



## Ohio Revised Code

### Section 4731.33 Use of light-based medical devices for hair removal.

Effective: September 30, 2021

Legislation: House Bill 110 - 134th General Assembly

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(A) As used in this section:

- (1) "Light-based medical device" means any device that can be made to produce or amplify electromagnetic radiation at wavelengths equal to or greater than one hundred eighty nm but less than or equal to  $1.0 \times 10^6$  nm and that is manufactured, designed, intended, or promoted for irradiation of any part of the human body for the purpose of affecting the structure or function of the body.
- (2) "Physician" means a person authorized to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under this chapter.
- (3) "On-site supervision" means the supervising physician is physically in the same location as the delegate during the use of a light-based medical device, but does not require the physician to be in the same room. "On-site supervision" includes the supervising physician's presence in the same office suite as the delegate during the use of the device.
- (4) "Off-site supervision" means the supervising physician is continuously available for direct communication with the cosmetic therapist during the use of a light-based medical device.
- (5) "Direct physical oversight" means the supervising physician is in the same room directly observing the delegate's use of the light-based medical device.

(B) A physician may delegate the application of light-based medical devices for the purpose of hair removal only if all of the following conditions are met:

- (1) The light-based medical device has been specifically cleared or approved by the United States food and drug administration for the removal of hair from the human body.



- (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.
- (3) The physician has seen and evaluated the patient to determine whether the proposed application of the specific light-based medical device is appropriate.
- (4) The physician has seen and evaluated the patient following the initial application of the specific light-based medical device, but before any continuation of treatment, to determine that the patient responded well to that initial application of the specific light-based medical device.
- (5) The person to whom the delegation is made is one of the following:
- (a) A physician assistant licensed under Chapter 4730. of the Revised Code with whom the physician has an effective supervision agreement;
  - (b) A person who was licensed as a cosmetic therapist under Chapter 4731. of the Revised Code on April 11, 2021;
  - (c) A person who has completed a cosmetic therapy course of instruction for a minimum of seven hundred fifty clock hours and received a passing score on the certified laser hair removal professional examination administered by the society for clinical and medical hair removal;
  - (d) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code.
- (C) For delegation to a physician assistant, the delegation must meet the requirements of section 4730.21 of the Revised Code.
- (D)(1) For delegation to a person described under division (B)(5)(b) or (c) of this section, the physician shall ensure that the person to whom the delegation is made has received adequate education and training to provide the level of skill and care necessary, including all of the following:
- (a) The person has completed eight hours of basic education that includes the following topics:



- (i) Light-based procedure physics;
  - (ii) Tissue interaction in light-based procedures;
  - (iii) Light-based procedure safety, including use of proper safety equipment;
  - (iv) Clinical application of light-based procedures;
  - (v) Preoperative and postoperative care of light-based procedure patients;
  - (vi) Reporting of adverse events.
- (b) The person has observed fifteen procedures for each specific type of light-based medical device procedure for hair removal that the person will perform under the delegation.
- (c) The person shall perform at least twenty procedures under the direct physical oversight of the physician on each specific type of light-based medical device procedure for hair removal delegated.
- (2) For purposes of division (D)(1)(b) of this section, the procedures observed shall be performed by a physician who uses the specific light-based medical device procedure for hair removal in the physician's normal course of practice and expertise.
- (3) For purposes of division (D)(1)(c) of this section, the physician overseeing the performance of these procedures shall use this specific light-based medical device procedure for hair removal within the physician's normal course of practice and expertise.
- (4) Each delegating physician and delegate shall document and retain satisfactory completion of training required under division (D) of this section. The education requirement in division (D)(1)(a) of this section shall be completed only once by the delegate regardless of the number of types of specific light-based medical device procedures for hair removal delegated and the number of delegating physicians. The training requirements of divisions (D)(1)(b) and (c) of this section shall be completed by the delegate once for each specific type of light-based medical device procedure for hair removal delegated regardless of the number of delegating physicians.



(E) The following delegates are exempt from the education and training requirements of division (D)(1) of this section:

(1) A person who, before the effective date of this section , has been applying a light-based medical device for hair removal for at least two years through a lawful delegation by a physician;

(2) A person described under division (B)(5)(b) of this section if the person was authorized to use a light-based medical device under the cosmetic therapist license;

(3) A person described in division (B)(5)(a) or (d) of this section.

(F) For delegation to a person under division (B)(5)(b), (c), or (d) of this section, the physician shall provide on-site supervision at all times that the person to whom the delegation is made is applying the light-based medical device.

A physician shall not supervise more than two delegates under division (B)(5)(b), (c), or (d) of this section at the same time.

(G)(1) Notwithstanding division (F) of this section, a physician may provide off-site supervision when the light-based medical device is applied for the purpose of hair removal to an established patient if the person to whom the delegation is made is a cosmetic therapist who meets all of the following criteria:

(a) 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 delegating physician;

(b) The course consisted of at least fifty hours of training, at least thirty hours of which was clinical experience;

(c) The cosmetic therapist has worked under the on-site supervision of the delegating physician for 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.



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

(H) A delegate under this section 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.

(I) No physician shall fail to comply with division (A), (B), (G), or (H) of this section. A violation of this division constitutes 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, under division (B)(6) of section 4731.22 of the Revised Code.

(J) No physician shall delegate the application of light-based medical devices for the purpose of hair removal to a person who is not listed in division (B)(5) of this section. A violation of this division constitutes violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate section 4731.41 of the Revised Code for purposes of division (B)(20) of section 4731.22 of the Revised Code.

(K) No cosmetic therapist to whom a delegation is made under division (B)(5)(b) or (c) of this section shall fail to comply with division (G) or (H) of this section. A violation of this division constitutes the unauthorized practice of medicine pursuant to section 4731.41 of the Revised Code.

(L) No physician assistant shall fail to comply with division (H) of this section. A violation of this division constitutes 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, for purposes of division (B)(19) of section 4730.25 of the Revised Code.