



MIKE DEWINE
GOVERNOR
STATE OF OHIO

Executive Order 2021-05D

The Emergency Amendment of Rule 4731-18-03 of the Ohio Administrative Code by the State Medical Board of Ohio

WHEREAS, the State Medical Board of Ohio (SMBO) has licensed cosmetic therapists and through its rule, Ohio Administrative Code (OAC) Section 4731-18-03, has allowed physicians to delegate the use of light-based medical devices for hair removal to cosmetic therapists licensed by the SMBO; and

WHEREAS, the application of light based medical devices to the human body is the practice of medicine; and

WHEREAS, House Bill 442 of the 133 General Assembly, which becomes effective on April 12, 2021, removes the requirement that cosmetic therapists be licensed by the SMBO; and

WHEREAS, the changes made to the cosmetic therapists' licensure status necessitate corresponding changes in OAC rules; and

WHEREAS, because of the timing of the effective date of the statutes eliminating the licensure requirement for cosmetic therapists, it is impossible for SMBO to make the necessary changes to the OAC through the regular rule-filing process; and

WHEREAS, to ensure that cosmetic therapists can be delegated the use of light based medical devices by their delegating physicians on April 12, 2021, SMBO must immediately amend the OAC rule that governs the delegation of light based medical devices for hair removal; and

WHEREAS, Section 4731.05 of the Ohio Revised Code authorizes SMBO to promulgate rules for light based medical devices; and

WHEREAS, Section 119.03(G) of the Ohio Revised Code authorizes the Governor, on the request of a State agency, to suspend the normal rule making procedures with respect to specific rules when an emergency exists necessitating the immediate adoption, amendment, or rescission of such rules. When such a determination is made, the agency may immediately adopt, amend, or rescind such rules, but the rules are only valid for one hundred and twenty (120) days; and

WHEREAS, SMBO has requested a determination whether an emergency exists that requires the amendment of OAC 4731-18-03 on an emergency basis and that would therefore permit SMBO, pursuant to Section 4731.05 of the Ohio Revised Code, to immediately amend this rule to allow delegation of light based medical devices for hair removal to cosmetic therapists without licensure by the SMBO.

NOW THEREFORE, I, Mike DeWine, Governor of the State of Ohio, have determined, upon the request of SMBO, that an emergency exists requiring the immediate amendment of rule 4731-18-03 of the Ohio Administrative Code.

Further, I hereby order that the procedures prescribed by Section 119.03 of the Ohio Revised Code with respect to the adoption or amendment of the specified rules be suspended and that the State Medical Board of Ohio be permitted to amend the rule immediately by filing it electronically with the Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review ("JCARR").

Furthermore, I hereby order that this Executive Order be filed in electronic form with the State Medical Board of Ohio, the Secretary of State, the Director of the Legislative Service Commission, and JCARR.

I signed this Executive Order on April 8, 2021, in ^{COLUMBUS} Cedarville, Ohio, and it will expire one hundred and twenty days (120) from the effective date of the emergency rule, or upon the adoption of the rule through the normal JCARR process, whichever is sooner.


Mike DeWine, Governor

ATTEST:

Frank LaRose, Secretary of State