

## TO BE RESCINDED

4731-18-03

**Delegation of the use of light based medical devices.**

- (A) A physician licensed pursuant to Chapter 4731. of the Revised Code may delegate the application of light based medical devices only for the purpose of hair removal and only if all the following conditions are met:
- (1) The light based medical device has been specifically approved by the United States food and drug administration for the removal of hair from the human body; and
  - (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; and
  - (3) The physician has seen and personally evaluated the patient to determine whether the proposed application of a light based medical device is appropriate; and,
  - (4) The physician has seen and personally evaluated the patient following the initial application of a light based medical device, but prior to any continuation of treatment in order to determine that the patient responded well to that initial application; and,
  - (5) The person to whom the delegation is made is one of the following:
    - (a) A physician assistant registered pursuant to Chapter 4730. of the Revised Code and the physician has a board approved supplemental utilization plan allowing such delegation; or,
    - (b) A cosmetic therapist licensed pursuant to Chapter 4731. of the Revised Code; or,
    - (c) A registered nurse or licensed practical nurse licensed pursuant to Chapter 4723. of the Revised Code; and,
  - (6) The person to whom the delegation is made has received adequate education and training to provide the level of skill and care required; and,
  - (7) The physician provides on-site supervision at all times the person to whom the delegation is made is applying the light based medical device; and,
  - (8) The physician supervises no more than two persons pursuant to this rule at the same time.

(B) Notwithstanding paragraph (A)(7) of this rule, the physician may provide off-site supervision when the light based medical device is applied to an established patient if the person to whom the delegation is made pursuant to paragraph (A) of this rule is a cosmetic therapist licensed pursuant to Chapter 4731. of the Revised Code who meets all of the following criteria:

- (1) The cosmetic therapist 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 board; and
- (2) The course consisted of at least fifty hours of training, at least thirty hours of which was clinical experience; and
- (3) The cosmetic therapist has worked under the on-site supervision of the physician making the delegation a sufficient period of time that the physician is satisfied that the cosmetic therapist is capable of competently performing the service with off-site supervision.

The cosmetic therapist shall maintain documentation of the successful completion of the required training.

(C) The cosmetic therapist, physician assistant, registered nurse or licensed practical nurse 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.

(D) For purposes of this rule, on-site supervision requires the physical presence of the supervising physician in the same location (i.e., the physician's office suite) as the cosmetic therapist, physician assistant, registered nurse or licensed practical nurse, but does not require his or her presence in the same room.

(E) For purposes of this rule, off-site supervision means that the supervising physician shall be continuously available for direct communication with the cosmetic therapist and must be in a location that under normal conditions is not more than sixty minutes travel time from the cosmetic therapist's location.

(F) A violation of paragraph (A) (B) or (C) of this rule by a physician shall constitute "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," as that clause is used in division (B)(6) of section 4731.22 of

the Revised Code. A violation of division (A)(5) of this rule shall constitute "violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in division (B)(20) of section 4731.22 of the Revised Code, to wit: section 4731.41 of the Revised Code.

- (G) A violation of paragraph (C) of this rule by a cosmetic therapist shall constitute "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," as that clause is used in division (B)(6) of section 4731.22 of the Revised Code. A violation of paragraph (C) of this rule by a physician assistant shall constitute 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," as that clause is used in division (B)(19) of section 4730.25 of the Revised Code.

Effective:

Five Year Review (FYR) Dates: 4/9/2021

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Certification

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Date

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