

## CHAPTER 478

## ELECTROLYSIS

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**478.40 Short title.**—This chapter may be cited as the "Electrolysis Practice Act."

**History.**—s. 1, ch. 92-172.

**478.41 Purpose and intent.**—The purpose of this chapter is to provide for the licensure of persons who deliver electrolysis services and to ensure that they meet certain requirements. It is the finding of the Legislature that the practice of electrology by unskilled or incompetent persons presents a danger to the public health and safety. Because it is difficult for the public to make informed choices related to electrolysis services and since the consequences of wrong choices can harm the public health and safety, it is the intent of the Legislature to prohibit the delivery of electrolysis services by persons who do not possess the necessary skills or who otherwise present a danger to the public. However, restrictions may be imposed only to the extent necessary to protect the public and in a manner that will not unreasonably affect the competitive market for the delivery of such services.

**History.**—s. 2, ch. 92-172.

**478.42 Definitions.**—As used in this chapter, the term:

- (1) "Board" means the Board of Medicine.
- (2) "Council" means the Electrolysis Council.
- (3) "Department" means the Department of Business and Professional Regulation.
- (4) "Electrologist" means a person who engages in the practice of electrolysis.
- (5) "Electrolysis or electrology" means the permanent removal of hair by introducing, into and beneath the skin, ionizing (galvanic current) or nonionizing radiation (thermolysis or high-frequency current) to destroy the hair-producing cells of the skin and vascular system, using needle-type epilation devices that are registered with the United States Food and Drug Administration

and used pursuant to protocols approved by the council and the board.

**History.**—s. 3, ch. 92-172; s. 168, ch. 94-218.

**478.43 Board of Medicine; powers and duties.**—

(1) The board, with the assistance of the Electrolysis Council, is authorized to establish minimum standards for the delivery of electrolysis services and to adopt rules necessary to administer the provisions of this chapter.

(2) The board may administer oaths, summon witnesses, and take testimony in all matters relating to its duties under this chapter.

(3) The board may delegate such powers and duties to the council as it may deem proper.

(4) The board, in consultation with the council, shall recommend proposed rules, and the board shall adopt rules for a code of ethics for electrologists and 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 electrolysis.

**History.**—s. 4, ch. 92-172.

**478.44 Electrolysis Council; creation; function; powers and duties.**—

(1) There is created the Electrolysis Council under the supervision of the board.

(2)(a) The council shall consist of five members, appointed by the board. Three members must be licensed electrologists who have been actively engaged in the delivery of electrolysis services in this state for at least 4 consecutive years prior to their appointment and who are not affiliated with an electrolysis school or manufacturer or supplier of electrolysis equipment or supplies. Two consumer members must be residents of this state who have never been licensed electrologists, have no financial interest in the practice of electrology, and are not affiliated with an electrolysis school or a manufacturer or supplier of electrolysis equipment or supplies.

(b) Initial council members who are licensed electrologists must be eligible for licensure at the time of their appointment. Electrologist members appointed after October 1, 1996, must have been licensed in this state for at least 3 years prior to their appointment.

(3)(a) The term of office for each council member is 4 years. A member may not serve more than two consecutive terms. When a vacancy occurs on the council, any licensed electrologist may recommend one person to fill the vacancy, and any professional organization dealing with electrolysis, incorporated within the state as not for profit, which registers its interest with the board shall recommend at least twice as many persons to fill the vacancy as the number of vacancies to be filled, and the board, in its discretion, may appoint from the submitted names any of those persons so recommended. The board shall, when possible, appoint persons from different geographic areas.

(b) In order to achieve staggering of terms, by December 1, 1995, the board shall appoint the consumer members of the council as follows:

1. One member shall be appointed for a term of 2 years.

2. One member shall be appointed for a term of 3 years.

(4)(a) The council shall annually elect from among its members a chairman and vice chairman.

(b) The council shall meet at least twice a year and shall hold such additional meetings as are considered necessary by the board. Three members of the council constitute a quorum.

(c) Unless otherwise provided by law, a council member shall be compensated \$50 for each day the member attends an official meeting of the council or participates in official council business. A council member is also entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of state requires the prior approval of the Director of Health Care Administration.

*History.*—s. 5, ch. 92-172; s. 1, ch. 95-221.

#### **478.45 Requirements for licensure.—**

(1) An applicant applying for licensure as an electrologist shall file a written application, accompanied by the application for licensure fee prescribed in s. 478.55, on a form provided by the board, showing to the satisfaction of the board that the applicant:

(a) Is at least 18 years old.

(b) Is of good moral character.

(c) Is a resident of the state.

(d) Possesses a high school diploma or a graduate equivalency diploma.

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

(f)1. Has successfully completed the academic requirements of an electrolysis training program, not to exceed 120 hours, and the practical application thereof as approved by the board; or

2. Was engaged in the practice of electrolysis prior to October 1, 1991, and filed an application for licensure within 90 days after the date established by the board or by February 1, 1995, whichever comes last.

(2) Each applicant for licensure shall successfully pass a written examination developed by the department or a national examination, both of which have been approved by the board. The examinations shall test the applicant's knowledge relating to the practice of electrolysis, including the applicant's professional skills and judgment in the use of electrolysis techniques and methods, and any other subjects which are useful to determine the applicant's fitness to practice.

(3) The department, upon approval of the board, may adopt the American Electrology Association examination or any other national examination in lieu of any part of the examination required by this section. The board, with the assistance of the council, shall establish standards for acceptable performance.

(4) The department shall issue a license to practice electrolysis to any applicant who passes the examination, pays the licensure fee as set forth in s. 478.55, and otherwise meets the requirements of this chapter.

(5) The department shall conduct licensure examinations at least biannually at locations set by the board. However, such examinations may be conducted at least three times each year through 1995. The board shall give public notice of the time and place of each examination at least 60 days before it is administered and shall mail notice of such examination to each applicant whose application is timely filed, pursuant to board rule.

(6) The department may not issue a license to any applicant who is under investigation in another jurisdiction for an offense which would be a violation of this chapter, until such investigation is complete. Upon completion of such investigation, if the applicant is found guilty of such offense, the board shall apply the applicable provisions of s. 478.52.

*History.*—s. 6, ch. 92-172; s. 2, ch. 95-221.

#### **478.46 Temporary permits.—**

(1) If the executive director of the board determines that an applicant is qualified to be licensed under s. 478.45, the board may issue the applicant a temporary permit to practice electrology until the next board meeting at which license applications are to be considered, but not for a longer period of time. Only one temporary permit shall be issued to an applicant, and it shall not be renewable.

(2)(a) If the executive director of the board determines that an applicant is qualified for licensure by examination except for passage of the examination and has applied for the next scheduled examination, the executive director may issue the applicant a nonrenewable temporary permit to practice electrology under the supervision of a licensed electrologist until notification of the results of the examination.

(b) The temporary permit of a person who fails such examination is automatically revoked upon notification of the examination results, and the applicant shall cease the practice of electrology immediately upon receipt of such notice.

(c) An applicant with a temporary permit who passes such examination may continue to practice under such temporary permit until the next meeting of the board at which license applications are to be considered.

(3) As used in subsection (2), "supervision" means responsible control by a licensed electrologist who provides the initial direction in developing a treatment plan and also periodically inspects the permittee's implementation of such plan, which plan may not be altered by the permittee without the prior consultation and approval of the supervisor. A supervisor shall be available to consult with and direct a permittee in an emergency, although the supervisor does not have to be on the premises while the permittee is delivering electrolysis services.

*History.*—s. 7, ch. 92-172.

**478.47 Licensure by endorsement.**—The department shall issue a license by endorsement to any applicant who submits an application and the required fees as set forth in s. 478.55 and who the board certifies has met the qualifications of s. 478.45(1) or who holds an active license or other authority to practice electrology in a jurisdiction whose licensure requirements are deter-

mined by the board to be equivalent to the requirements for licensure in this state.

**History.**—s. 8, ch. 92-172.

**478.48 Assumption of title and use of abbreviations.**—Only persons who are licensed under this chapter may use the title "Electrologist," "Registered Electrologist," or the abbreviation "RE."

**History.**—s. 9, ch. 92-172.

**478.49 License required.**—

(1) No person may practice electrology or hold himself out as an electrologist in this state unless the person has been issued a license by the department and holds an active license pursuant to the requirements of this chapter.

(2) A licensee shall display his license in a conspicuous location in his place of practice and provide it to the department or the board upon request.

**History.**—s. 10, ch. 92-172.

**478.50 Renewal of license; delinquent status; address notification; continuing education requirements.**—

(1) The department shall provide, by rule, a method for biennial license renewal at fees set forth in s. 478.55.

(2) A license that is not renewed at the end of the biennium prescribed by the department automatically reverts to delinquent status. The board shall adopt rules establishing procedures, criteria, and fees as set forth in s. 478.55 for reactivation of an inactive license.

(3) A licensee shall file with the department the address of his primary place of practice within the state prior to engaging in practice and shall notify the department of any change in this address prior to the change.

(4)(a) An application for license renewal must be accompanied by proof of the successful completion of 20 hours of continuing education courses or proof of successfully passing a reexamination for licensure within the immediately preceding biennium which meets the criteria established by the board. Both the continuing education and reexamination shall contain education on blood-borne diseases.

(b) 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.

(c) Continuing education programs shall be approved by the board. Applications for approval shall be submitted to the board not less than 60 days nor more than 360 days before they are held.

**History.**—s. 11, ch. 92-172; s. 229, ch. 94-119.

**478.51 Electrology facilities; requisites; facility licensure; inspection.**—

(1) No electrology facility shall be permitted to operate without a facility license issued by the department.

(2) The facility license shall be displayed in a conspicuous place within the facility and shall be made available upon request of the department or board.

(3) The board shall adopt rules governing the licensure and operations of such facilities, personnel, safety and sanitary requirements, and the licensure application and granting process.

(4) Any person, firm, or corporation desiring to operate an electrology facility in the state shall submit to the department an application and the necessary application fee as set forth in s. 478.55.

(5) Upon receiving the application, the department may cause an investigation to be made of the proposed electrology facility.

(6) When an applicant fails to meet all the requirements provided in this section, the department shall deny the application in writing and shall list the specific requirements not met. No applicant denied licensure because of failure to meet the requirements shall be precluded from reapplying for licensure.

(7) When the department determines that the proposed electrology facility has met the requirements set forth in this section, the department shall grant the license upon payment of the initial licensure fee.

(8) An initial inspection of a licensed facility shall be conducted within 60 days of initial licensure.

(9) A renewal inspection of a licensed facility shall be conducted not less than once per biennium or as deemed required by the department.

(10) No license for operation of an electrology facility may be transferred from the name of the original licensee to another. It may be transferred from one location to another only upon approval by the department, which approval shall not be unreasonably withheld.

(11) Renewal of license registration for electrology facilities shall be accomplished pursuant to rules adopted by the board.

**History.**—s. 12, ch. 92-172.

**478.52 Disciplinary proceedings.**—

(1) The following acts are grounds for which the disciplinary actions in subsection (2) may be taken:

(a) Obtaining or attempting to obtain a license by bribery, fraud, or knowing misrepresentation.

(b) Having a license or other authority to deliver electrolysis services revoked, suspended, or otherwise acted against, including denial of licensure, in another jurisdiction.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime, in any jurisdiction, which directly relates to the practice of electrology.

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required for electrologists, or willfully impeding or obstructing the filing of a report or record required by this act or inducing another person to do so.

(e) Circulating false, misleading, or deceptive advertising.

(f) Unprofessional conduct, including any departure from, or failure to conform to, acceptable standards related to the delivery of electrolysis services.

(g) Engaging or attempting to engage in the illegal possession, sale, or distribution of any illegal or controlled substance.

(h) Willfully failing to report any known violation of this chapter.

(i) Willfully or repeatedly violating a rule adopted under this chapter, or an order of the board or department previously entered in a disciplinary hearing.

(j) Engaging in the delivery of electrolysis services without an active license.

(k) Employing an unlicensed person to practice electrology.

(l) Failing to perform any statutory or legal obligation placed upon an electrologist.

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

(n) Delegating professional responsibilities to a person the licensee knows, or has reason to know, is unqualified by training, experience, or licensure to perform.

(o) Gross or repeated malpractice or the inability to practice electrology with reasonable skill and safety.

(p) Judicially determined mental incompetency.

(q) Practicing or attempting to practice electrology under a name other than his own.

(r) Being unable to practice electrology with reasonable skill and safety because of a mental or physical condition or illness, or the use of alcohol, controlled substances, or any other substance which impairs one's ability to practice.

1. The department may, upon probable cause, compel a licensee to submit to a mental or physical examination by physicians designated by the department. The cost of an examination shall be borne by the licensee, and his failure to submit to such an examination constitutes an admission of the allegations against him, consequent upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond his control.

2. A licensee who is disciplined under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that he can resume the practice of electrology with reasonable skill and safety.

3. In any proceeding under this paragraph, the record of proceedings or the orders entered by the board may not be used against a licensee in any other proceeding.

(s) Disclosing the identity of or information about a patient without written permission, except for information which does not identify a patient and which is used for training purposes in an approved electrolysis training program.

(t) Practicing or attempting to practice any permanent hair removal except as described in s. 478.42(5).

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), including conduct that would constitute a substantial violation of subsection (1) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:

(a) Deny the application for licensure.

(b) Revoke or suspend the license.

(c) Impose an administrative fine not to exceed \$5,000 for each count or separate offense.

(d) Place the licensee on probation for a specified

time and subject the licensee to such conditions as the board determines necessary, including requiring treatment, continuing education courses, reexamination, or working under the supervision of another licensee.

(e) Issue a reprimand to the licensee.

(f) Restriction of a licensee's practice.

(3) The board may not issue or reinstate a license to a person it has deemed unqualified until it is satisfied that such person has complied with the terms and conditions of the final order and that the licensee can safely practice electrology.

(4) The board, with the assistance of the council, may, by rule, establish guidelines for the disposition of disciplinary cases involving specific types of violations. The guidelines may include minimum and maximum fines, periods of supervision on probation, or conditions upon probation or reissuance of a license.

**History.**—s. 13, ch. 92-172.

**478.53 Penalty for violations.**—It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, to:

(1) Practice or attempt to practice electrology or hold oneself out to be an electrologist without holding an active license.

(2) Practice or attempt to practice electrology under a name other than one's own.

(3) Use or attempt to use a revoked or suspended license or the license of another.

(4) Obtain or attempt to obtain a license by bribery, fraud, or knowing misrepresentation.

(5) Employ an unlicensed person to practice electrology.

(6) Practice or attempt to practice any permanent hair removal except as described in s. 478.42(5).

**History.**—s. 14, ch. 92-172.

**478.54 Exemptions.**—This chapter does not apply to the delivery of electrolysis services by:

(1) A physician licensed under chapter 458 or an osteopathic physician licensed under chapter 459; or

(2) A student delivering electrolysis services to another in an approved electrolysis training program.

**History.**—s. 15, ch. 92-172.

**478.55 Fees; facility; disposition.**—

(1) The board shall establish by rule the collection of fees for the following purposes:

(a) License application fee: a fee not to exceed \$100.

(b) Examination fee: a fee not to exceed \$300.

(c) Initial licensure fee: a fee not to exceed \$100.

(d) Renewal fee: a fee not to exceed \$100 biennially.

(e) Reactivation fee: a fee not to exceed \$100.

(f) Inspection fee for facility: a fee not to exceed \$100 biennially.

(2) In no case shall the department charge more than the actual cost incurred for the implementation of this chapter.

**History.**—s. 16, ch. 92-172.