

As Passed by the House

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Am. H. B. No. 377

Representative Deeter

**Cosponsors: Representatives Schmidt, Barhorst, Gross, King, Brennan, Sigrist,
Somani, Thomas, C., Tims, Williams, Willis, Young**

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) "Advanced practice registered nurse" has the same 9
meaning as in section 4723.01 of the Revised Code. 10

(2) "Laser hair removal professional" means an individual 11
who applies a light-based medical device to a patient for the 12
purpose of hair removal and who meets either of the criteria 13
described in division (B) (3) (b) of this section. 14

(3) "Light-based medical device" means any device that can 15
be made to produce or amplify electromagnetic radiation at 16
wavelengths equal to or greater than one hundred eighty nm but 17
less than or equal to ~~1.0 x 10⁶~~ one thousand sixty-four nm and 18

that is manufactured, designed, intended, or promoted for 19
irradiation of any part of the human body for the purpose of 20
affecting the structure or function of the body. 21

(4) "Nurse" means a registered nurse or licensed practical 22
nurse, each as defined in section 4723.01 of the Revised Code. A 23
"nurse" does not include a registered nurse who is also an 24
advanced practice registered nurse. 25

~~(2)~~ (5) "Physician" means a person an individual authorized 26
to practice medicine and surgery, osteopathic medicine and 27
surgery, or podiatric medicine and surgery under this chapter. 28

~~(3)~~ (6) "On-site supervision" means the supervising 29
physician is physically in the same location as the delegate 30
during the use of a light-based medical device, but does not 31
require the physician to be in the same room. "On-site 32
supervision" includes the supervising physician's presence in 33
the same office suite as the delegate during the use of the 34
device. 35

~~(4)~~ (7) "Off-site supervision" means the supervising 36
physician is continuously available for direct communication 37
with the ~~cosmetic therapist~~ delegate during the use of a light- 38
based medical device. 39

~~(5)~~ (8) "Direct physical oversight" means the supervising 40
physician is in the same room directly observing the delegate's 41
use of the light-based medical device. 42

(B) A physician may delegate the application of light- 43
based medical devices for the purpose of hair removal only if 44
all of the following conditions are met: 45

(1) The light-based medical device has been specifically 46
cleared or approved by the United States food and drug 47

administration for the removal of hair from the human body. 48

(2) The use of the light-based medical device for the 49
purpose of hair removal is within the physician's normal course 50
of practice and expertise. 51

~~(3) The physician has seen and evaluated the patient to 52
determine whether the proposed application of the specific 53
light-based medical device is appropriate. 54~~

~~(4) The physician has seen and evaluated the patient 55
following the initial application of the specific light-based 56
medical device, but before any continuation of treatment, to 57
determine that the patient responded well to that initial 58
application of the specific light-based medical device. 59~~

~~(5) The person to whom the delegation is made delegate is 60
one of the following: 61~~

(a) A physician assistant licensed under Chapter 4730. of 62
the Revised Code with whom the physician has an effective 63
supervision agreement; 64

(b) A ~~person~~ laser hair removal professional who is either 65
of the following: 66

(i) An individual ~~who was licensed~~ held a license as a 67
cosmetic therapist under Chapter 4731. of the Revised Code on 68
April 11, 2021; 69

~~(c) A person~~ (ii) An individual who has completed a 70
cosmetic therapy course of instruction for a minimum of seven 71
hundred fifty clock hours and received a passing score on the 72
certified laser hair removal professional examination 73
administered by the society for clinical and medical hair 74
removal; 75

~~(d)(c) A registered nurse or licensed practical nurse~~ 76
~~licensed under Chapter 4723. of the Revised Code.~~ 77

(C) For delegation to a physician assistant, the 78
delegation must meet the requirements of section 4730.21 of the 79
Revised Code. 80

~~(D)(1)(D) For delegation to a person described under~~ 81
~~division (B) (5) (b) or (c) of this section~~ laser hair removal 82
professional, all of the following criteria must be met: 83

(1) The delegating physician shall ensure that the person 84
~~to whom the delegation is made~~ laser hair removal professional 85
has received adequate education and training to provide the 86
level of skill and care necessary, including all of the 87
following: 88

(a) The ~~person~~ laser hair removal professional has 89
completed eight hours of basic education that includes the 90
following topics: 91

- (i) Light-based procedure physics; 92
- (ii) Tissue interaction in light-based procedures; 93
- (iii) Light-based procedure safety, including use of 94
proper safety equipment; 95
- (iv) Clinical application of light-based procedures; 96
- (v) Preoperative and postoperative care of light-based 97
procedure patients; 98
- (vi) Reporting of adverse events. 99

(b) The ~~person~~ laser hair removal professional has 100
observed fifteen procedures for each specific type of light- 101
based medical device procedure for hair removal that the ~~person~~ 102

laser hair removal professional will perform under the 103
delegation. For purposes of this division, the procedures 104
observed shall be performed by a physician who uses the specific 105
light-based medical device procedure for hair removal in the 106
physician's normal course of practice and expertise. 107

(c) ~~The person~~ laser hair removal professional shall 108
~~perform~~ has performed at least twenty procedures under the 109
direct physical oversight of the physician on each specific type 110
of light-based medical device procedure for hair removal 111
delegated. For purposes of this division, the physician 112
overseeing the performance of these procedures shall use this 113
specific light-based medical device procedure for hair removal 114
within the physician's normal course of practice and expertise. 115

(2) ~~For purposes of division (D) (1) (b) of this section,~~ 116
~~the procedures observed shall be performed by a physician who~~ 117
~~uses the specific light-based medical device procedure for hair~~ 118
~~removal in the physician's normal course of practice and~~ 119
~~expertise. The delegating physician shall see and evaluate the~~ 120
~~patient before the use of the light-based medical device on the~~ 121
~~patient to determine whether the proposed application of the~~ 122
~~specific light-based medical device is appropriate.~~ 123

(3) ~~For purposes of division (D) (1) (c) of this section,~~ 124
~~the physician overseeing the performance of these procedures~~ 125
~~shall use this specific light-based medical device procedure for~~ 126
~~hair removal within the physician's normal course of practice~~ 127
~~and expertise. The delegating physician shall see and evaluate~~ 128
~~the patient following the initial application of the specific~~ 129
~~light-based medical device, but before any continuation of~~ 130
~~treatment, to determine that the patient responded well to that~~ 131
~~initial application of the specific light-based medical device.~~ 132

(4) Each delegating physician and ~~delegate~~ laser hair removal professional shall document and retain satisfactory completion of training required under division (D) of this section. The education requirement in division (D) (1) (a) of this section shall be completed only once by the ~~delegate~~ laser hair removal professional regardless of the number of types of specific light-based medical device procedures for hair removal delegated and the number of delegating physicians. The training requirements of divisions (D) (1) (b) and (c) of this section shall be completed by the ~~delegate~~ laser hair removal professional once for each specific type of light-based medical device procedure for hair removal delegated regardless of the number of delegating physicians.

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

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

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

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

~~(F)~~ (F) (1) For delegation to a ~~person under division (B) (5) (b), (c), or (d) of this section~~ laser hair removal professional, the delegating physician shall provide on-site supervision at

all times that the ~~person to whom the delegation is made~~ laser 162
hair removal professional is applying the light-based medical 163
device. 164

~~A physician shall not supervise more than two delegates~~ 165
~~under division (B) (5) (b), (c), or (d) of this section at the~~ 166
~~same time.~~ 167

~~(G) (1) (2)~~ Notwithstanding division ~~(F) (F) (1)~~ of this 168
section, a delegating physician may provide off-site supervision 169
of a laser hair removal professional when the light-based 170
medical device is applied for the purpose of hair removal to an 171
established patient if the ~~person to whom the delegation is made~~ 172
~~is a cosmetic therapist who~~ laser hair removal professional 173
meets ~~all of each of~~ the following criteria: 174

(a) The ~~cosmetic therapist~~ laser hair removal professional 175
has successfully completed a course in the use of light-based 176
medical devices for the purpose of hair removal that has been 177
approved by the delegating physician; 178

~~(b) The~~ and the course consisted of at least fifty hours 179
of training, at least thirty hours of which was clinical 180
experience; 181

~~(c) (b)~~ The ~~cosmetic therapist~~ laser hair removal 182
professional has worked under the on-site supervision of the 183
delegating physician for a sufficient period of time that the 184
physician is satisfied that the ~~cosmetic therapist~~ laser hair 185
removal professional is capable of competently performing the 186
service with off-site supervision. 187

~~(2) The cosmetic therapist~~ laser hair removal professional 188
shall maintain documentation of the successful completion of the 189
required training. 190

(3) When providing supervision under division (F) (1) or 191
(2) of this section, a physician shall supervise not more than 192
five laser hair removal professionals at the same time. 193

~~(H)~~ (G) (1) For delegation to a nurse, the delegating 194
physician shall provide on-site supervision at all times that 195
the nurse is applying the light-based medical device. 196

(2) Notwithstanding division (G) (1) of this section, a 197
physician may provide off-site supervision of a nurse applying a 198
light-based medical device to a patient for the purpose of hair 199
removal if the nurse has completed a training and education 200
program on the use of light-based medical devices for the 201
purpose of hair removal that has been approved by the delegating 202
physician. An approved training and education program shall 203
satisfy both of the following criteria: 204

(a) The program may be completed internally at the laser 205
hair removal facility or externally through a third-party 206
provider, provided the third-party program is overseen by a 207
physician. 208

(b) The program includes forty total hours of training, 209
which may be a combination of didactic training, in-person 210
hands-on training, and performance of laser hair removal 211
procedures. 212

The nurse shall maintain documentation of the successful 213
completion of the required training. 214

(3) When providing supervision under division (G) (1) or 215
(2) of this section, the physician shall supervise not more than 216
five nurses at the same time. 217

(H) A delegate under this section shall immediately report 218
to the supervising physician any clinically significant side 219

effect following the application of the light-based medical 220
device or any failure of the treatment to progress as was 221
expected at the time the delegation was made. The physician 222
shall ~~see and personally~~ evaluate the patient who has 223
experienced the clinically significant side effect or whose 224
treatment is not progressing as expected as soon as practicable. 225

(I) No physician shall fail to comply with division ~~(A),~~ 226
~~(B), (F),~~ (G), or (H) of this section. A violation of this 227
division constitutes a departure from, or the failure to conform 228
to, minimal standards of care of similar practitioners under the 229
same or similar circumstances, whether or not actual injury to a 230
patient is established, under division (B) (6) of section 4731.22 231
of the Revised Code. 232

(J) No physician shall delegate the application of light- 233
based medical devices for the purpose of hair removal to a- 234
~~person~~ an individual who is not listed in division ~~(B) (5)~~ (B) (3) 235
of this section. A violation of this division constitutes 236
violating or attempting to violate, directly or indirectly, or 237
assisting in or abetting the violation of, or conspiring to 238
violate section 4731.41 of the Revised Code for purposes of 239
division (B) (20) of section 4731.22 of the Revised Code. 240

(K) No ~~cosmetic therapist to whom a delegation is made~~ 241
~~under division (B) (5) (b) or (c) of this section~~ laser hair 242
removal professional shall fail to comply with division ~~(G)~~ (F) 243
or (H) of this section. A violation of this division constitutes 244
the unauthorized practice of medicine pursuant to section 245
4731.41 of the Revised Code. 246

(L) No nurse shall fail to comply with division (G) or (H) 247
of this section. A violation of this division constitutes a 248
failure to practice in accordance with acceptable and prevailing 249

standards of safe nursing care, regardless of whether actual 250
injury to a patient is established, for purposes of division (B) 251
(19) of section 4723.28 of the Revised Code. 252

(M) No physician assistant shall fail to comply with 253
division (H) of this section. A violation of this division 254
constitutes a departure from, or failure to conform to, minimal 255
standards of care of similar physician assistants under the same 256
or similar circumstances, regardless of whether actual injury to 257
patient is established, for purposes of division (B) (19) of 258
section 4730.25 of the Revised Code. 259

Sec. 4731.331. (A) As used in this section, "standard care 260
arrangement" has the same meaning as in section 4723.01 of the 261
Revised Code. 262

(B) With respect to a light-based medical device applied 263
to a patient for the purpose of hair removal, an advanced 264
practice registered nurse or physician assistant may do both of 265
the following: 266

(1) Delegate to a nurse or laser hair removal professional 267
the application of the light-based medical device to the 268
patient; 269

(2) Supervise the nurse's or laser hair removal 270
professional's application of the light-based medical device to 271
the patient. 272

(C) (1) An advanced practice registered nurse may take the 273
actions described in division (B) of this section only if the 274
actions are not prohibited by the advanced practice registered 275
nurse's standard care arrangement. 276

(2) A physician assistant may take the actions described 277
in division (B) of this section only if the physician assistant 278

satisfies the requirements of divisions (B) (3) (a) and (C) of 279
section 4731.33 of the Revised Code. 280

(3) In delegating to and supervising a nurse or laser hair 281
removal professional under this section, an advanced practice 282
registered nurse and physician assistant shall act in the same 283
manner and be subject to the same conditions and requirements as 284
a physician under section 4731.33 of the Revised Code. 285

(D) To be eligible to apply a light-based medical device 286
under this section, a nurse or laser hair removal professional 287
shall satisfy the same criteria for delegation and supervision 288
described in section 4731.33 of the Revised Code. 289

Section 2. That existing section 4731.33 of the Revised 290
Code is hereby repealed. 291