

By: Cook of Navarro

H.B. No. 3368

A BILL TO BE ENTITLED

AN ACT

relating to physician delegation of laser hair removal to certain individuals; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 3, Subtitle B, Occupations Code, Chapter 157, is amended to add Subchapter D to read as follows:

SUBCHAPTER D. DELEGATION TO LASER HAIR REMOVAL TECHNICIAN.

Sec. 157.151. DEFINITIONS. In this subchapter:

(1) "Advanced health practitioner" means: a physician assistant or an advanced practice nurse.

(2) "Department" means the Department of State Health Services.

(3) "Executive Director" means the executive director of the Texas Medical Board.

(4) "Laser hair removal treatment, service or procedure" means: the use of a laser or pulsed light device for non-ablative procedures to remove hair.

(5) "Laser hair removal facility" means a business location that provides laser hair removal treatments, procedures or services.

(6) "Laser or pulsed light device" means a device approved by the department and the United States Food and Drug Administration and registered with the department for laser hair removal.

1 (7) "Non-ablative treatment" means any laser or
2 intense pulsed light treatment that is not expected or intended to
3 remove, burn, or vaporize the epidermal surface of the skin. Such
4 treatments include those treatments related to laser hair removal.

5 (8) "Physician" means: an individual licensed to
6 practice medicine in this state by the Texas Medical Board.

7 (9) "Laser hair removal technician" means a person
8 under this Act who meets the education and training requirement
9 established by the board by rule and is delegated and supervised by
10 a physician to perform laser hair removal procedures or services.

11 Sec. 157.152. PRACTICE OF MEDICINE. (a) Laser hair removal
12 treatments, procedures or services are the practice of medicine and
13 may only be performed or delegated in accordance with this Act.

14 (b) In addition to any other delegation made under the
15 authority of this chapter, a physician may delegate to any properly
16 qualified and trained laser hair removal technician, acting under
17 adequate physician supervision, the performance of laser hair
18 removal procedures or services in accordance with this Act and
19 rules of the board.

20 (c) Supervision is considered to be adequate for the
21 purposes of this section if a delegating physician:

22 (1) is geographically located so as to be physically
23 present daily to provide medical care and supervision;

24 (2) is available through direct telecommunication for
25 consultation, assistance and direction;

26 (3) assures that patients are adequately informed and
27 have signed consent forms prior to treatment that outline

1 reasonably foreseeable side effects and complications that may
2 result from the non-ablative treatment;

3 (4) is responsible for the formulation or approval of
4 the physician's order, standing medical order, standing delegation
5 order, or other order for protocol and periodically reviews the
6 order or protocol and service provided to a patient under the order
7 or protocol;

8 (5) reviews and signs, at least annually, the written
9 protocol and any patient specific deviations from the protocol
10 regarding care provided to a patient under the protocol on a
11 schedule defined in the written protocol; and

12 (6) has established a physician-patient relationship
13 with each patient who is provided laser hair removal services or
14 procedures.

15 (c) A physician may delegate the on-site supervision at a
16 laser hair removal facility to an advanced health practitioner in
17 conformity with the rules of the board.

18 (d) If a delegating physician is or will be unable to
19 supervise a laser hair removal technician as required by this
20 section, an alternate physician may provide the supervision in
21 accordance with rules of the board.

22 Sec. 157.153. EDUCATION AND TRAINING REQUIREMENTS FOR LASER
23 HAIR REMOVAL TECHNICIANS. (a) The board by rule shall establish
24 the education and training requirements for a person that will
25 provide laser hair removal services under the delegation and
26 supervision of a physician. The rules shall include, at a minimum:

27 (1) education and continuing education standards;

1 (2) Centers for Disease Control infection prevention
2 training;

3 (3) basic life support training; and

4 (4) quality and safety techniques for laser hair
5 removal.

6 (b) A person providing or performing treatments, services
7 or procedures as a laser hair removal technician must be at least 21
8 years of age and be a high school graduate or equivalent.

9 (c) The delegating physician shall keep and maintain
10 records of the training and education required by the rules of the
11 board. Failure to keep and maintain the records as provided by
12 rules of the board is a ground for discipline under Chapter 164 of
13 this Act.

14 Sec. 157.154. BOARD RULES ON CONTENT OF ORDER OR PROTOCOL.
15 The board by rule shall establish the minimum content of a written
16 order or protocol. The order or protocol may not permit the
17 delegation of medical diagnosis.

18 Sec. 157.155. PRE-TREATMENT REQUIREMENTS. (a) Prior to
19 receiving a laser hair removal treatment, service or procedure, a
20 person must be examined by a physician or an advanced health care
21 practitioner to ensure the person is a qualified candidate for a
22 treatment, service or procedure and does not have skin cancers,
23 diseases, warts or any other skin lesions that would result in
24 complications.

25 (b) A person who is 18 years of age or older and undergoes a
26 laser hair removal service or procedure must provide a photo
27 identification and sign a written informed consent for treatment

1 and acknowledgement that the person has read and understood the
2 consent and warnings before undergoing the treatment, service or
3 procedure.

4 (c) The delegating physician shall keep and maintain the
5 records and forms required by this section according to rules of the
6 board.

7 Sec. 157.156. REQUIREMENTS RELATING TO MINORS. (a) A minor
8 16 years of age or older must have the minor's parent or legal
9 guardian sign and date an informed consent and acknowledgement
10 prior to the minor undergoing a treatment, service or procedure for
11 laser hair removal.

12 (b) A minor 15 years or younger must meet the requirements
13 of subsection (a) of this section and must have the parent or legal
14 guardian in the facility while the minor receives the laser hair
15 removal treatment, service or procedure.

16 Sec. 157.157. BOARD RULES; ENFORCEMENT. (a) The board
17 shall adopt rules to enforce this Subchapter. A violation or
18 attempted violation of this Subchapter or of the rules of the board
19 adopted under this Subchapter is a ground for discipline under
20 Chapter 164 of this Act.

21 (b) A person who is not a physician and violates or attempts
22 to violate this Subchapter or a rule adopted by the board under this
23 Subchapter is considered to be practicing medicine without a
24 license under this Act.

25 SECTION 2. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2007.