

~~238 CMR~~ 240 CMR: BOARD OF REGISTRATION OF ~~ELECTROLOGISTS~~ COSMETOLOGY AND BARBERING

DRAFT PROPOSED REGULATIONS AS OF OCTOBER 1, 2015

240 CMR 9.00: ADMINISTRATIVE PRACTICES FOR ELECTROLYSIS

Section

29.01. General Regulations for Electrolysis

29.02: Electrolysis Offices

29.03: Sanitary Regulations for Electrolysis Offices and Schools

29.04: Professional Conduct for Electrolysis

9.05 Practice of Laser Electrolysis

29:01: General Regulations - Electrolysis

(1) Definitions. For the purposes of 240 CMR 9.00-11.00, the following terms shall have the meanings indicated below:

(a) **ANSI** means the American National Standards Institute, a non-profit organization that prepares and publishes standards including standards for laser safety.

(b) **Board** means the Board of Registration of Cosmetology and Barbering.

(c) **Electrologist** means any person licensed by the Board to practice Electrolysis.

(d) **Electrolysis** and Epilation mean the method of removing hair from the human body by the application of an electrical current or any other form of energy to the hair-papilla or other source of hair germination by means of a needle or any other instrument or device to cause decomposition, coagulation, dehydration, or other form of tissue destruction, to permanently disable the hair follicle from producing hair, and shall include Laser Electrolysis as defined in 240 CMR 9.01.

(e) **Electrolysis School** means any organized program of study in Electrolysis licensed or approved by the Board or by the Division of Professional Licensure Office of Private Occupational School Licensure, and includes a post-secondary institution as defined in G.L. c. 112, sec. 87T.

(f) **Epilator** means a device used to perform Electrolysis.

(g) **Informed Consent** - means agreement by a patient to undergo electrolysis after a full disclosure of the risks and benefits of such treatment, the alternatives to such treatment, and any other information reasonably necessary to allow the patient to make an informed decision about whether or not to undergo such treatment.

(h) **Laser Light** means an intense, coherent, directional beam of light produced by stimulated emission of photons; the word laser as used in this Policy shall mean the acronym for Light Amplification by Stimulated Emission of Radiation.

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(h) Laser Hair Removal means using Laser Light before May 4, 2015 to perform hair removal or reduction.

(j) Laser Electrolysis means Electrolysis performed with Laser Light.

~~(2)~~ In order to qualify for the State Board examination, a person shall complete the educational and practical curriculum established by the board ~~and the Commissioner of Public Health~~, and all other requirements as set forth by the Board in pursuant to M.G.L. c. 112, ~~§§ 87GGG, 87T-87JJ~~ as amended or revised.

~~(3)~~ An applicant for the State Board examination shall submit, ~~together~~ with his or her application, a copy of ~~said~~ the applicant's diploma from an accredited high school, or its equivalent or verification of age beyond the age of compulsory school attendance, and a letter or a copy of a diploma from a licensed an accredited electrolysis school certifying that the student has graduated. ~~An applicant for the March examination must graduate no later than January 31st, and no later than July 31st for the September examination.~~

~~(4)~~ ~~All applications for the State Board examination must be received by the Board no later than February 1st for the March examination and no later than August 1st for the September examination. The practical and written exam shall be available as prescribed by the Board offered monthly at a licensed electrology school.~~

~~(5)~~ An applicant for reciprocity examination who fails the State Board examination three times must obtain approval by the Board before applying to take ~~possess a certificate or diploma from an electrolysis school licensed by the Board in order to qualify for another examination.~~

~~(6)~~ An applicant must pass all parts of the State Board examination within three years of his first examination date or take the complete examination (written and practical) over again.

~~(6)~~ ~~Any electrologist whose license is restricted to galvanic equipment and who wishes to have this restriction removed must satisfactorily pass a practical examination in short wave epilation and pay a current approved application fee.~~

(7) Every electrolysis office and electrolysis school shall be opened for inspection to any member or investigator of the Board during business or school hours.

(8) When an inspection of an electrolysis office or electrolysis school is made by any member or investigator of the Board, the owner or person in charge of the ~~said~~ office or school shall sign an inspection slip. ~~Any violation shall be corrected within a period of time determined by the Board. At the end of that period the office or school shall be reinspected.~~

(9) No licensed electrologist shall refer to, or permit any reference to, his or her license in advertising or promoting any method of hair removal activity other than electrolysis. ~~It will be a violation punishable by suspension of the electrologist's license.~~

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~~((10): Reserved)~~

~~(101) Any person who has been If the license d as for a qualified electrologist or a qualified instructor, or any person to whom a license to conduct a school of electrolysis has not been issued, who fails to renew such license upon its expiry date, may renew the same upon application therefor and payment of the regular renewal fee at any time within two years after said expiry date timely renewed, the license may be renewed within two years of expiration by filing a Board-approved renewal form and the renewal fee. If he the licensee fails to renew his or her license prior to the expiration of said the two year period, he or she shall be required to file an application for reinstatement together with a reinstatement applicable late fees. Such fee shall be as determined annually under the provisions of M.G.L. c. 7, § 3B.~~

2-9.0202: Electrolysis Offices

(1) An electrologist shall ~~submit to the Board an application for approval, on a form furnished by the Board~~ notify the board in writing, by certified mail, on a form provided by the Board, at least ~~21-30~~ days prior to the opening of any new office, opening of any branch office, change of office location or purchase of any fully-equipped office. ~~Said The~~ office shall be inspected and approved by a duly authorized representative of the Board prior to the opening of said office for business.

(2) An electrologist shall notify the Board in writing, including by electronic documentation, by certified mail, at least ~~21-30~~ days prior to the closing of any office, any change of employment, retirement from practice, or departure from the Commonwealth of Massachusetts for a period of time which will extend beyond the expiration date of his or her current license.

(3) Every electrolysis office shall have a treatment room or rooms, or other enclosed or partitioned treatment area, which affords privacy during treatment and is not visible to any person other than the treating electrologist. ~~Said The~~ treatment room or area shall have a door with a lock which shall remain closed and locked during treatment of any patient. A treatment room or treatment area may be ~~shared with utilized by~~ other licensed health care professionals or holders of licenses issued by the Board who are subject to sterilization and sanitation requirements which, in the opinion of the Board, are at least substantially equivalent to those set forth in ~~240 CMR 9238-CMR 2.03~~. Only one service may be provided at any given time.

(4) Every electrologist and Electrolysis office shall comply with all applicable regulations of the United States Food and Drug Administration ("FDA"), the Federal Communications Commission, the Regulations for the Control of Lasers at 105 CMR 121.000 promulgated by the Massachusetts Department of Public Health, and standards in the most recent version of American National Standard for Safe Use of Lasers published by ANSI and referred to as ANSI Z136.1.

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(45) Every electrolysis office shall be equipped with a toilet facilities, and handwashing facilities with hot and cold running water, ~~as follows:~~

~~(a) All electrolysis offices shall have toilet facilities which meet all applicable requirements of state and local laws and regulations in an easily accessible location which can be reached without passing through any private living quarters or any area in which the services of another profession, business or trade are actually performed;~~

~~(b) All electrolysis offices established prior to May 8, 1980 and which have not been relocated since that date shall have handwashing facilities with hot and cold running water in an easily accessible location which can be reached without passing through any private living quarters or any area in which the services of another profession, business or trade are actually performed;~~

~~(c) Any electrolysis office established in, or relocated to, any private dwelling place, house, condominium, apartment or other residential premises on or after May 8, 1980 shall have handwashing facilities with hot and cold running water in the treatment room, or in a room immediately adjacent to the treatment room which can be reached without passing through any portion of any private living quarters;~~

~~(d) Any electrolysis office established in, or relocated to, a professional office building, department store, mall or other commercial space on or after May 8, 1980 shall have handwashing facilities with hot and cold running water in the treatment room. Portable sinks shall not be used in such offices.~~

(65) Every electrolysis office established or located in any private dwelling place, house, condominium, apartment or other residential premises shall have a separate passageway leading from the treatment room or area directly to the street or other public way such that a patient can enter or leave the treatment area without passing through any portion of any private living quarters.

(67) Every electrolysis office established or located in a professional office building, ~~department store, mall~~ or other commercial premises shall have a waiting area separate and distinct from the treatment room or area. Such electrolysis offices may share said waiting area with any other profession, business, trade or activity, but shall provide a means of entry and exit which does not require a prospective patient to pass through any area in which the services of another profession, business or trade are actually performed.

(87) Every electrolysis office shall have and maintain in good working condition, appropriate and sufficient equipment including~~be equipped with the following:~~

(a) A professional treatment table or chair which shall be used solely for the purpose of electrolysis treatment, unless the patient is physically incapacitated and unable to be so treated;

(b) ~~A p~~Professional lamp-lighting which shall be focused on the treatment area at all times;

(c) A sufficient supply of professional type forceps to be used in the treatment of patients;

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~~2.02: continued~~

(d) Epilators and other devices, instruments, implements and other equipment reasonably necessary for the practice of electrolysis. All epilators, devices and instruments shall conform to all applicable rules and regulations of the Federal Food and Drug Administration, the United States Occupational Safety and Health Administration, Regulations for the Control of Lasers, 105 CMR 121.000, promulgated by the Massachusetts Department of Public Health, and shall be approved by the Federal Communications Commission (FCC) to the extent that such approval is required by federal law or regulations.

(e) All ~~such~~ equipment shall be subject to the sanitation and sterilization requirements prescribed by the Board.

~~(9)~~ Every electrologist shall display his or her license in a conspicuous place in his or her principal office. Where an electrologist maintains more than one office, he or she shall display a photocopy of his or her license in a conspicuous place in each branch office maintained by him or her.

~~(9) No animals, except seeing eye dogs, hearing dogs, or other animals expressly authorized by law to be in places of public accommodation, shall be permitted in any electrolysis office, treatment room or waiting room.~~

(10) An electrologist may make a house or hospital call, but only if the patient is physically incapacitated. In such a case, the electrologist shall:

- (a) Use a portable FCC approved epilator which also conforms to all applicable regulations of the Federal Food and Drug Administration;
- (b) Use appropriate sterilized professional instruments and proper lighting equipment;
- (c) Use a portable kit containing appropriate and necessary sterilizing solutions and before and after-treatment medications; and
- (d) Carry a wallet-size registration certificate on his or her person.

29.03: Sanitation, Sterilization, Safety and ~~Communicable~~-Disease ~~Precautions~~-Prevention for Electrology Schools and Offices

(1) Sanitation and Safety: All electrolysis offices, schools and treatment rooms must comply with the following:

(a) The office, school or treatment room shall be adequately lighted, well ventilated, clean, orderly and sanitary.

~~(b) The floor of the treatment room must have a covering that can be cleaned or washed. Window drapes, blinds and shades shall be kept clean.~~

~~(e)~~ All electrolysis equipment and tools shall be kept in good repair and shall be stored within the electrolysis office or school.

~~(c)~~ All medicated creams, lotions and sterilizing solutions shall be labeled as to their contents.

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(ed) A closed cabinet or drawer shall be provided for clean towels and linens and separate covered containers for soiled disposable and/or reusable materials.

(fe) No animals except service animals expressly authorized by law to be in places of public accommodation shall be permitted in any electrolysis office, treatment room or waiting room~~seeing eye dogs shall be allowed in the office or treatment room.~~

~~(g) Needles and forceps shall be stored within the electrolysis office or school.~~

(2) Equipment Sterilization-Precautions:

(a) Prior to equipment sterilization, the surfaces of all treatment tables, epilators and other instruments which may come in direct contact with a patient shall be wiped clean of organic material through the use of either an ultrasonic cleaning device, ~~a solution consisting of at least 70% alcohol by volume, or a solution of household chlorine bleach as- or any method~~ recommended by the Center for Disease Control (CDC).

(b) All devices, needles and other instruments which may come in direct contact with a patient shall be sterilized by:

1. Use of an autoclave or dry heat sterilizer, to be set and operated according to the standard cycle, as set forth in the manufacturer's operating instructions; or
2. Use of any other method or means of sterilization which has been approved by the Center for Disease Control (CDC) and which meets all applicable requirements of state and federal laws and regulations, including but not limited to all applicable regulations of the United States Occupational Safety and Health Administration (OSHA) and the Massachusetts Department of Public Health.

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~~2.03: continued~~

~~(e) Any instrument which is dropped on the floor or which otherwise becomes contaminated shall not be used unless it is first properly re-sterilized.~~

(d) Presterilized packaged disposable needles may properly be used for electrolysis.

(3) Treatment Procedures:

(a) Every electrologist, instructor or student shall wash his or her hands with ~~an~~ antiseptic liquid soap immediately prior to the treatment of any patient, and shall re-wash his or her hands with ~~such antiseptic the liquid~~ soap if treatment of that patient is interrupted and contact is made with any contaminated surface or object.

(b) ~~In addition to the requirements of 238 CMR 2.03(3)(a), a~~ An electrologist, instructor or student shall follow universal precautions, as defined by the Center for Disease Control (CDC), and shall comply with all applicable requirements of state and/or federal laws and regulations, including but not limited to the regulations of the United States Occupational Safety and Health Administration and the Massachusetts Department of Public Health, while treating any patient.

(c) Clean ~~tissues, paper towels or freshly laundered towels~~ disposable paper products are to be used under the head and the area being treated for each patient, ~~and are to be placed in position before the patient is permitted to recline on the chair or table on which he or she will be treated. The treatment table or chair shall be kept clean at all times.~~

(d) The skin areas of the patient which are to be treated shall be cleaned with ~~water~~ skin cleansing products and an antiseptic solution prior to treatment.

(e) Areas of the body which shall not be treated by electrolysis are:

1. Mucous membranes.
2. External auditory canal of the ear.
3. Areolae and nipples of the breasts.
4. Breasts of nursing women.
5. Tissues of the nostrils.
6. Eyelids.

7. Areas within the boundaries of the orbital rim of the eye and any part of the eyebrow may not be treated using laser or intense pulsed light technology.

(f) Electrologists shall not treat conditions where electrology procedures are contraindicated by current accepted standards of practice. ~~Such conditions include:~~

- ~~1. Warts.~~
- ~~2. Moles.~~
- ~~3. Ingrown eyelashes.~~
- ~~4. Spider telangiectasias and angiomas.~~
- ~~5. Cutaneous papilloma (skin tags).~~
- ~~6. Impetigo or any other contagious skin disease.~~
- ~~7. Skin malignancy.~~
- ~~8. Any area which appears to be infected or inflamed.~~

(g) An electrologist may treat patients with certain conditions if he or she first obtains written authorization to do so from the patient's physician. Such conditions include:

1. Diabetes mellitus.
2. Hair in moles.

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3. ~~Cardiac disorders~~ Medical conditions for which the patient ~~has a pacemaker~~ wears any external or implanted medical object or device.

4. ~~Coagulation disorders and/or disorders which~~ Medical conditions that are treated with drugs having anti-coagulant effects.

5. Medical conditions treated with drugs such as, but not limited to, Isotretinoin and drugs that may create photosensitivity.

(h) Prior to initiating any treatment, an electrologist, instructor or student must provide the patient with an explanation of the nature of the treatment or procedure to be performed, the potential benefits and risks of undergoing said treatment, the nature of any after-treatment care to be provided, the cost of said treatment, and any other information reasonably necessary to allow the patient to make a decision intelligently about whether or not to undergo said treatment. Following such explanation, the electrologist, instructor or student shall obtain, and document in writing, the consent of the patient before initiating any treatment.

(i) Narcotics, alcohol and tobacco are prohibited in any electrolysis office, school or other electrolysis facility. ~~Smoking by electrologists, instructors, students, lecturers or patients during treatment is prohibited.~~

(j) ~~Electrologists, instructors and students shall be neat and clean in appearance. During office hours, an electrologist, instructor or student shall wear a clean professional uniform, white professional top, white laboratory coat or white jacket over appropriate attire, and shall wear low heeled shoes and stockings. Fingernails shall be clean and trimmed.~~ wear a professional lab jacket. Professional scrubs are permitted.

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~~2.03: continued~~

(k) An electrologist shall maintain a complete, patient record and case history on each patient, which shall be in writing or capable of being reproduced in written form, and shall, at a minimum, contain the ~~following data prescribed by the Board:~~

- ~~1. The name, address, telephone number and date of birth of the patient.~~
- ~~2. The patient's medical history and physical condition.~~
- ~~3. The types of hair and/or skin, if other than normal.~~
- ~~4. Documentation of the patient's informed consent to treatment, as required by 238 CMR 2.03(3)(h).~~
- ~~5. The date of each treatment.~~
- ~~6. The area upon which treatment was performed.~~
- ~~7. The patient's reaction to treatment.~~
- ~~8. The duration of the equipment use for the area being treated.~~
- ~~9. The setting of the equipment used for the area being treated.~~
- ~~10. Any allergies the patient may have.~~
- ~~11. Whether the patient is a diabetic.~~
- ~~12. Whether the patient wears a pacemaker.~~
- ~~13. Whether the patient has any type of coagulation disorder or other disorder which is treated with drugs having an anti-coagulant effect, and, if so, what medication, if any, the patient is taking for said disorder.~~
- ~~14. Physician authorization for treatment, if required.~~
- ~~15. History of previous treatment for hair removal received by the patient.~~

92.04: Professional Conduct - Electrolysis

(1) ~~Electrologists, instructors, lecturers and students shall comply with all applicable patient confidentiality laws. No electrologist shall reveal the identity or any part of the case history of any patient to any third party without the patient's written permission~~

(2) No electrologist shall commence treatment before informing the patient of the fee for ~~such the~~ treatment. The patient must be informed about the regrowth ~~pattern cycle~~ of his or her hairs.

(3) No electrologist shall list after his or her name any descriptive title indicating electrology other than "Registered Electrologist", "Licensed Electrologist", "Electrologist", "R.E.", "Licensed Instructor", or "Registered Instructor".

(4) ~~All persons who practice electrolysis shall do so under their legal names only.~~ Upon change of legal name, the Board must be notified in writing with proof of name change within ~~five 30~~ days. ~~A new certificate must be requested with the accompanying fee within ten days. The old certificate must be returned in person.~~ Nothing shall prohibit an electrologist from practicing under his or her maiden-pre-marital name.

~~(5) Any electrologist who wishes to become incorporated as a professional corporation shall obtain from and file the necessary forms with the Secretary of State and the Board of~~

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~~Registration of Electrologists accompanied by the necessary fee in compliance with M.G.L. c. 156A, § 15.~~

(65) No electrologist shall advertise in an unfair, deceptive, or misleading fashion.

~~(7) An electrologist may advertise truthful information pertaining to:~~

~~(a) His or her name, address, and telephone number.~~

~~(b) Office and other hours of availability.~~

~~(c) Date of admission to practice.~~

~~(d) Schools attended, with dates of graduation, degrees and other scholastic distinctions.~~

~~(e) Public or quasipublic offices.~~

~~(f) Military services.~~

~~(g) Post of honor.~~

~~(h) Electrologists authorships and teaching positions.~~

~~(i) Memberships and offices in professional licenses.~~

~~(j) Foreign language ability.~~

~~(k) Credit cards or other credit arrangements are accepted.~~

~~(l) Any specialties or area of concentration recognized by the Board of Registration of Electrologists~~

~~(m) Factual personal information pertaining to his or her background and practice.~~

~~2.04: continued~~

~~(8) An electrologist may advertise truthful information pertaining to the availability, nature and terms of routine electrolysis services. For purposes of 238 CMR 2.00, "routine electrolysis services" shall mean those services ordinarily performed by the electrologist for which a predetermined fixed, standard hourly contingency rate may reasonably and accurately be stated. An advertisement for such services shall disclose fully any conditions or contingencies upon which said rate is based, and any work normally associated with such service for which an additional rate must be paid.~~

~~(9) All electrologists shall perform fully all advertised services at their advertised rates, and shall otherwise comply with all representations in any advertisement. Advertised rates shall remain in effect for 30 days after the appearance of an advertisement unless the advertisement contains a statement that the rates shall remain in effect for a lesser time.~~

9.05: Practice of Laser Electrolysis

(1) Eligibility of Licensees to Practice Laser Electrolysis. A person licensed by the Board before May 4, 2015 to practice electrolysis who has practiced Laser Hair Removal under the supervision of a physician may apply to the Board for approval to practice Laser Electrolysis by filing the following documentation with the Board at least 30 days before beginning to practice Laser Electrolysis:

- (a) Satisfactory written proof, in the form of a letter signed by a physician, that the licensee actively practiced Laser Hair Removal under the supervision of that physician for a minimum of two (2) consecutive years immediately preceding the application; and
- (b) A certificate of completion of a course or courses in Laser Hair Removal or Laser Electrolysis approved by the Board with a minimum of fifteen (15) Contact Hours.

(2) Eligibility of Licensees Who Have Not Practiced Laser Hair Removal. A person licensed by the Board as an electrologist who has not practiced Laser Hair Removal may petition the Board for approval to practice Laser Electrolysis by filing with the Board a certificate of completion of a course or courses approved by the Board, which shall include the topics required by the Board and a minimum of twenty (20) Contact Hours of Practical Training and ten (10) Contact Hours of Didactic Training in Laser Electrolysis.

(3) Continuing Education Credit. The Credits or Contact Hours of instruction in Laser Electrolysis obtained pursuant to 240 CMR 9.05(2) shall qualify for continuing education requirements of 240 CMR 9.01 for one license renewal period.

(4) Applicants for Instructor – Qualification in Laser Electrolysis. A person may be registered as an Instructor in Electrolysis if he or she meets the requirements of 240 CMR 10.06 and submits the following to the Board with his or her application:

- (a) Satisfactory written proof, in the form of a letter signed by a physician, that the licensee actively practiced Laser Hair Removal under the supervision of that physician for a minimum of two (2) consecutive years immediately preceding the application;
- (b) A certificate of completion of a course or courses in Laser Electrolysis approved by the Board and a minimum of forty (40) Contact Hours of Practical Training and 20 Contact Hours of Didactic Training; and
- (c) A passing grade on the instructor licensing examination prescribed by the Board.

(6) Licensed Instructors – Qualification in Laser Electrolysis. A person licensed by the Board as an Instructor before May 4, 2015 who has practiced Laser Hair Removal under the supervision of a physician may petition the Board for approval to give instruction in Laser Electrolysis by filing with the Board at least 30 days prior to beginning to give such instruction:

(a) Satisfactory written proof, in the form of a letter signed by a physician, that the licensee actively practiced Laser Hair Removal under the supervision of that physician for a minimum of two (2) consecutive years immediately preceding the application; and

(b) A certificate of completion of a course or courses approved by the Board, which shall include a minimum of forty (40) Contact Hours of Practical Training and twenty (20) Contact Hours of Didactic Training.

(7) Equipment. All equipment used for Laser Electrolysis shall:

(a) Comply with all applicable rules and regulations of the FDA and OSHA;

(b) Be approved by the Federal Communications Commission to the extent that such approval is required by federal law or regulations; and

(c) Comply with Regulations for the Control of Lasers, 105 CMR 121.000, promulgated by the Massachusetts Department of Public Health.

(8) Standards for Licensure or Approval of Schools. In order to retain licensure, Electrolysis Schools shall submit to the Board a copy of the school catalogue or program manual for approval, which shall include a minimum of forty (40) Contact Hours of Practical Training and twenty (20) Contact Hours of Didactic Training in Laser Electrolysis within the 1100-hour program for Massachusetts licensure.

REGULATORY AUTHORITY

~~238 CMR 2.00240 CMR 9.00; M.G.L. c. 112, §§ 87T-87V, 87X-87KK, as amended, M.G.L. c. 112, § 87MMM.~~

~~(PAGES 11 AND 12 ARE RESERVED FOR FUTURE USE.)~~