



## NORTH CAROLINA BOARD OF ELECTROLYSIS EXAMINERS

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### PUBLIC HEARING ON RULES READOPTION

June 1, 2019

In attendance at the Board office: Susan Magas, Jennifer Morris, Mary Canel, Alice Saintsing, Liz Fisher, Tracy Jonas, Wilson Brown, Trudy Brown.

Magas explained the purpose for this meeting, which is to deal with 18 remaining rules as part of the mandatory Readoption process. When asked why no other Board members were present other than Morris, Magas stated that this hearing is a process for receiving comments from the public and does not require board attendance or a quorum. A number of attendees expressed dismay that board members were not in attendance to receive their comments. They indicated the lack of attendance by board members reflects a lack of respect for its licensees and the public.

Magas explained the process which would be utilized for the meeting. Each of the remaining rules which have not previously been readopted or expired are subject to comments from the public until the close of the 60-day notice period May 1 – July 1, 2019. Today's hearing provides that opportunity. Speakers provided written copies of their remarks for the record, which are attached to and an official part of these minutes.

Following is a summary of comments received during the hearing. Many of the remarks included material contained in the attached documents, which was furnished by individual speakers:

**.0201** – there were no comments regarding the proposed increase to electrologist application fees; however, there was overall disagreement in any category where a laser fee is higher than those for electrologists. Magas explained that the Board was proposing an increase for the electrolysis license application to offset the increased cost of the examination, which now exceeds the statutory exam fee that can be collected.

[After the conclusion of the meeting, the following comparison of electrologist v laser fees was made. In most instances, the fees are the same. In the five instances where fees are different, *electrolysis fees exceed laser fees three of five times* – see below:]

<u>Fee</u>	<u>Electrologist</u>	<u>Laser</u>
License application	<b>150(proposed)</b>	125
Initial license	125	125
Renewal	125	<b>150</b>
Instructor application	150	150
Instructor renewal	125	<b>150</b>
IN STATE – school application	250	250
IN STATE – school renewal	150	150
OUT OF STATE – school application	<b>400</b>	350

OUT OF STATE – school certification	100	75
OUT OF STATE – school renewal	100	100

**.0202** – A comment was received that Board members should continue to administer clinical exams rather than designees (such as former Board members or experienced licensees) as proposed. Magas explained that the proposed change allows the Board to be more responsive to new licensees by more quickly scheduling their exams and getting them up and running in their businesses.

**.0203** – No comments received.

**.0204** – No comments received.

**.0403** – Inspections for practitioners that do both electrolysis and laser are conducted simultaneously. Larger practices are subjected to multiple (as much as triple) inspection fees for the same office by inspectors who perform all of the inspections at the same time. In these circumstances, the fees are seen as overkill.

**.0408** – No comments received.

**.0409** –

- Practitioners feel that 1(a) and 1(f) regarding names/dates/results of exams by physician, gynecologist, and dermatologist is not the business of the practitioner.
- Further, they believe that (2) evaluation of client’s health status and (4) referral to a physician, where indicated, is redundant.
- No comments were received regarding the change proposed in (6) requiring an annual health history update.

**.0410** – No comments received.

**.0412** –

- Practitioners question the reference to splash/spray is unnecessary because they do not do ablative procedures and splash/spray incidents do not happen.
- Protective eye ware is not needed by licensees who wear glasses and perform electrolysis.
- No comments were received regarding the medical clothing requirements.

**.0501** – Most of the comments made during the hearing are relative to this section. Comments were made indicating that both existing and proposed provisions of this section may well put licensed laser practitioners out of business. The original statutory language was designed to allow laser practitioners to operate without onsite supervision by a doctor.

- It is already difficult to find physicians willing to serve in supervisory capacity. The more restrictive language proposed will require more onsite supervision, which was not what was envisioned by the framers of the statute. Few physicians are able or willing to do this level and degree of supervision.
- The requirement that the supervising physician be licensed in “surgical services” implies a requirement of being a surgeon which is not in keeping with the statute and limits the physicians available and willing to supervise laser practitioners.

- The “before” and “after” requirements imply direct supervision. It is not necessary for the supervising physician to see the laser client.
- Requiring a physical exam prior to treatment will result in clients seeking services with regular medical practices where the exam, if needed, could be performed in conjunction with treatment by staff under the physician’s direct supervision.
- It is unclear whether the supervising physician or the laser practitioner is to provide the client education on any prescription medications needed in conjunction with laser hair removal.
- The required follow-up exam contemplated by this section would require another appointment with the physician at great cost and inconvenience to the client.
- The term “focused physical exam” is unspecific.
- Reactions to laser treatments occur a good deal of time after the treatment, so timing of the “after” exam by the MD would be problematic.
- Another issue is getting appointments with dermatologists that will sync the time of the laser treatment.
- The Medical Board’s Position Statement on laser surgery for hair removal makes reference to involvement of the MD “as medically necessary,” which may not be the case with respect to every treatment of every client.
- In the almost two decades of laser hair removal by NCBE licensees, there have been no complaints or injuries to licensee clients.
- It is suggested that NCBE develop a checklist which encompasses all the requirements for the supervisory agreement to make the development and monitoring of the agreement easier.

The following written statements were read into the record and are attached to these minutes:

Gretchen Velasquez, MD  
 Trudy Brown, License Laser Practitioner/Instructor  
 Liz Fisher, Licensed Laser Practitioner  
 Mary Canel, Nurse Practitioner and Aesthetician  
 Riki Collins, Physician Assistant  
 Tracey Jonas, Licensed Laser Practitioner  
 Donna Valponi, client

Licensed Laser Practitioners, Dana Combopiano and Alice Saintsing provided oral comments similar to those provided in written statements, as well as the following:

- Clients will forgo choosing licensed laser practitioners for physicians since the many requirements by NCBE duplicate (or exceed) what would be required if they just went to the physician. This will result in making laser hair removal unaffordable for many clients
- The overregulation of licensed laser practitioners has resulted in no growth to the profession. The stagnant growth is not due to lack of local schools, because Florida has many schools, similarly strict regulation, and no growth in the industry.
- Competing medical spas do not require physical exams, and most employees do not have the training and experience of our laser licensees

General comments made by the participants attending the meeting also included:

- Existing rules for laser are redundant, restrictive, and unconstitutional. The NCBE is not immune from federal anti-trust actions if it is determined that the rules impede laser

practitioners from actively practicing and competing in the marketplace. The Supreme Court in 2015 rules that an occupational licensing board's actions to restrict practice was unconstitutional.

**.0601, .0602, .0608, .0613, .0619** – No comments received

**.0701** – Though no changes have been proposed to this rule, the following feedback was received:

- Laser practitioners are currently required to complete 20 hours of continuing education annually (10 hours for electrolysis + 10 hours for laser), which is deemed burdensome. Even for the individual modalities, the hours are excessive – dental hygienists do 8 hours, and cosmetologists, even less over a longer period of time.
- Most available laser training is conducted out-of-state at considerable cost, especially since the seminars primarily cover procedures out of the scope of our practitioners

Some suggestions were offered:

- Allow dual credit for electrolysis and laser education
- Split the ten hours between laser and electrolysis topics
- Extend the continuing education requirement to bi-annual
- Loosed the limitations on the percentage of time that may be devoted to non-epilation topics

**.0702** – state associations should be added back to the list of automatically allowable coursework in (a)(2). GPEA received more scrutiny than does EANC.

**.0703** – No comments received

Magas thanked the participants and commended the level of detail they provided for their arguments. The next step will be for the Board to meet to consider this feedback and any other that is received during the comment period which ends July 1. The Board will then make its decision and forward the rules readoption package to the Rules Review Committee for consideration at its August meeting. If approved, the rules become effective September 1, 2019.

The hearing was adjourned at 12:30 p.m.

NOTE Written feedback received during the comment period are available upon request.