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Hearing Date: 2/10/2023

Today's Date: 2/15/2023

Agency: State Medical Board of Ohio

Rule Number(s): 4731-18-01, 4731-18-02, 4731-18-03

If no comments at the hearing, please check the box. ☐

List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

1. Levi Tkach, Graff & McGovern: 4731-18-01, 4731-18-02, 4731-18-03

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Hearing Summary Report

Consolidated Summary of Comments Received

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

The sole comment received stated that the requirement for the involvement of a physician in the use of light based medical devices does not add to benefit to the proprietors of health and wellness spas or their clients. The comment also stated that the proposed rules represent a clear restraint on free enterprise and an attempt to create a monopoly for licensed physicians in the marketplace. The comment also stated that the rules omit a definition of “dermatologic”.

Hearing Summary Report

Incorporated Comments into Rule(s)

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

The comments will be reviewed by the Medical Board at their next scheduled meeting on March 8, 2023. At this time, the comments are not incorporated into the rules. With respect to the first comment that the rule includes unnecessary oversight, the use of light based medical devices is the practice of medicine and the Medical Board has worked carefully to create rules focused on patient safety. With respect to the rules being a restraint on trade, the Board requested an anti-trust review prior to the initial filing of these rules from the Common Sense Initiative and in December 2019, the Board received a determination that the rules were supported by and consistent with a clearly articulated state policy and are not a pretext for anticompetitive conduct. The issue regarding a definition for “dermatologic” has not been previously raised. In developing this rule, the Medical Board members were comfortable that the language regarding the types of procedures that could be delegated to non-physicians were clear.