

The Florida
Electrolysis Council

Draft Minutes

October 17, 2016

Telephone Conference Call

1-888-670-3525

Participant Code 7811783909 #

Jolynn Greenhalgh, DNP, ARNP, RE
Chair

Lina Grillo, RE
Vice-Chair

**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.

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.

10:00 a.m.

Call to Order – General Business Meeting

Ms. Jolynn Greenhalgh, Council Chair, called the meeting to order at approximately 10:00 a.m. Those present for all or part of the meeting were as follows below.

MEMBERS PRESENT

Jolynn Greenhalgh, DNP, ARNP, RE, Chair
Lina Grillo, RE, Vice-Chair
Nilsa Lapeyrouse, RE
Sarah Gray, Esquire
Erin Wiedemer, PMP

STAFF PRESENT

Allen Hall, Executive Director
Anna King, Program Administrator
Kimberly Thomas, Regulatory Specialist II

ASSISTANT ATTORNEY GENERAL

Lynette Norr, Esquire

Additional Persons Present

Judy Adams, RE

10:00 a.m.

Call to Order – General Business Meeting

ADMINISTRATIVE PROCEEDINGS

INDIVIDUAL CONSIDERATION

1. Julia Avalon – Examination Applicant

Ms. Julia Avalon was not present and not represented by legal counsel.

Ms. Avalon was before the Council for review of her application for licensure by exam. Following discussion, Ms. Jolynn Greenhalgh moved to approve the application. Ms. Nilsa Lapeyrouse seconded the motion, which carried 5/0.

INDIVIDUAL CONSIDERATION

2. Julia Padilla – Examination Applicant

Ms. Julia Padilla was not present and not represented by legal counsel.

Ms. Padilla was before the Council for review of her application for licensure by exam. Following discussion, Ms. Jolynn Greenhalgh moved to approve the application. Ms. Nilsa Lapeyrouse seconded the motion, which carried 5/0.

320 HOUR SCHOOL COMPLAINTS REVIEW

3. Boca Academy

Mr. Jack Bragin, Ms. Pamela Criado, and Ms. Ruth Patterson was present and not represented by legal counsel.

Boca Beauty Academy was before the Council to review complaints concerning the 320 Hour Electrolysis Program. Following discussion, Ms. Jolynn Greenhalgh moved to dismiss the complaints and take no action against the school, Ms. Nilsa Lapeyrouse seconded the motion, which carried 5/0.

APPLICANT CERTIFICATION LIST

4. Examination Applicants

The Examination Candidate Ratification List was presented to the Council for approval.

Ms. Jolynn Greenhalgh moved to ratify the revised list of examination candidates. Ms. Lina Grillo seconded the motion, which carried 5/0.

RULES REVIEW AND DEVELOPMENT

5. Rule Discussion – Lynette Norr, Assistant Attorney General

- 64B8-55.001, F.A.C., Disciplinary Guidelines

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.	(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.

(Section 456.072(1)(oo), F.S.)	<u>Second and subsequent offenses: from a reprimand to revocation and an administrative fine in the amount of \$2,500.00 to \$5,000.00.</u>
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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, _____.

The Council reviewed and discussed the proposed rule language presented by Ms. Norr.

Ms. Greenhalgh moved to accept the recommended rule language for 64B8-55.001, F.A.C., Disciplinary Guidelines. Ms. Lina Grillo seconded the motion, which carried 5/0.

Ms. Greenhalgh moved that the proposed language would not have an adverse impact on small business nor have an economic impact on government or any other entity in excess of \$200,000 within one year of the rule being implemented. Ms. Lapeyrouse seconded the motion, which carried 5/0.

64B8-51.001 Manner of Application

Ms. Norr stated that this rule became effective September 8, 2016.

ADDENDEDUM

JAPC Letters

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

Ms. Norr referenced the following taken from the JAPC Letters:

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.”).

Ms. King stated that revision dates in the footer of an application represent the day the form was approved by the council.

Ms. Norr referenced the following taken from the JAPC Letters:

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.

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.

Ms. King stated items listed on the checklist was taken from the draft rule, form will be reviewed to be sure checklist is consistent with rule.

Ms. Norr referenced the following taken from the JAPC Letters:

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.

Ms. Norr recommended that the phrase: “or proof of having passed a substantially equivalent test for certifications as determined by the Council.” Is removed from the application form, and the date of approval to the rule text be added.

Ms. Norr referenced the following taken from the JAPC Letters:

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.

Ms. Norr recommended that this state be deleted.

Ms. Norr referenced the following taken from the JAPC Letters:

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).

Ms. Norr stated this will be a legal argument to JAPC.

Ms. Norr referenced the following taken from the JAPC Letters:

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.

Ms. Norr recommended that this statement be deleted.

Ms. Norr referenced the following taken from the JAPC Letters:

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.

As previously stated, date is not in response to the July 1, 2016 effective statute.

Ms. Norr referenced the following taken from the JAPC Letters:

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.”

Ms. King stated this was indeed a mistake and should be removed.

Ms. Norr referenced the following taken from the JAPC Letters:

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.

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.

Ms. Norr stated the second half of this statement “or proof of having passed a substantially equivalent test for certifications as determined by the Council.” should be removed from everywhere it was added.

Ms. Norr will research and will keep the word “affirm” if legally it is possible.

Ms. Norr referenced the following taken from the JAPC Letters:

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.

The Council will recommends to the Board of Medicine that this sentence be removed.

Ms. Norr referenced the following taken from the JAPC Letters:

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 lightbased 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.”

Ms. Norr recommends removing the following statement, “or after having passed a substantially equivalent test for certification as determined by the Council.” And include the date approved by the Board of medicine.

Ms. Norr referenced the following taken from the JAPC Letters:

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

Ms. Norr recommended the statement be changed to “Electrolysis Training Programs shall be strictly limited to training in permanent hair removal or permanent hair reduction.”

Ms. Norr referenced the following taken from the JAPC Letters:

64B8-54.001(5): The last sentence of this rule subsection 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.

Ms. Norr recommended that the following sentence is removed.

“Licensees may obtain more information regarding reporting and tracking of continuing education hours at <http://www.flhealthsource.gov/requirements>.”

Ms. Norr referenced the following taken from the JAPC Letters:

64B8-56.002(2): This subsection sets forth the requirements for an electrologist using laser or light-based devices for hair removal or reduction. Specifically, the proposed rule amendment to paragraph (2)(b) provides that “An electrologist may not use laser or light-based devices for hair removal or reduction less they . . . [h]ave passed the Society for Clinical and Medical Hair Removal test for certification as Certified Medical Electrologist, or proof [sic] of having passed a substantially equivalent test for certification as determined by the Council.”

Ms. Norr stated the second half of this statement “or proof of having passed a substantially equivalent test for certifications as determined by the Council.” should be removed. And the dat should be added.

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

Rule 64B8-52.003(2) was approved by the Council in 2011/2012 but the final adoption procedures were never implicated.

Proposed Rule Language for Rule 64B8-52.003(2):

(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.

Ms. Greenhalgh moved to accept the JAPC comments as discussed including changes made by the council, and to move forward to the Board of Medicine. Ms. Lina Grillo seconded the motion, which carried 5/0.

Ms. Greenhalgh moved that the proposed language would not have an adverse impact on small business nor have an economic impact on government or any other entity in excess of \$200,000 within one year of the rule being implemented. Ms. Lina Grillo seconded the motion, which carried 5/0.

REPORT OF ASSISTANT ATTORNEY GENERAL- Lynette Norr

6. Rule Status Report

- 64B8-50.003, F.A.C., Delegation of Powers and Duties to Electrolysis Council
- 64B8-51.001 Manner of Application
- 64B8-51.006 Rule Governing Licensure and Inspection of Electrology Facility

- 64B8-52.003, F.A.C., Procedure for Approval of Attendance at Continuing Education Courses.
- 64B8-52.004, F.A.C., Requirements for Approval of Training Courses for Laser and Light-Based Hair Removal or Reduction
- 64B8-53.001, F.A.C., Requirements for Electrolysis Training Programs Approved by the Board
- 64B8-53.002, F.A.C., Curriculum Standards for Electrolysis Training Programs

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- 64B8-53.003, F.A.C., Required Equipment for Electrolysis Training Programs
 - 64B8-54.001, F.A.C., Renewal of Electrologist License; Delinquent Renewal
 - 64B8-55.002, F.A.C., Citations
 - 64B8-56.002, F.A.C., Equipment and Devices; Protocols for Laser and Light-Based Devices

REPORTS

7. **Council Chair – Jolynn Greenhalgh, DNP, ARNP** Healthiest Weight Update

Ms. Greenhalgh provided a brief update of her attendance at the Healthiest Weight Liason Meeting as well as the Budget Liason and Annual MQA Board/Vice Chairs Meeting in September 2016.

Executive Director – Allen Hall

8. Expenditures by Function

9. Cash Balance Report

Informational items did not require specific action from the Council.

OLD BUSINESS

10. July 11, 2016 Electrolysis Council Meeting Minutes

Ms. Greenhalgh moved to approve the July 11, 2016 Electrolysis Council meeting minutes. Ms. Lina Grillo seconded the motion, which carried 5/0.

OTHER BUSINESS AND INFORMATION

11. 2016-2017 Electrolysis Council Annual Regulatory Plan

Ms. Greenhalgh moved to approve the 2016-2017 Annual Regulatory Plan. Ms. Lina Grillo seconded the motion, which carried 5/0.

12. 2016 Board Chairs, Healthiest Weight and Budget Liaison Meetings

Informational Item

ADDEDNDUM

320 HOUR TRAINING SCHOOL APPLICATION

13. LaserBlazers Training School

LaserBlazers was present and not represented by legal counsel.

Ms. Jolynn Greenhalgh moved to approve LaserBlazers application for 320 hour Electrolysis Training School.

Ms. Lina Grillo seconded the motion, which carried 5/0.

14. Request for Hearing on Proposed Rules; EO, The Society for Clinical and Medical Hair Removal

Ms. Norr informed the Council the public hearing requested by The Society for Clinical and Medical Hair Removal would be held by the Board of Medicine on December 1, 2016. Any comments or opinions, any licensee or associations who would like to be considered during this hearing may be directed to the Board of Medicine office.

ADJOURNMENT

The meeting adjourned at 11:47a.m.