

As Introduced

136th General Assembly

Regular Session

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H. B. No. 377

Representative Deeter

To amend section 4731.33 and to enact section 1
4731.331 of the Revised Code to revise the law 2
governing the application of light-based medical 3
devices for the purpose of hair removal. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4731.33 be amended and section 5
4731.331 of the Revised Code be enacted to read as follows: 6

Sec. 4731.33. (A) As used in this section and section 7
4731.331 of the Revised Code: 8

(1) "Laser hair removal professional" means an individual 9
who applies a light-based medical device to a patient for the 10
purpose of hair removal and who meets either of the criteria 11
described in division (B) (3) (b) of this section. 12

(2) "Light-based medical device" means any device that can 13
be made to produce or amplify electromagnetic radiation at 14
wavelengths equal to or greater than one hundred eighty nm but 15
less than or equal to ~~1.0 X 10⁶~~ one thousand sixty-four nm and 16
that is manufactured, designed, intended, or promoted for 17
irradiation of any part of the human body for the purpose of 18
affecting the structure or function of the body. 19

(3) "Nurse" means a registered nurse or licensed practical 20

nurse, each as defined in section 4723.01 of the Revised Code. A 21
"nurse" does not include a registered nurse who is also an 22
advanced practice registered nurse, as defined in section 23
4723.01 of the Revised Code. 24

~~(2)~~ (4) "Physician" means ~~a person~~ an individual authorized 25
to practice medicine and surgery, osteopathic medicine and 26
surgery, or podiatric medicine and surgery under this chapter. 27

~~(3)~~ (5) "On-site supervision" means the supervising 28
physician is physically in the same location as the delegate 29
during the use of a light-based medical device, but does not 30
require the physician to be in the same room. "On-site 31
supervision" includes the supervising physician's presence in 32
the same office suite as the delegate during the use of the 33
device. 34

~~(4)~~ (6) "Off-site supervision" means the supervising 35
physician is continuously available for direct communication 36
with the ~~cosmetic therapist~~ delegate during the use of a light- 37
based medical device. 38

~~(5)~~ (7) "Direct physical oversight" means the supervising 39
physician is in the same room directly observing the delegate's 40
use of the light-based medical device. 41

(B) A physician may delegate the application of light- 42
based medical devices for the purpose of hair removal only if 43
all of the following conditions are met: 44

(1) The light-based medical device has been specifically 45
cleared or approved by the United States food and drug 46
administration for the removal of hair from the human body. 47

(2) The use of the light-based medical device for the 48
purpose of hair removal is within the physician's normal course 49

of practice and expertise. 50

~~(3) The physician has seen and evaluated the patient to 51
determine whether the proposed application of the specific 52
light-based medical device is appropriate. 53~~

~~(4) The physician has seen and evaluated the patient 54
following the initial application of the specific light-based 55
medical device, but before any continuation of treatment, to 56
determine that the patient responded well to that initial 57
application of the specific light-based medical device. 58~~

~~(5) The person to whom the delegation is made delegate is 59
one of the following: 60~~

(a) A physician assistant licensed under Chapter 4730. of 61
the Revised Code with whom the physician has an effective 62
supervision agreement; 63

(b) A person—laser hair removal professional who is either 64
of the following: 65

(i) An individual who was licensed—held a license as a 66
cosmetic therapist under Chapter 4731. of the Revised Code on 67
April 11, 2021; 68

~~(c) A person~~ (ii) An individual who has completed a 69
cosmetic therapy course of instruction for a minimum of seven 70
hundred fifty clock hours and received a passing score on the 71
certified laser hair removal professional examination 72
administered by the society for clinical and medical hair 73
removal; 74

~~(d) (c) A registered nurse or licensed practical nurse 75
licensed under Chapter 4723. of the Revised Code. 76~~

(C) For delegation to a physician assistant, the 77

delegation must meet the requirements of section 4730.21 of the Revised Code.

~~(D)(1)(D) For delegation to a person described under division (B)(5)(b) or (c) of this section~~laser hair removal professional, all of the following criteria must be met:

(1) The delegating physician shall ensure that the person
~~to whom the delegation is made~~laser hair removal professional
has received adequate education and training to provide the
level of skill and care necessary, including all of the
following:

(a) The ~~person~~laser hair removal professional has
completed eight hours of basic education that includes the
following topics:

- (i) Light-based procedure physics;
- (ii) Tissue interaction in light-based procedures;
- (iii) Light-based procedure safety, including use of
proper safety equipment;
- (iv) Clinical application of light-based procedures;
- (v) Preoperative and postoperative care of light-based
procedure patients;
- (vi) Reporting of adverse events.

(b) The ~~person~~laser hair removal professional has
observed fifteen procedures for each specific type of light-
based medical device procedure for hair removal that the ~~person~~
laser hair removal professional will perform under the
delegation. For purposes of this division, the procedures
observed shall be performed by a physician who uses the specific

light-based medical device procedure for hair removal in the 105
physician's normal course of practice and expertise. 106

(c) ~~The person~~ laser hair removal professional shall 107
~~perform~~ has performed at least twenty procedures under the 108
direct physical oversight of the physician on each specific type 109
of light-based medical device procedure for hair removal 110
delegated. For purposes of this division, the physician 111
overseeing the performance of these procedures shall use this 112
specific light-based medical device procedure for hair removal 113
within the physician's normal course of practice and expertise. 114

(2) ~~For purposes of division (D) (1) (b) of this section,~~ 115
~~the procedures observed shall be performed by a physician who~~ 116
~~uses the specific light-based medical device procedure for hair~~ 117
~~removal in the physician's normal course of practice and~~ 118
~~expertise.~~ The delegating physician shall see and evaluate the 119
patient before the use of the light-based medical device on the 120
patient to determine whether the proposed application of the 121
specific light-based medical device is appropriate. 122

(3) ~~For purposes of division (D) (1) (c) of this section,~~ 123
~~the physician overseeing the performance of these procedures~~ 124
~~shall use this specific light-based medical device procedure for~~ 125
~~hair removal within the physician's normal course of practice~~ 126
~~and expertise.~~ The delegating physician shall see and evaluate 127
the patient following the initial application of the specific 128
light-based medical device, but before any continuation of 129
treatment, to determine that the patient responded well to that 130
initial application of the specific light-based medical device. 131

(4) Each delegating physician and ~~delegate~~ laser hair 132
removal professional shall document and retain satisfactory 133
completion of training required under division (D) of this 134

section. The education requirement in division (D) (1) (a) of this 135
section shall be completed only once by the ~~delegate~~ laser hair 136
removal professional regardless of the number of types of 137
specific light-based medical device procedures for hair removal 138
delegated and the number of delegating physicians. The training 139
requirements of divisions (D) (1) (b) and (c) of this section 140
shall be completed by the ~~delegate~~ laser hair removal 141
professional once for each specific type of light-based medical 142
device procedure for hair removal delegated regardless of the 143
number of delegating physicians. 144

(E) The following ~~delegates~~ laser hair removal 145
professionals are exempt from the education and training 146
requirements of division (D) (1) of this section: 147

(1) ~~A person~~ An individual who, before the ~~effective date~~ 148
~~of this section~~ September 30, 2021, has been applying a light- 149
based medical device for hair removal for at least two years 150
through a lawful delegation by a physician; 151

(2) ~~A person~~ An individual described under division ~~(B) (5)~~ 152
~~(b)~~ (B) (3) (b) (i) of this section if the ~~person~~ individual was 153
authorized to use a light-based medical device under the 154
cosmetic therapist license;— 155

~~(3) A person described in division (B) (5) (a) or (d) of~~ 156
~~this section.~~ 157

~~(F)~~ (F) (1) For delegation to a ~~person under division (B) (5)~~ 158
~~(b), (c), or (d) of this section~~ laser hair removal professional, 159
the delegating physician shall provide on-site supervision at 160
all times that the ~~person to whom the delegation is made~~ laser 161
hair removal professional is applying the light-based medical 162
device. 163

~~A physician shall not supervise more than two delegates under division (B) (5) (b), (c), or (d) of this section at the same time.~~

~~(G) (1) (2)~~ Notwithstanding division ~~(F)~~ (F) (1) of this section, a delegating physician may provide off-site supervision of a laser hair removal professional when the light-based medical device is applied for the purpose of hair removal to an established patient if the ~~person to whom the delegation is made is a cosmetic therapist who~~ laser hair removal professional meets ~~all of each of~~ the following criteria:

(a) The ~~cosmetic therapist~~ laser hair removal professional has successfully completed a course in the use of light-based medical devices for the purpose of hair removal that has been approved by the delegating physician;

~~(b) The~~ and the course consisted of at least fifty hours of training, at least thirty hours of which was clinical experience;

~~(c) (b)~~ The ~~cosmetic therapist~~ laser hair removal professional has worked under the on-site supervision of the delegating physician for a sufficient period of time that the physician is satisfied that the ~~cosmetic therapist~~ laser hair removal professional is capable of competently performing the service with off-site supervision.

~~(2)~~ The ~~cosmetic therapist~~ laser hair removal professional shall maintain documentation of the successful completion of the required training.

(3) When providing supervision under division (F) (1) or (2) of this section, a physician shall supervise not more than five laser hair removal professionals at the same time.

~~(H)~~—(G) (1) For delegation to a nurse, the delegating
physician shall provide on-site supervision at all times that
the nurse is applying the light-based medical device.

(2) Notwithstanding division (G) (1) of this section, a
physician may provide off-site supervision of a nurse applying a
light-based medical device to a patient for the purpose of hair
removal if the nurse has completed a training and education
program on the use of light-based medical devices for the
purpose of hair removal that has been approved by the delegating
physician. An approved training and education program shall
satisfy both of the following criteria:

(a) The program may be completed internally at the laser
hair removal facility or externally through a third-party
provider, provided the third-party program is overseen by a
physician.

(b) The program includes forty total hours of training,
which may be a combination of didactic training, in-person
hands-on training, and performance of laser hair removal
procedures.

The nurse shall maintain documentation of the successful
completion of the required training.

(3) When providing supervision under division (G) (1) or
(2) of this section, the physician shall supervise not more than
five nurses at the same time.

(H) A delegate under this section shall immediately report
to the supervising physician any clinically significant side
effect following the application of the light-based medical
device or any failure of the treatment to progress as was
expected at the time the delegation was made. The physician

shall ~~see and personally~~ evaluate the patient who has 222
experienced the clinically significant side effect or whose 223
treatment is not progressing as expected as soon as practicable. 224

(I) No physician shall fail to comply with division ~~(A)~~, 225
(B), (F), (G), or (H) of this section. A violation of this 226
division constitutes a departure from, or the failure to conform 227
to, minimal standards of care of similar practitioners under the 228
same or similar circumstances, whether or not actual injury to a 229
patient is established, under division (B) (6) of section 4731.22 230
of the Revised Code. 231

(J) No physician shall delegate the application of light- 232
based medical devices for the purpose of hair removal to a ~~a~~ 233
~~person~~ an individual who is not listed in division ~~(B) (5)~~ (B) (3) 234
of this section. A violation of this division constitutes 235
violating or attempting to violate, directly or indirectly, or 236
assisting in or abetting the violation of, or conspiring to 237
violate section 4731.41 of the Revised Code for purposes of 238
division (B) (20) of section 4731.22 of the Revised Code. 239

(K) No ~~cosmetic therapist to whom a delegation is made~~ 240
~~under division (B) (5) (b) or (c) of this section~~ laser hair 241
removal professional shall fail to comply with division ~~(G)~~ (F) 242
or (H) of this section. A violation of this division constitutes 243
the unauthorized practice of medicine pursuant to section 244
4731.41 of the Revised Code. 245

(L) No nurse shall fail to comply with division (G) or (H) 246
of this section. A violation of this division constitutes a 247
failure to practice in accordance with acceptable and prevailing 248
standards of safe nursing care, regardless of whether actual 249
injury to a patient is established, for purposes of division (B) 250
(19) of section 4723.28 of the Revised Code. 251

(M) No physician assistant shall fail to comply with 252
division (H) of this section. A violation of this division 253
constitutes a departure from, or failure to conform to, minimal 254
standards of care of similar physician assistants under the same 255
or similar circumstances, regardless of whether actual injury to 256
patient is established, for purposes of division (B)(19) of 257
section 4730.25 of the Revised Code. 258

Sec. 4731.331. (A) As used in this section, "standard care 259
arrangement" has the same meaning as in section 4723.01 of the 260
Revised Code. 261

(B) With respect to a light-based medical device applied 262
to a patient for the purpose of hair removal, an advanced 263
practice registered nurse or physician assistant may do both of 264
the following: 265

(1) Delegate to a nurse or laser hair removal professional 266
the application of the light-based medical device to the 267
patient; 268

(2) Supervise the nurse's or laser hair removal 269
professional's application of the light-based medical device to 270
the patient. 271

(C) (1) An advanced practice registered nurse may take the 272
actions described in division (B) of this section only if the 273
actions are not prohibited by the advanced practice registered 274
nurse's standard care arrangement. 275

(2) A physician assistant may take the actions described 276
in division (B) of this section only if the physician assistant 277
satisfies the requirements of divisions (B)(3)(a) and (D) of 278
section 4731.33 of the Revised Code. 279

(3) In delegating to and supervising a nurse or laser hair 280

removal professional under this section, an advanced practice 281
registered nurse and physician assistant shall act in the same 282
manner and be subject to the same conditions and requirements as 283
a physician under section 4731.33 of the Revised Code. 284

(D) To be eligible to apply a light-based medical device 285
under this section, a nurse or laser hair removal professional 286
shall satisfy the same criteria for delegation and supervision 287
described in section 4731.33 of the Revised Code. 288

Section 2. That existing section 4731.33 of the Revised 289
Code is hereby repealed. 290