(136th General Assembly)
(Amended House Bill Number 377)

AN ACT

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

Be it enacted by the General Assembly of the State of Ohio:

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

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

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

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

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

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

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

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

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

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

(B) A physician may delegate the application of light-based medical devices for the purpose

of hair removal only if all of the following conditions are met:

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

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

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

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

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

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

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

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

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

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

(C) For delegation to a physician assistant, the 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 physician's normal course of practice and expertise.

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

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

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

(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)~~(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 hair removal professional is applying the light-based medical device.

~~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 experienced the clinically significant side effect or whose treatment is not progressing as expected as soon as practicable.

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

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

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

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

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

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

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

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

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

(C)(1) An advanced practice registered nurse may take the actions described in division (B) of this section only if the actions are not prohibited by the advanced practice registered nurse's

standard care arrangement.

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

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

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

SECTION 2. That existing section 4731.33 of the Revised Code is hereby repealed.

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Speaker _____ of the House of Representatives.

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President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

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Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

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Secretary of State.

File No. _____ Effective Date _____