

**Meeting Report
Florida Board of Medicine
Rules/Legislative Committee
Electrology Rule Review**

**Rosen Centre
9840 International Dr
Orlando, FL 32819
(407) 996-9840**

October 4, 2007

1:10 p.m. Roll Call

Members Present:

Onelia Lage, M.D., Chair
Steven Rosenberg, M.D.
Carmel Barrau, M.D.
Gary Winchester, M.D. (arrived at 1:45 pm)
Michael Chizner, M.D. (arrived at 2:30 pm)

Members Absent:

Staff Present:

Larry McPherson, Jr., J.D., Executive Director
Ed Tellechea, J.D., Board Counsel
Nancy Murphy, Paralegal
Diane Guillemette, J.D., Counsel to the Electrology Council
Crystal Sanford, CPM, Program Operations Administrator

Others Present:

American Court Reporting
Jon Pellett, Esquire

Mr. Tellechea reviewed the Electrology Rules with the Committee.

Tab 1 - 64B8-50.002, FAC – Organization

No issue with this rule.

Tab 2 - 64B8-50.003, FAC – Delegation of Powers and Duties to Electrolysis Council

The rule outlines those powers and duties that have been delegated to the Council. After discussion, a motion was made, seconded and carried unanimously to recommend striking (1)(b) and (1)(c):

(1) Pursuant to Section 478.43, Florida Statutes, the Board delegates to the Electrolysis Council the following powers and duties.

- (a) Certification of applicants for examination and applicants for endorsement.
- ~~(b) Issuance of temporary permits to applicants for licensure.~~
- ~~(c) Certification of applicants for facility licensure.~~
- (d) Approval of continuing education providers and electrolysis training programs.

(2) The Board shall enter final orders in disciplinary cases against electrologists and electrology facility license holders. The determination of probable cause to issue an administrative complaint against an

electrologist or a electrology facility license holder shall be made by the Probable Cause Panel of the Board.

(3) Rulemaking proposals, petitions for declaratory statement and petitions to adopt, amend or repeal rules, which relate to the practice of electrology shall first be presented to the Council. The Council shall consider the matter and make recommendations to the Board as to the appropriate action to be taken.

Specific Authority 478.43(1) FS. Law Implemented 478.43(3) FS. History–New 5-31-93, Formerly 21M-75.003, Amended 11-16-93, Formerly 61F6-75.003, 59R-50.003.

Tab 3 - 64B8-50.005, FAC – Final Orders

This rule outlines who has the authority to sign Final Orders regarding disciplinary and licensure matters. After discussion, a motion was made, seconded and carried unanimously to recommend striking the entire rule:

64B8-50.005 Final Orders.

~~All Final Orders in disciplinary cases and licensure cases with restrictions and conditions shall be signed by the Chair of the Board or designee. All Final Orders of the Council relating to denial of licensure shall be signed by the Chair of the Council or designee. Final Orders shall be effective upon filing with the Clerk of the Board who shall be either the Executive Director of the Board or designee. If the Final Order imposes a civil penalty, a fine, or costs, said monies shall be payable to the Board.~~

Specific Authority 478.43(1) FS. Law Implemented 456.013 FS. History New 5-31-93, Formerly 21M-75.005, Amended 11-16-93, Formerly 61F6-75.005, 59R-50.005.

Tab 4 - 64B8-50.006, FAC – Designation of Official Reporter

This rule delegates the official reporter for publishing and indexing subject matter orders. After discussion, a motion was made, seconded and carried unanimously to strike the whole rule:

64B8-50.006 Designation of Official Reporter.

~~The Board designated PSC Professional Services, Inc., Publishers of the Florida Administrative Law Reports (FALR), as its official reporter for the purposes of publishing and indexing by subject matter all orders rendered after a proceeding which affects substantial interests has been held.~~

Specific Authority 478.43(1) FS. Law Implemented 120.53(2) FS. History New 5-31-93, Formerly 21M-75.006, 61F6-75.006, 59R-50.006.

Tab 5 - 64B8-50.008, FAC – Address of Licensee

No issues with this rule.

Tab 6 - 64B8-50.009, FAC – Certification of Public Records

This rule sets out the fee for certifying records as \$25. A motion was made, seconded and carried unanimously to strike the last sentence and to change the law implemented to §456.025(11), Florida Statutes:

64B8-50.009 Certification of Public Records.

Any person desiring certification of any Board or Council documents from the custodian of records as official public records shall submit that request along with a certification fee of \$25. ~~Normal duplicating fees shall also apply.~~

Specific Authority 478.43(1) FS. Law Implemented 119.07(1) 456.025(11)FS. History--New 5-31-93, Formerly 21M-75.009, 61F6-75.009, 59R-50.009.

Dr. Winchester arrived.

Tab 7 - 64B8-51.001, FAC – Manner of Application

This rule sets forth the requirements for submission of an application. After discussion a motion was made, seconded and carried unanimously to add “as set for the in Rule 64B8-51.007, Florida Administrative Code.” to the last sentence in (1); to change 90 days to 120 days in (3); to strike (4); and to strike (5):

64B8-51.001 Manner of Application.

(1) All persons applying for licensure as an electrologist shall submit a signed application to the Executive Director of the Council on forms provided by the Council and approved and incorporated herein by reference by the Board as Form DOH/MQA/EO APP/REV-04/03, entitled “Application for Electrologist Licensure”, effective 2-15-04, which can be obtained from the Council. The initial application must be accompanied by the application fee-, as set forth in Rule 64B8-51.007, FAC.

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

(3) All applications for licensure by examination shall be filed with the Executive Director of the Council and shall be completed at least ~~90~~120 days prior to the examination. Applications filed after the deadline may be considered at the next meeting of the Council.

~~(4) The application and fee may not be used for more than one year from the date of original submission of the application and fee if the application remains incomplete or the applicant has not taken at least one administration of the examination for licensure. If such application remains incomplete or the applicant has not taken at least one administration of the examination for licensure during the one year period, then the application shall be closed and the applicant shall be required to reapply for licensure.~~

~~(5) Any applicant who has not passed the state examination within three (3) administrations immediately following the date on which the Council initially approved the applicant for examination must successfully complete twenty five (25) hours of academic training and reapply for licensure.~~

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

Tab 8 - 64B8-51.002, FAC – Licensure by Examination

No issues with this rule.

Mr. Pellett raised the issue regarding another entity that provides the licensure examination. He was advised to take this back to the Council for discussion.

Tab 9 - 64B8-51.003, FAC – Documentation for Licensure

This rule sets forth the documents required for licensure. After discussion, a motion was made, seconded and carried unanimously to recommend striking “notarized” from (2):

64B8-51.003 Documentation for Licensure.

(1) In order to establish that an applicant is at least 18 years old, a copy of one of the following shall be submitted:

- (a) Birth certificate,
- (b) Passport,
- (c) Driver’s license.

(2) In order to establish that an applicant has a high school diploma or a graduate equivalency diploma, a ~~notarized~~ copy of the diploma shall be submitted. An applicant from a foreign country who does not have a high school diploma or graduate equivalency diploma shall submit equivalent documentation from a credentialing agency.

Specific Authority 478.43(1), (4) FS. Law Implemented 478.45 FS. History–New 5-31-93, Formerly 21M-76.003, 61F6-76.003, Amended 7-14-96, Formerly 59R-51.003.

Tab 10 - 64B8-51.004, FAC – Licensure by Endorsement

No issues with this rule.

Tab 11 - 64B8-51.005, FAC – Issuance of Temporary Permits

This rule sets forth who may issue temporary permits. After discussion, the Committee determined this rule repeats the statute and is not necessary. A motion was made, seconded and carried unanimously to recommend striking the whole rule:

~~64B8-51.005 Issuance of Temporary Permits.~~

~~(1) When the Executive Director of the Council determines that an applicant is qualified to be licensed under Section 478.47, F.S., the Council may issue the applicant a temporary permit to practice electrology until the next Council 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 the permit is not renewable.~~

~~(2) When the Executive Director of the Council 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.~~

~~(a) 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.~~

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

~~(3) As used in subsection (2) of this rule, “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.~~

~~*Specific Authority 478.43(1), (4) FS. Law Implemented 478.46 FS. History–New 5-31-93, Formerly 21M-76.005, 61F6-76.005, 59R-51.005.*~~

Tab 12 - 64B8-51.006, FAC – Rule Governing Licensure and Inspection of Electrology Facilities

This rule sets forth licensure and inspection requirements for electrolysis facilities. An issue was raised concerning various ways in which an Electrologist may be employed that affects whether the licensee must have a facilities license. The example provided was that a physician may hire an Electrologist as an independent contractor and the facility license is required. If the physician hires the Electrologist as an employee, the facility license is not required.

Another area the Committee recommends the Council review is (3)(d) regarding animals. The Committee recommends deleting the final portion of the sentence and replacing the language with “for guide or service dogs”.

Another area for review is (3)(e) which requires a needle-type epilation device. It was suggested that some facilities may only want to use only lasers and would not then need the epilation device.

The Committee also suggested looking at (3)(f) which requires an appointment book. It was recommended the Council consider changing this language to include computers.

The final area the Committee recommends reviewing is (3)(g)(1) regarding proof of 30 hours continuing education. The Committee recommends amending that to state “training” in lieu of “continuing education” since that training may now be offered during training and not as a separate course.

A motion was made, seconded and carried unanimously to recommend referring this rule back to the Council for discussion to amend the rule to reflect and be consistent with the current practice.

Tab 13 - 64B8-51.007, FAC – Fees for Application, Examination, Examination Review and Initial Licensure

No issues with this rule.

Tab 14 - 64B8-51.008, FAC – Additional Education Requirements for Initial Licensure

No issues with this rule.

Tab 15 - 64B8-52.001, FAC – Continuing Education Requirements

No issues with this rule.

Tab 16 - 64B8-52.002, FAC – Definitions

No issues with this rule.

Tab 17 - 64B8-52.003, FAC – Procedure for Approval of Attendance at Continuing Education Courses

The Committee reviewed the rule and determined that the first sentence in (2) needed to be reworded and the language regarding auto-approval should be removed.

A motion was made, seconded and carried unanimously to recommend referring this rule back to the Council.

Tab 18 - 64B8-52.004, FAC – Requirements for Approval of Training Courses for Laser and Light-Based Hair Removal or Reduction

Mr. Pellett pointed out that the Commission on Independent Education only requires 1 year of post-certification training and the rule requires 2 years. He suggested the rule be amended to reflect 1 year.

A motion was made, seconded and carried unanimously for Mr. Pellett to provide supporting documentation to the Council to review.

Tab 19 - 64B8-52.005, FAC – Continuing Education on Prevention of Medical Errors

No issues with this rule.

Tab 20 - 64B8-53.001, FAC – Requirements for Electrolysis Training Programs Approved by the Board

Dr. Chizner arrived at 2:40 p.m.

The Committee recommended the Council review this rule to amend it and include laser training and laser equipment/devices.

A motion was made, seconded and carried unanimously to recommend referring this rule to the Council for review.

Tab 21 - 64B8-53.002, FAC – Curriculum Standards for Electrolysis Training Programs

A motion was made, seconded and carried unanimously to refer this rule to the Council for review to add standards for laser training programs.

Tab 22 - 64B8-53.003, FAC – Required Training for Electrolysis Training Programs

A motion was made, seconded and carried unanimously to recommend referring this rule to the Council for review to add standards for laser training programs.

Tab 23 – 64B8-54.001, FAC – Renewal of Electrologist License; Delinquent Renewal

No issues with this rule.

Tab 24 – 64B8-54.002, FAC – Inactive and Retired Licensure Status; Reactivating of Licensure, Delinquent Renewal

No issues with this rule.

Tab 25 - 64B8-54.0021, FAC – Exemption of Spouse of Armed Forces Members from License Renewal Requirements

No issues with this rule.

Tab 26 - 64B8-54.0022, FAC – Applying for Active License after Period of Inactivity or Retirement

The Committee expressed concern regarding this rule because it does not outline what requirements must be met if the applicant or licensee has been out of practice for 5 or 6 years.

A motion was made, seconded and carried unanimously to recommend the Council review and include language regarding the requirements for the 5th and 6th years.

Tab 27 - 64B8-54.004, FAC – Fees

No issues with this rule.

Tab 28 - 64B8-54.0041, FAC – Special Assessment Fee

No issues with this rule.

Tab 29 - 64B8-55.001, FAC – Disciplinary Guidelines

The Committee suggested the Council look at (3)(u) which should read Section 478.42. The Committee also suggested reviewing (6) regarding letters of guidance. The final sentence should say “same offense” instead of “related offense”.

The Committee also recommends updating this rule if the Council changes language in prior rules, such as the guide dogs, appointment book, and equipment (64B8-51.006).

Tab 30 - 64B8-55.002, FAC – Citations

The Committee had no issues with this rule except if the Council changes language in prior rules, such as the guide dogs, appointment book, and equipment (64B8-51.006), then this rule will also need to be updated.

Tab 31 - 64B8-55.0021, FAC – Discipline of Electrolysis Facilities

After review the Committee made the recommendation the rule be changed to add to (1) language such as “upon application, shall be denied” and add to (2) “revocation”.

A motion was made, seconded and carried unanimously to recommend referring this issue to the Council.

Tab 32 - 64B8-55.003, FAC – Terms of Probation

Mr. Tellechea explained this rule is inconsistent with how the Board of Medicine handles probation. He suggested that Ms. Murphy provide a copy of the Board’s terms of probation rule to Ms. Guillemette to amend this rule to be consistent.

A motion was made, seconded and carried unanimously to recommend Ms. Guillemette and the Council amend this rule to be more consistent with the Board’s terms of probation.

Tab 33 - 64B8-55.004, FAC – Mediation

No issues with this tab.

Tab 34 - 64B8-56.001, FAC – Sanitation and Safety Requirements for the Delivery of Electrolysis

The Committee expressed concern as to whether this rule currently includes laser issues. Ms. Guillemette stated she could contact the national association to receive the most current guidelines regarding sanitation and safety.

A motion was made, seconded and carried unanimously to recommend referring this matter to the Council to review.

The Committee made the suggestion to change the language in (3) to state “transmission by casual contact” in lieu of including a specific condition.

The Committee also suggested expanding (8) to include lasers.

Tab 35 - 64B8-56.004, FAC – Other Requirements for Electrolysis Training Program Approval

A motion was made, seconded and carried unanimously to recommend the Council amend this rule. Mr. Tellechea has proposed language for review by the Council.

Tab 36 - Reference Material

Chapter 478, F.S. – Electrolysis

The meeting adjourned at 3:25 p.m.