Forms DH5018-MQA-07/2016, for transfer of electrolysis facility location, and DH-MQA 1213, for electrolysis facility licensure, are modified to update the facilities checklists.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

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.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Electrolysis Council/MQA, 4052 Bald Cypress Way, Bin # C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) No change.

(2) Electrology Facility Licensure.

(a) The owner of an electrology facility is required to obtain a license for the electrology facility. However, physicians licensed under Chapter 458 or 459, F.S., are not required to obtain an electrology facility license and electrologists employed by physicians licensed under Chapter 458 or 459, F.S., are not required to obtain an electrology facility license. 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 "State of Florida Application for Electrolysis Facility Licensure – New Facility or New Ownership" (revised 05-16-2016)," 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. Paragraph (a) of this subsection applies to all electrology facilities regardless of the modalities used. Paragraph (b) of this rule applies to electrology facilities where epilators are used. Paragraph (c) of this rule applies to electrology facilities where laser or light-based equipment is used.

(a) Listed below are requirements to be followed, and material and equipment to be available, at each electrology facility where epilators or lasers/light-based equipment is used. An electrology facility shall be clean, sanitary, and well lit. It shall also allow for circulation of air sufficient to eliminate odors.

1. At the time of services, each client shall be protected from view of the public, and any other clients at the facility. 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 when electrolysis training is undertaken in accordance with a training program approved by the Electrolysis Council, 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 toilet and sink with hot and cold running water available to within the electrology facility. The toilet and sink shall be kept clean and in working order when the electrology facility is open for business. 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;
- 3.4. Electrolysis shall be conducted on a A treatment table or treatment chair with a non-porous surface capable of being disinfected;

4. The following supplies and equipment shall always be available at the electrology facility:

- a.5. No change.
- b.6. No change.
- c.7. No change.
8. A sharps container for disposal of used needles/probes;
- d.9. No change.
- e.10. No change.
- f.11. No change.
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;
- g.14. No change.
- h.15. No change.

~~i.16.~~ If cloth towels are used, they shall be cleaned prior to use on each client and 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; Used cloths shall be kept in a separate closed container;

~~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;

~~j.19.~~ No change

~~k.20.~~ No change

(b) In addition to those specified in paragraph (3)(a), the requirements to be followed, and materials and equipment to be available, at each electrology facility where epilators are used are listed below.

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 sharps container for disposal of used needles/probes;

5. Covered containers for needles/probes and forceps/tweezers which containers are capable of being cleaned and sterilized;

6. A sterilizer which shall be either an autoclave or 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; and

7. Unless the facility is new, quarterly records of sterilizer biological test monitoring, which shall be made available to the Department upon request;

~~(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.~~

(c)(g) In addition to those specified in paragraph (3)(a), the requirements to be followed, and materials and equipment to be available at each electrology facility facilities where a laser or light-based equipment is used for hair removal, the following shall be provided are listed below.

1. No change.

2. For all electrologists using laser or light-based equipment in the facility, proof Proof of having passed the Society for Clinical and Medical Hair Removal test for certification as a Certified Medical Electrologist, or proof of having passed a substantially equivalent test for certifications as determined by the Council for all electrologists using laser equipment in the facility.

3. No change.

4. No change.

5. A room or rooms specifically designated for use of the laser or light-based equipment which is where all use of such equipment shall take place.

~~6.5.~~ Sign Appropriate sign on door of laser room identifying when laser or light-based equipment is in use.

~~7.6.~~ No change.

~~8.7.~~ Protective eyewear capable of being cleaned and disinfected shall be used by for all persons in laser room during operation of laser or light-based equipment.

~~9.8.~~ No change.

~~10.9.~~ No change.

~~11.10.~~ No change.

(4) The following documents shall be available in each electrology facility:

(a) The electrology facility license, which shall be visible to the public;

(b) The current license of the electrologist, which shall be visible to the public;

(c) The most recent inspection sheet from the Department of Health;

(d) A current copy of Rule 64B8-51.006, F.A.C.; and

(e) An appointment book shall be maintained and kept on the electrology facility premises which lists the name of each person who has received treatment. The appointment book shall be maintained for four (4) years. The appointment book may be an electronic record.

~~(5)(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.

(c) When an existing electrology facility adds a modality, either epilator or laser/light-based equipment, or switches from one of those modalities to the other, an inspection shall be conducted to determine whether the facility has properly registered equipment and the proper safety and sanitary equipment and materials. The electrology facility shall notify the Department of the new modality by submitting to the Executive Director of the Electrolysis Council the form provided by the Council and approved and incorporated herein by the Board by reference as Form DH5008-MQA-09/2015, entitled "Application for Inspection for Adding or Switching to a New Electrology Modality" (effective 11/9/2015), which can be obtained from <http://www.flrules.org/Gateway/reference.asp?No=Ref-> or <http://www.floridahealth.gov/licensing-and-regulation/electrolysis/>, or the Department at The Florida Department of Health, Electrolysis Council, Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3256. The facility must pass an inspection prior to implementing the new modality.

~~(6)(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. 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.

(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 a forms prescribed by the Department, and approved and incorporated herein by reference by the Board as Form DH5018-MQA, entitled "State of Florida Application for Transfer of Electrolysis Facility Location" (revised 05-16-2016), which can be obtained from [http://www.flrules.org/Gateway/reference.asp?No= Ref-](http://www.flrules.org/Gateway/reference.asp?No=Ref-) or the Department at the Florida Department of Health, Electrolysis Council, Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3256 as referenced in paragraph (2)(b) of this rule, which application must be processed by the Council office;

2. No change.

3. No change.

~~(7)(6)~~ No change.

~~(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), (11) FS. Law Implemented 456.037(2), (3), (5), 456.0635, 478.49, 478.51, 478.55 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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrolysis Council

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 3, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: August 11, 2016

ANDY GARDINER
President



Senator Denise Grimsley, Chair
Representative W. Travis Cummings, Vice Chair
Senator Aaron Bean
Senator Dwight Bullard
Senator Nancy C. Detert
Senator Geraldine F. "Geri" Thompson
Representative Matt Hudson
Representative Lake Ray
Representative Hazelle P. "Hazel" Rogers
Representative Barbara Watson

STEVE CRISAFULLI
Speaker



KENNETH J. PLANTE
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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

September 8, 2016

Ms. Lynette Norr
Assistant Attorney General
Department of Legal Affairs
PL-01, The Capitol
Tallahassee, Florida 32399-1050

**Re: Department of Health: Board of Medicine: Electrolysis Council
Rule 64B8-51.006, F.A.C.**

Dear Ms. Norr:

I have reviewed the above-referenced proposed rule, which was advertised in the Florida Administrative Register on August 26, 2016. I have the following comments.

Law Implemented: It appears that section 478.43 should be added as a law implemented.

64B8-51.006(2)(a): Please correct the spelling of "elctrology" to "electrology" in the first sentence of this paragraph.

64B8-51.006(2)(b): This paragraph incorporates by reference Form DH-MQA 1213, State of Florida Application for Electrolysis Facility Licensure – New Facility or New Ownership, revised 05-16-2016.

Form DH-MQA 1213:

It appears that this amended form implements, in part, chapter 2016-230, section 15, Laws of Florida, which amends section 456.0635. As chapter 2016-230, Laws of Florida, did not go into effect until July 1, 2016, please explain why this form is dated 05-16-2016. *See* § 120.55(1)(a)4., Fla. Stat. ("Each form created by an agency which is incorporated by reference in a rule notice of which is given under s. 120.54(3)(a) after December 31, 2007, must clearly display the number, title, and effective date of the form and the number of the rule in which the form is incorporated.").

Page 3, Electrology Facility Safety and Sanitary Requirements Checklist, Section A: Please explain why this checklist includes the requirement to have a “sharps container, as defined in chapter 64E-16, F.A.C., for disposal of needles/probes.” That appears to have been removed as a requirement for all electrology facilities in subparagraph (3)(a)4. in the proposed rule text.

Page 3, Electrology Facility Safety and Sanitary Requirements Checklist, Section C: This section requires that there must be “proof of having passed the Society for Clinical and Medical Hair Removal test for certification as a Certified Medical Electrologist, or proof of having passed a test for an equivalent certification as approved by the Council” for all electrologists using laser or light-based equipment in the facility. Section 478.43(4) requires the board, in consultation with the council, to adopt “rules related to the curriculum and approval of electrolysis training programs, sanitary guidelines, the delivery of electrolysis services, continuing education requirements, and any other area related to the practice of electrology.” Section 478.50(4)(b) requires the board, with the assistance of the council, to approve criteria for, and content of electrolysis training programs and continuing education courses required for licensure and renewal.

Because standards may change from time to time, it appears that the board may be delegating its statutorily mandated duty to establish rules and standards relating to the practice of electrology to the Society for Clinical and Medical Hair Removal, and accordingly it appears that the rule text should include the date that board approved this certification test. *See, e.g., State v. Rodriguez*, 365 So. 2d 157 (Fla. 1978); *State v. Welch*, 279 So. 2d 11 (Fla. 1973); *Fla. Indus. Comm’n v. State*, 21 So. 2d 599 (Fla. 1945); *Hutchins v. Mayo*, 197 So. 495 (Fla. 1940); *Abbott Lab. v. Mylan Pharm., Inc.*, 15 So. 3d 642 (Fla. 1st DCA 2009). Please include in the rule text the date that the board approved the standards of the SCMHR certification test.

Page 9, Section 14. This section requires the facility owner to affirm that he or she has read and understood chapter 478 and rule chapters 64B8-50 through 56. An affirmation is equivalent to an oath and statutory authority is therefore required. *See* Art. I, § 18, Fla. Const.; § 120.54(1)(e), Fla. Stat. *See* §§ 1.01(5), 92.52, Fla. Stat. Further, this affirmation appears to be unenforceable because it is not taken before a person authorized to administer oaths. Please explain the board’s statutory authority for this affirmation.

64B8-51.006(2)(b): Please explain why this rule paragraph states that the \$100 application fee is nonrefundable. Section 478.55(1)(a), which authorizes this fee, does not state that the application fee shall be nonrefundable. Absent statutory authority to the contrary, it appears that if an individual requests a refund of this fee prior to any action being taken concerning the applicant's qualifications, the fee should be refundable. *See Op. Att'y Gen. Fla. 75-293 (1975).*

64B8-51.006(3)(c)2.: This subparagraph requires electrologists using laser or light-based equipment in a facility must have available "proof of having passed the Society for Clinical and Medical Hair Removal test for certification as a Certified Medical Electrologist, or proof of having passed a substantially equivalent test for certifications as determined by the Council." See comment regarding Form DH-MQA 1213, Section C, Electrology Facility Safety and Sanitary Requirements Checklist, above.

64B8-51.006(5)(c): This paragraph incorporates by reference Form DH5008-MQA-09/2015, Application for Inspection for Adding or Switching to a New Electrology Modality, effective 11/9/2015.

Form DH5008-MQA-09/2015:

Page 3, Applicant Certification: This section requires the facility owner to affirm that he or she has read and understood chapter 478 and rule chapters 64B8-50 through 56. See comment to Form DH-MQA 1213, Section 14, above.

64B8-51.006(6)(b)1.: This subparagraph incorporates by reference Form DH5018-MQA, State of Florida Application for Transfer of Electrolysis Facility Location, revised 05-16-2016.

Form DH5018-MQA:

Please explain why this newly created form is dated 05-16-2016. See comment to Form DH-MQA 1213, above.

Page 3, Electrology Facility Safety and Sanitary Requirements Checklist, Section A: Please explain why this checklist includes the requirement to have a "sharps container, as defined in chapter 64E-16, F.A.C., for disposal of needles/probes." See comment to Form DH-MQA 1213, above.

Page 3, Electrology Facility Safety and Sanitary Requirements Checklist, Section C: This section requires that there must be "proof of having passed the Society for Clinical and Medical Hair Removal test for

Ms. Lynette Norr
September 8, 2016
Page 4

certification as a Certified Medical Electrologist, or proof of having passed a test for an equivalent certification as approved by the Council” for all electrologists using laser or light-based equipment in the facility. See comment to Form DH-MQA 1213, above.

Page 9, Section 13. This section requires the facility owner to affirm that he or she has read and understood chapter 478 and rule chapters 64B8-50 through 56. See comment to Form DH-MQA 1213, Section 14, above.

Please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Marjorie C. Holladay". The signature is written in a cursive style with a large initial 'M'.

Marjorie C. Holladay
Chief Attorney

cc: Mr. Edward Tellechea, Bureau Chief

MCH:SA WORD/MARJORIE/64B8_51.006LS090816_161618

Notice of Proposed Rule

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: RULE TITLE:

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

PURPOSE AND EFFECT: The proposed changes to subsection (1) are to update the rule to conform to the procedures currently used by the department.

SUMMARY: Update rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, and the substance of the rule amendment, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary because the rule does not impose additional rights, obligations, or duties on any persons or any businesses, and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

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.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Electrolysis Council/MQA, 4052 Bald Cypress Way, Bin # C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) During the license renewal period of each biennium, ~~a postcard renewal reminder an application for renewal~~ will be mailed to each licensee by the Department 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. Renewal of the license will occur according to the procedures described in Rule 64B8-54.001, F.A.C. ~~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 Department will verify completion of all required continuing education hours through the licensee's continuing education tracking account at www.cebroke.com upon the licensee's application for renewal of licensure. Licensees may obtain more information regarding reporting and tracking of continuing education hours at <http://www.flhealthsource.gov/requirements>. 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) through (7) No change.

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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrolysis Council

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: August 26, 2016

Proposed changes to 64B8-52.003(2) approved by the Council and Board in 2011/12 but not adopted at that time:

(2) All licensees shall be awarded contact hours for attendance at all offerings that are approved by the Electrolysis Society of Florida (ESF), or the Electrolysis Association of Florida (EAF), or the American Electrology Association, or the Society for ~~of~~ Clinical and Medical Hair Removal, and all offerings from other states which are approved by the states' licensing agency or professional electrology organization, which offerings have been approved by the American Electrology Association, or the Society for ~~of~~ Clinical and Medical Hair Removal, or any ~~technical school,~~ college or university course, or course approved pursuant to 64B8-53.001, F.A.C., taken and successfully completed for the first time by the licensee in a subject area relevant to electrolysis. The licensee shall provide verification upon request of the Department.

ANDY GARDINER
President



Senator Denise Grimsley, Chair
Representative W. Travis Cummings, Vice Chair
Senator Aaron Bean
Senator Dwight Bullard
Senator Nancy C. Detert
Senator Geraldine F. "Geri" Thompson
Representative Matt Hudson
Representative Lake Ray
Representative Hazelle P. "Hazel" Rogers
Representative Barbara Watson

STEVE CRISAFULLI
Speaker



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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

September 21, 2016

Ms. Lynette Norr
Assistant Attorney General
Department of Legal Affairs
PL-01, The Capitol
Tallahassee, Florida 32399-1050

**Re: Department of Health: Board of Medicine: Electrolysis Council
Rule 64B8-52.003, F.A.C.**

Dear Ms. Norr:

I have reviewed the above-referenced proposed rule, which was advertised in the Florida Administrative Register on September 14, 2016. I have the following comment.

64B8-52.003(1): This rule subsection, as amended, includes a sentence that reads, "Licensees may obtain more information regarding reporting and tracking of continuing education hours at <http://www.flhealthsource.gov/> requirements." That sentence does not appear to meet the definition of a "rule." See § 120.52(16), Fla. Stat. Please revise the rule to remove this sentence or explain why this sentence is included.

Please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Marjorie C. Holladay".

Marjorie C. Holladay
Chief Attorney

cc: Mr. Edward Tellechea, Bureau Chief

Notice of Proposed Rule

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: RULE TITLE:

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

PURPOSE AND EFFECT: The Council proposes the rule amendment to clarify that all electrologists practicing laser and light-based hair removal are required to have passed the CME certification test by SCMHR and requires electrologists to work for one year after passage of the CME certification test prior to teaching. And to correct the spelling of the Grotthuss-Draper law.

SUMMARY: The rule amendment modifies the language in (3) to be consistent with that in 64B8-51.006(3)(c)2.; this is not a change in position but rather a clarification that all electrologists practicing laser and light-based hair removal are required to pass the CME certification test by SCMHR, and requires electrologists to work for one year after passage of the CME certification test in order to be eligible to teach the laser and light-based hair removal course.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 456.025(7), 478.43FS.

LAW IMPLEMENTED: 456.025(7), 478.42(5), 478.43(3), 478.50 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Electrolysis Council/MQA, 4052 Bald Cypress Way, Bin # C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

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) No change.
- (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) through (e) No change.
 - (f) Laser and light based tissue interaction, including:
 1. Grotthuss-~~D~~draper law.
 2. through 6. No change.
 - (g) through (w) No change.
- (3) The instructors of each laser and light-based hair removal course have one year of experience using laser or light-based devices for hair removal after having passed the Society for Clinical and Medical Hair Removal test for post-certification as a Certified Medical Electrologist, or after having passed a substantially equivalent test for

certification as determined by the Council, experience. Verifiable documentation of this experience must be submitted to the Council with the application.

Rulemaking Authority 456.025(7), 478.43(1), (4) FS. Law Implemented 456.025(7), 478.42(5), 478.43(3), 478.50, 478.51 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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrolysis Council

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 3, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: August 11, 2016

ANDY GARDINER
President



Senator Denise Grimsley, Chair
Representative W. Travis Cummings, Vice Chair
Senator Aaron Bean
Senator Dwight Bullard
Senator Nancy C. Detert
Senator Geraldine F. "Geri" Thompson
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STEVE CRISAFULLI
Speaker



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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

September 8, 2016

Ms. Lynette Norr
Assistant Attorney General
Department of Legal Affairs
PL-01, The Capitol
Tallahassee, Florida 32399-1050

**Re: Department of Health: Board of Medicine: Electrolysis Council
Rule 64B8-52.004, F.A.C.**

Dear Ms. Norr:

I have reviewed the above-referenced proposed rule, which was advertised in the Florida Administrative Register on August 26, 2016. I have the following comments.

Law Implemented: It appears that subsection (4) of section 478.43 should be added as a law implemented.

64B8-52.004(3): This subsection sets forth the requirements for continuing education instructors for each laser and light-based removal course. Specifically, such instructors must "have one year of experience using laser or light-based devices for hair removal after having passed the Society for Clinical and Medical Hair Removal test for certification as a Certified Medical Electrologist, or after having passed a substantially equivalent test for certification as determined by the Council."

Section 478.43(4) requires the board, in consultation with the council, to adopt "rules related to the curriculum and approval of electrolysis training programs, sanitary guidelines, the delivery of electrolysis services, continuing education requirements, and any other area related to the practice of electrology." Section 478.50(4)(b) requires the board, with the assistance of the council, to approve criteria for, and content of electrolysis training programs and continuing education courses required for licensure and renewal.

Ms. Lynette Norr
September 8, 2016
Page 2

Because standards may change from time to time, it appears that the board may be delegating its duty to establish rules and standards relating to the approval of continuing education courses and requirements to the Society for Clinical and Medical Hair Removal, and accordingly it appears that the rule text should include the date the board approved this certification test. *See, e.g., State v. Rodriguez*, 365 So. 2d 157 (Fla. 1978); *State v. Welch*, 279 So. 2d 11 (Fla. 1973); *Fla. Indus. Comm'n v. State*, 21 So. 2d 599 (Fla. 1945); *Hutchins v. Mayo*, 197 So. 495 (Fla. 1940); *Abbott Lab. v. Mylan Pharm., Inc.*, 15 So. 3d 642 (Fla. 1st DCA 2009). Please include in the rule text the date that the board approved the standards of the SCMHR certification test.

Please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Marjorie C. Holladay". The signature is written in a cursive, flowing style.

Marjorie C. Holladay
Chief Attorney

cc: Mr. Edward Tellechea, Bureau Chief

MCH:SA WORD/MARJORIE/64B8_52.004LS090816_161619

ANDY GARDINER
President



Senator Denise Grimsley, Chair
Representative W. Travis Cummings, Vice Chair
Senator Aaron Bean
Senator Dwight Bullard
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THE FLORIDA LEGISLATURE
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September 8, 2016

Ms. Lynette Norr
Assistant Attorney General
Department of Legal Affairs
PL-01, The Capitol
Tallahassee, Florida 32399-1050

**Re: Department of Health: Board of Medicine: Electrolysis Council
Rule 64B8-52.004, F.A.C.**

Dear Ms. Norr:

I have reviewed the above-referenced proposed rule, which was advertised in the Florida Administrative Register on August 26, 2016. I have the following comments.

Law Implemented: It appears that subsection (4) of section 478.43 should be added as a law implemented.

64B8-52.004(3): This subsection sets forth the requirements for continuing education instructors for each laser and light-based removal course. Specifically, such instructors must "have one year of experience using laser or light-based devices for hair removal after having passed the Society for Clinical and Medical Hair Removal test for certification as a Certified Medical Electrologist, or after having passed a substantially equivalent test for certification as determined by the Council."

Section 478.43(4) requires the board, in consultation with the council, to adopt "rules related to the curriculum and approval of electrolysis training programs, sanitary guidelines, the delivery of electrolysis services, continuing education requirements, and any other area related to the practice of electrology." Section 478.50(4)(b) requires the board, with the assistance of the council, to approve criteria for, and content of electrolysis training programs and continuing education courses required for licensure and renewal.

Ms. Lynette Norr
September 8, 2016
Page 2

Because standards may change from time to time, it appears that the board may be delegating its duty to establish rules and standards relating to the approval of continuing education courses and requirements to the Society for Clinical and Medical Hair Removal, and accordingly it appears that the rule text should include the date the board approved this certification test. *See, e.g., State v. Rodriguez*, 365 So. 2d 157 (Fla. 1978); *State v. Welch*, 279 So. 2d 11 (Fla. 1973); *Fla. Indus. Comm'n v. State*, 21 So. 2d 599 (Fla. 1945); *Hutchins v. Mayo*, 197 So. 495 (Fla. 1940); *Abbott Lab. v. Mylan Pharm., Inc.*, 15 So. 3d 642 (Fla. 1st DCA 2009). Please include in the rule text the date that the board approved the standards of the SCMHR certification test.

Please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,



Marjorie C. Holladay
Chief Attorney

cc: Mr. Edward Tellechea, Bureau Chief

MCH:SA WORD/MARJORIE/64B8_52.004LS090816_161619

Notice of Proposed Rule

DEPARTMENT OF HEALTH

Board of Medicine

RULE NOS.:RULE TITLES:

64B8-53.001 Requirements for Electrolysis Training Programs Approved by the Board

64B8-53.002 Curriculum Standards for Electrolysis Training Programs

64B8-53.003 Required Equipment for Electrolysis Training Programs

PURPOSE AND EFFECT: The Council proposes the rule amendment to update electrolysis pre-licensure training programs to include laser and light-based training.

SUMMARY: Revision permits online and other home study courses for the didactic portion of the required training; requires existing pre-licensure training programs that offer instruction in use of the epilator only to also offer training in laser and light-based hair removal within one year; requires school approval prior to admitting students, as the facility must be inspected by the department; modifies curriculum hours; eliminates duplication by referring to equipment required by Rule 64B8-51.006; F.A.C. modifies title to remove board approval.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule.

A SERC has been prepared by the Agency.

The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs. The SERC concludes that nine (9) of the twenty-five (25) approved training programs in Spring 2015 did not offer the 30-hour laser and light-based hair removal training course. These schools will incur additional costs associated with acquiring laser and related equipment and supplies; labor to develop, test and implement the laser portions of the curriculum; recruiting qualified laser instructors, or, developing and implementing training in laser for existing instructors. Using the highest estimated cost, multiplied times the nine epilator-only schools that would likely incur the most expense to comply, the estimated one-time cost for this transition is \$90,000 in the aggregate within the next five years. Hence, the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 478.43 (4), 478.50(4)(b) FS.

LAW IMPLEMENTED: 456.033, 478.43(4), 478.45(1)(e), 478.50(4)(b) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Electrolysis Council/MQA, 4052 Bald Cypress Way, Bin # C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-53.001 General Requirements for Pre-licensure Electrolysis Training Programs Approved by the Board
~~An~~ pre-licensure electrolysis training program must demonstrate that it will comply with the following general requirements in order to shall be approved by the Council Board for pre-licensure training if the following requirements are met:

(1) No change.

~~(2)(a)~~ No change.

~~(3)(b) The didactic portion of the required training may include online or home study courses. No home study or correspondence school or course will be considered in assessing an applicant's qualifications for licensure.~~

~~(2) Applicants shall complete and submit to the Council the application entitled "New Facility or New Ownership Application for Electrology Facility Licensure", form DOH/MQA/EP APP/REV 9/99, which is hereby incorporated by reference, copies of which may be obtained from the Council Office at 4052 Bald Cypress Way, BIN C05, Tallahassee, FL 32399. Approval by the Council is necessary before students are admitted.~~

(3) The facility where initial training is offered shall submit to the Council at least the following:

(a) A statement of the educational goals and objectives of the program;

(b) A detailed course outline or syllabus, including method of instruction, and testing materials;

(c) A current curriculum vitae of the course instructor(s);

(d) A sample certificate or diploma which includes the following which shall be filled in by the facility at the time of graduation:

Academic Hours	Traditional Classroom	Non Traditional Classroom
Per subsection 64B8-53.002(1), F.A.C.		
Successfully Completed	_____	_____
	=	=
Clinical Hours	Traditional Classroom	Non Traditional Classroom
Per subsection 64B8-53.002(2), F.A.C.		
Successfully Completed	_____	_____
	=	=

(e) A copy of the electrology facility license and the most recent Department of Health inspection sheet from the location where the training courses are to be offered demonstrating compliance with Rule 64B8-51.006, F.A.C.

(f) Proof of current, unencumbered licensure by the Commission for Independent Education, pursuant to Chapter 1005, F.S. Failure to maintain that license in good standing shall result in the loss of Council approval of the Program.

(g) Provide a copy of the application form submitted by students which shall include the following Notice in bold type no smaller than 14 points:

“Notice from the Florida Electrolysis Council Applicants for an Electrolysis License in the State of Florida are required to have completed a specifically outlined course of academic and clinical studies. Those studies must have been taken in a classroom setting in the physical presence of the instructor. Only such classroom education will be considered adequate for licensure. No credit shall be awarded applicants for home study, correspondence, or other distance education.

I confirm that I have read and understand the foregoing notice.

Student Signature _____ Date”

(4) The content of the training program must meet the minimum curriculum standards set forth in Rule 64B8-53.002, F.A.C. The training program must provide the equipment listed in Rule 64B8-53.003, F.A.C. The training program shall be located in an electrology facility licensed under Rule 64B8-51.006, F.A.C. An electrolysis training program must meet the requirements for combining epilator, laser and light-based training contained by the rules in Chapter 64B6-53, F.A.C. within one year after all rules in chapter become effective. The content of the program must include the curriculum standards set forth in subsections 64B8-53.002(1) and (2), F.A.C. All curricula must harmonize with and not be contrary to the following statements:

(a) ~~The procedures to be used for electrolysis involve the insertion of a sterile needle electrode into the hair follicle(s) of prepared skin. After the application of the selected current, the treated hair(s) is (are) removed with sterile forceps. After treatment is complete, the treated area of the skin is given post treatment care.~~

(b) ~~Electrolysis training programs shall be limited to training in the universally accepted procedures of electrolysis and shall not include extemporary procedures licensed by any other Florida Board. One example of such an extemporary procedure would be waxing the treated area after electrolysis. A Cosmetology license is required for certain types of waxing. A second example would be the intentional treatment of telangiectasis (spider veins) with the epilator. This type of vascular surgery may only be performed by a Florida licensed physician.~~

(5) Electrolysis training programs shall be strictly limited to training in hair removal and shall not include extemporary procedures licensed by any other Florida Board. Waxing and treatment of spider veins are two examples of such extemporary procedures. Only needle type epilators shall be used in electrolysis training programs.

~~(6) All students in the clinical application phase of an electrolysis training program, as described in Rule 64B8-53.002(2), F.A.C., shall have access to the equipment needed for the procedure being taught. All students in the clinical application phase of an electrolysis training program shall have access to a full work station consisting of an epilator, treatment table, stool, and supplies. During the clinical application phase of instruction in an electrolysis training program, there shall be only one student assigned to each work station.~~

~~(7) An electrolysis training program in another state or jurisdiction which does not license the practice of electrolysis shall be an approved electrolysis training program if it meets requirements substantially equivalent to those in Ch. 64B8-53, F.A.C. Each facility where electrolysis training programs are offered must meet the curriculum standards in Rule 64B8-53.002, F.A.C., and have the equipment required by Rule 64B8-53.003, F.A.C.~~

~~(8) Students shall not be admitted to the training program until it is approved by the Council. Each facility where electrolysis training programs are offered must be licensed as an electrology facility pursuant to Rule 64B8-51.006, F.A.C.~~

~~(9) The facility where initial training is offered shall submit to the Council at least the following:~~

~~(a) A statement of the educational goals and objectives of the program;~~

~~(b) A detailed course outline or syllabus, including method of instruction, and testing materials;~~

~~(c) A current curriculum vitae of the course instructor(s);~~

~~(d) A sample certificate of completion which states the number of classroom hours completed and the number of clinical hours completed. An electrolysis training program in another state or jurisdiction which does not license the practice of electrolysis shall be an approved electrolysis training program if it meets requirements substantially equivalent to those in subsections 64B8-53.001(1) and (2), F.A.C.~~

~~Rulemaking Specific Authority 478.43(1)(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 61F6-78.001, Amended 6-19-96, Formerly 59R-53.001, Amended 11-13-97, 2-15-07, ____.~~

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 15 and Blend, and laser and light-based modalities, history of permanent hair removal, general treatment procedures.~~

~~(b) No change~~

~~(c) Laser and light-based hair removal physics. 5~~

~~(d) Laser safety and precautions. 5~~

~~(e)(e) Integumentary System (skin and appendages). 6 10~~

~~(f)(d) Circulatory (blood and lymph) and nervous system. 6 10~~

~~(g)(e) Endocrine system, including related diseases. 6 10~~

~~(h)(f) Biology of hair growth. 10~~

~~(i)(g) Skin assessment, including skin typing types, effects of all modalities, specific current, effects of temporary removal. 20 15~~

~~(j)(h) Study of blood-borne pathogens with emphasis on hepatitis (all types), 5 10 and HIV/AIDS.~~

~~(k)(i) Microbiology of the skin (flora and fauna), sanitation and safety 7 10 procedures including demonstrations in accordance with Rule 64B8-56.001, F.A.C.~~

~~(l)(j) Clinic and office management, communications, professional ethics, 5 10 bookkeeping, and patient management.~~

~~(m)(k) Study of Chapter 64B8, F.A.C., as it relates to electrolysis, Chapter 5 10 478, F.S., and Chapter 456, Part II, F.S.~~

~~(n)(l) Consultations including medical history, contraindications, complications 20 5 Subtotal 120 hours~~

(2) Clinical Application Hours

(a) No change

(b) No change

- (c) No change
- (d) Hands on Equipment Instruction (Laser and Light-Based Electrolysis) 15 ~~5~~
- (e) Hands on Equipment Instruction (Thermolysis) 10 ~~5~~
- (f) Hands on Equipment Instruction (Blend and Galvanic) 10 ~~5~~
- (g) Client Pre/Post Treatment 10 ~~5~~
- (h) Client Assessment 15 ~~10~~
- (i) General Treatment Procedures for all modalities 80 ~~40~~5
- (j) No change
- (k) Visuals/Library 5 ~~40~~
- (l) No change
- Subtotal 200
- Total 320 hours

Rulemaking Specific Authority 478.43(1), (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, _____.

64B8-53.003 Required Equipment for Electrolysis Training Programs

(1) An electrolysis training program shall: ~~have the following equipment in good working condition, in sufficient numbers, and supplies in sufficient amount to enable students to meet their learning objectives:~~

- (a) Have a working U.S. FDA registered short wave epilator,
- (b) Have a working U.S. FDA registered blend epilator, and
- (c) Comply with the requirements of Rule 64B8-51.006(3), F.A.C. ~~U.S. FDA registered galvanic epilator with multiple needle apparatus,~~
- ~~(d) Magnifying device or treatment lamp,~~
- ~~(e) Treatment table or treatment chair,~~
- ~~(f) Operator stool or chair,~~
- ~~(g) Autoclave with chemical biological indicators,~~
- ~~(h) Dry heat sterilizer with chemical biological indicators,~~
- ~~(i) Needles (e.g. probes) of various sizes,~~
- ~~(j) Forceps (e.g. tweezers),~~
- ~~(k) Needle holder tips,~~
- ~~(l) Ultrasonic cleaner with enzyme dissolving detergent,~~
- ~~(m) Covered holding containers for contaminated instruments,~~
- ~~(n) Sharps containers for disposal of used needles and other sharp instruments in accordance with the biomedical waste disposal requirements of Rule Chapter 64E-16, F.A.C.,~~
- ~~(o) Non-sterile disposable examination gloves,~~
- ~~(p) Waste receptacles,~~
- ~~(q) Soaps,~~
- ~~(r) Paper towels,~~
- ~~(s) Paper table coverings,~~
- ~~(t) Tuberculocidal hospital-grade disinfectant detergent,~~
- ~~(u) Betadine, 3% U.S. Pharmaceutical grade hydrogen peroxide and 70% isopropyl alcohol or wrapped, single use wipes saturated with 70% isopropyl alcohol,~~
- ~~(v) Clean non-sterile materials such as cotton balls, cotton strips, cotton swabs, gauze pads, and gauze strips,~~
- ~~(w) Clean, covered containers for creams, lotions and ointments with single use spatulas or containers which are pump or tube type dispensers,~~
- ~~(x) Magnifying device which shall be a magnifying lamp, optical loupe or microscope.~~
- ~~(y) Reference books/textbooks in the following areas:~~
 - ~~1. Electrolysis;~~
 - ~~2. Dermatology;~~
 - ~~3. Anatomy; and~~
 - ~~4. Medical dictionary.~~

~~(2) Endodontic dry heat sterilizers, also known as glass bead sterilizers, shall not be used in place of an autoclave or dry heat sterilizer in paragraphs 64B8-53.003(1)(g) and (h), F.A.C.~~

Rulemaking Specific Authority 478.43(1), (4), 478.50(4)(b) FS. Law Implemented 456.033, 478.43(4), 478.45(1)(e), 478.50(4)(b) FS. History—New 11-16-93, Formerly 61F6-78.003, 59R-53.003, Amended 11-13-97, 10-12-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrolysis Council

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 3, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: August 11, 2016

ANDY GARDINER
President



Senator Denise Grimsley, Chair
Representative W. Travis Cummings, Vice Chair
Senator Aaron Bean
Senator Dwight Bullard
Senator Nancy C. Detert
Senator Geraldine F. "Geri" Thompson
Representative Matt Hudson
Representative Lake Ray
Representative Hazelle P. "Hazel" Rogers
Representative Barbara Watson

STEVE CRISAFULLI
Speaker



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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

September 14, 2016

Ms. Lynette Norr
Assistant Attorney General
Department of Legal Affairs
PL-01, The Capitol
Tallahassee, Florida 32399-1050

**Re: Department of Health: Board of Medicine: Electrolysis Council
Rules 64B8-53.001, .002, and .003, F.A.C.**

Dear Ms. Norr:

I have reviewed the above-referenced proposed rules, which were advertised in the Florida Administrative Register on September 8, 2016. I have the following comments.

Summary of Statement of Estimated Regulatory Costs and Legislative Ratification:

Section 120.54(3)(a)1. requires the rulemaking notice to "include a summary of the agency's statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in s. 120.541(2)." It does not appear that this summary summarizes all of these factors. Please publish a notice of correction to include all the factors that are required to be included in the summary pursuant to sections 120.54(3)(a)1. and 120.541(2).

64B8-53.001: Please explain why section 478.43(4) is being removed as a law implemented. It appears that statute should be cited.

Section 478.50(4)(b), cited as a law implemented, states that, "The board, with the assistance of the council, shall approve criteria for, and content of, electrolysis training programs and continuing education courses required for licensure and renewal as set forth in this chapter." The introductory paragraph of this rule indicates that the pre-licensure electrolysis training programs will be approved by the council. Please explain the authority to have the council, as opposed to the board, approve pre-licensure training programs. *See* § 120.52(8)(c), Fla. Stat.

64B8-53.001(4): This subsection states in part, “An electrolysis training program must meet the requirements for combining epilator, laser and light-based training contained by the rules in Chapter 64B6-53 [sic], F.A.C. within one year after all rules in chapter [sic] become effective.” It appears that “64B6-53, F.A.C.” should be “64B8-53, F.A.C.” Also, it appears that a word or words may be missing from this sentence.

The rules in chapter 64B8-53 are currently in effect, thereby potentially making this language confusing to the reader. If the board intended that the requirements for combining epilator, laser, and light-based training must be complied with within one year from the date that these proposed rule amendments go into effect, then it appears that the rule text should be clarified. *See* § 120.545(1)(i), Fla. Stat. Further, it may be helpful to include a parenthetical in the rule text that will be filled in at the time of adoption indicating the effective date of these rule amendments.

64B8-53.001(5): Please explain what the board means by “extemporary procedures.” *See* §§ 120.54(2)(b), .545(1)(i), Fla. Stat.

64B8-53.003: This subsection contains a subsection (1) without a subsection (2). Please renumber the sub-units of this rule section to comply with the requirements of rule 1-1.008(3)(e).

Please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,



Marjorie C. Holladay
Chief Attorney

cc: Mr. Edward Tellechea, Bureau Chief

Council Chair - Jolynn Greenhalgh, DNP, ARNP



State Board of Education

Marva Johnson, *Chair*
John R. Padget, *Vice Chair*
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Rebecca Fishman Lipsey
Michael Olenick
Andy Tuck

Pam Stewart
Commissioner of Education

October 12, 2016

Ms. Judy Adams
LaserBlazers Training
213 Highway 17 South
East Palatka, Florida 32131

Dear Ms. Adams:

This correspondence is to verify that LaserBlazers Training has filed an application for licensure with the Commission for Independent Education.

Staff has reviewed the application and has scheduled the information to be reviewed by the Commission for Independent Education at the November 29-30, 2016 Commission meeting.

If you have additional questions or concerns please contact Morgan Champion by e-mail at Morgan.Champion@fldoe.org or by calling 850 245-3200.

Sincerely,

Samuel L. Ferguson
Executive Director
Commission for Independent Education
325 West Gaines Street, Suite 1414
Tallahassee, Florida 32399-0400



Status of Facility Inspection

EP Facility # 33

Laser Center of St. Augustine

Notes from DOH Inspector

As of 10-12-2016 spoke to owner, not ready and delayed by hurricane. Appt set for 11/02/2016 @ 11:00 am