

SECOND REGULAR SESSION

# HOUSE BILL NO. 2102

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE JOHNSON (90).

Read 1<sup>st</sup> time March 5, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4871L.011

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### AN ACT

To amend chapter 324, RSMo, by adding thereto twelve new sections relating to a Missouri state board of electrolysis, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 324, RSMo, is amended by adding thereto twelve new sections, to  
2 be known as sections 324.600, 324.610, 324.620, 324.630, 324.640, 324.650, 324.660, 324.670,  
3 324.680, 324.690, 324.695, and 324.698, to read as follows:

**324.600. For the purposes of sections 324.600 to 324.698, the following terms mean:**  
2 **(1) "Board", the state board of cosmetology;**  
3 **(2) "Council", the Missouri council on electrolysis;**  
4 **(3) "Division", the division of professional registration of the department of**  
5 **economic development;**  
6 **(4) "Electrologist", a person who engages in the practice of electrolysis;**  
7 **(5) "Electrolysis or electrolyg", the permanent removal of hair by destroying the**  
8 **hair-producing cells of the skin and vascular system using equipment and devices which**  
9 **have been approved by and registered with the federal Food and Drug Administration for**  
10 **the removal of hair.**

**324.610. 1. There is hereby created within the division of professional registration**  
2 **a council to be known as the "Missouri Council on Electrolysis". The council shall report**  
3 **to the state board of cosmetology and shall consist of seven members appointed by the**  
4 **director of the division. Five members shall be licensed electrologists actively engaged in**  
5 **the delivery of electrolysis services in this state for at least four consecutive years prior to**  
6 **their appointment to the council and who are not affiliated with an electrolysis school or**  
7 **manufacturer or supplier of electrolysis equipment or supplies. Two consumer members**

8 shall be residents of this state who have never been licensed electrologists, have no financial  
9 interest in the practice of electrology, and are not affiliated with an electrolysis school or  
10 a manufacturer or supplier of electrolysis equipment or supplies. Initial council members  
11 who are electrologists must be eligible for licensure at the time of their appointment.  
12 Electrologist members appointed after October 1, 2006, shall be licensed in this state for  
13 at least three years prior to their appointment. The term of office for each council member  
14 is four years and members shall not serve more than two consecutive terms. If a vacancy  
15 occurs on the council, any licensed electrologist may recommend one person to fill the  
16 vacancy, and any not-for-profit professional organization dealing with electrolysis that  
17 registers its interest with the council shall recommend at least twice as many persons to fill  
18 the vacancy as the number of vacancies to be filled. The director of the division, in his or  
19 her discretion, may appoint from the submitted names any of those persons who are  
20 recommended.

21 2. The council shall elect from among its members a chair and vice-chair. The  
22 council shall meet at least twice a year and shall hold such additional meetings as are  
23 considered necessary by the council. Four members of the council shall constitute a  
24 quorum. Unless otherwise provided by law, a council member shall be compensated fifty  
25 dollars for each day the member attends an official meeting of the council or participates  
26 in official council business and shall be reimbursed for travel expenses. Travel outside the  
27 state shall require the prior approval of the director of the division.

324.620. 1. The council shall adopt rules for a code of ethics for electrologists and  
2 rules related to the curriculum and approval of electrolysis training programs, sanitary  
3 guidelines, the delivery of electrolysis services, continuing education requirements, and any  
4 other area related to the practice of electrology.

5 2. No rule or portion of a rule promulgated under the authority of this section shall  
6 become effective unless it has been promulgated pursuant to chapter 536, RSMo.

324.630. 1. An applicant applying for licensure as an electrologist shall file a  
2 written application, accompanied by the application for licensure fee prescribed in section  
3 324.698, on a form provided by the state board of cosmetology showing to the satisfaction  
4 of the board that the applicant:

- 5 (1) Is at least eighteen years old; and
- 6 (2) Is of good moral character; and
- 7 (3) Possesses a high school diploma or a graduate equivalency diploma; and
- 8 (4) Has successfully completed at least six hundred hours of a board-approved,  
9 state-licensed electrolysis training school; or
- 10 (5) Has successfully completed twelve hundred hours of board-approved apprentice

11 training.

12       2. Each applicant for licensure shall successfully pass a written examination  
13 developed by the board or a national examination that has been approved by the board.  
14 The examinations shall test the applicant's knowledge relating to the practice of  
15 electrology, including the applicant's professional skills and judgment in the use of  
16 electrolysis techniques and methods, and any other subjects which are useful to determine  
17 the applicant's fitness to practice. The board may adopt a national examination in lieu of  
18 any part of the examination required by this section. The board shall establish standards  
19 for acceptable performance.

20       3. The board shall issue a license to practice electrology to any applicant who passes  
21 the examination, pays the licensure fee as set forth in section 324.698, and otherwise meets  
22 the requirements of sections 324.600 to 324.698.

23       4. The board shall conduct licensure examinations at least two times a year. The  
24 board shall give public notice of the time and place of each examination at least sixty days  
25 before it is administered and shall mail notice of such examination to each applicant whose  
26 application is timely filed, pursuant to board rule.

27       5. The board shall issue a license to any person who has engaged in the practice of  
28 electrolysis for two years immediately preceding the effective date of sections 324.600 to  
29 324.698 and otherwise meets the qualifications for licensure.

30       6. The board shall not issue a license to any applicant who is under investigation  
31 in another jurisdiction for an offense which would be a violation of sections 324.600 to  
32 324.698, until such investigation is complete. Upon completion of such investigation and  
33 if the applicant is found guilty of such offense, the board shall apply the provisions of  
34 section 324.680.

324.640. 1. The board shall issue a license by endorsement to any applicant who  
2 submits an application and the required fees as set forth in section 324.698 and who holds  
3 an active license or other authority to practice electrology in a jurisdiction whose licensure  
4 requirements are determined by the board to be equivalent to the requirements for  
5 licensure in this state. If the board determines that an applicant is qualified to receive a  
6 license by endorsement, the board may issue the applicant a temporary permit to practice  
7 electrolysis until the next board meeting at which license applications are to be considered,  
8 but not for a longer period of time. Only one temporary permit shall be issued to an  
9 applicant, and it shall not be renewable.

10       2. If the board determines that an applicant is qualified for licensure by  
11 examination except for passage of the examination and has applied for the next scheduled  
12 examination, the board may issue the applicant a nonrenewable temporary permit to

13 practice electrology under the supervision of a licensed electrologist until notification of the  
14 results of the examination. The temporary permit of a person who fails such examination  
15 is automatically revoked upon notification of the examination results, and the applicant  
16 shall cease the practice of electrology immediately upon receipt of such notice. An  
17 applicant with a temporary permit who passes such examination may continue to practice  
18 under such temporary permit until the next meeting of the board at which license  
19 applications are to be considered. As used in this subsection, "supervision" means  
20 responsible control by a licensed electrologist who provides the initial direction in  
21 developing a treatment plan and also periodically inspects the permittee's implementation  
22 of such plan which shall not be altered by the permittee without the prior consultation and  
23 approval of the supervisor. The supervisor shall be available to consult with and direct a  
24 permittee in an emergency and the supervisor shall be on the premises while the permittee  
25 is delivering electrolysis services.

324.650. Only persons who are licensed according to sections 324.600 to 324.698  
2 shall use the title "electrologist", "registered electrologist", or the abbreviation "RE." No  
3 person shall practice electrology or hold himself or herself out as an electrologist in this  
4 state unless the person has been issued a license by the board and holds an active license  
5 pursuant to the requirements of sections 324.600 to 324.698. A licensee shall display his  
6 or her license in a conspicuous location in the licensee's place of practice and provide it to  
7 the division or the board upon request.

324.660. 1. The board shall provide by rule a method for biennial license renewal  
2 at fees set forth in section 324.698. A license that is not renewed at the end of the biennium  
3 prescribed by the board automatically reverts to delinquent status. The board shall adopt  
4 rules establishing procedures, criteria, and fees as set forth in section 324.698 for  
5 reactivation of an inactive license.

6 2. A licensee shall file with the board the address of his or her primary place of  
7 practice within the state prior to engaging in practice and shall notify the board of any  
8 change in this address prior to the change.

9 3. An application for license renewal shall be accompanied by proof of the  
10 successful completion of one continuing education unit every two years, with one unit  
11 equaling ten hours, or proof of successfully passing a reexamination for licensure within  
12 the immediately preceding biennium which meets the criteria established by the board.  
13 Both the continuing education and reexamination shall contain education on blood-borne  
14 diseases. The board shall approve criteria for, and content of, electrolysis training  
15 programs and continuing education courses required for licensure and renewal.  
16 Continuing education programs shall be approved by the board.

**324.670. 1. No electrology facility shall be permitted to operate without a facility license issued by the board. The facility license shall be displayed in a conspicuous place within the facility and shall be made available upon request of the board.**

**2. The board shall adopt rules governing the licensure and operations of such facilities, personnel, safety and sanitary requirements, and the licensure application and granting process.**

**3. Any person, firm, or corporation desiring to operate an electrology facility in the state shall submit to the board an application and the necessary application fee as set forth in section 324.698. Upon receiving the application, the board may cause an investigation to be made of the proposed electrology facility.**

**4. When an applicant fails to meet all the requirements provided in sections 324.600 to 324.698, the board shall deny the application in writing and shall list the specific requirements not met. No applicant denied licensure because of failure to meet the requirements shall be precluded from reapplying for licensure. When the board determines that the proposed electrology facility has met the requirements set forth in this section, the board shall grant the license upon payment of the initial licensure fee.**

**5. An initial inspection of a licensed facility shall be conducted within sixty days of initial licensure. A renewal inspection of a licensed facility shall be conducted not less than once per biennium or as deemed required by the board.**

**6. No license for operation of an electrology facility shall be transferred from the name of the original licensee to another facility, but may be transferred from one location to another only upon approval by the board, which approval shall not be unreasonably withheld.**

**7. Renewal of license registration for electrology facilities shall be accomplished pursuant to rules adopted by the board.**

**324.680. 1. The following acts constitute grounds for denial or revocation of a license:**

**(1) Obtaining or attempting to obtain a license by bribery, fraud, or knowing misrepresentation;**

**(2) Having a license or other authority to deliver electrolysis services revoked, suspended, or otherwise acted against, including denial of licensure, in another jurisdiction;**

**(3) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime, in any jurisdiction, which directly relates to the practice of electrology;**

**(4) Willfully making or filing a false report or record, willfully failing to file a**

12 report or record required for electrologists, or willfully impeding or obstructing the filing  
13 of a report or record required by sections 324.600 to 324.698 or inducing another person  
14 to do so;

15 (5) Circulating false, misleading, or deceptive advertising;

16 (6) Unprofessional conduct, including any departure from, or failure to conform  
17 to, acceptable standards related to the delivery of electrolysis services;

18 (7) Engaging or attempting to engage in the illegal possession, sale, or distribution  
19 of any illegal or controlled substance;

20 (8) Willfully failing to report any known violation of sections 324.600 to 324.698;

21 (9) Willfully or repeatedly violating a rule adopted pursuant to sections 324.600 to  
22 324.698, or an order of the board or division previously entered in a disciplinary hearing;

23 (10) Engaging in the delivery of electrolysis services without an active license;

24 (11) Employing an unlicensed person to practice electrology;

25 (12) Failing to perform any statutory or legal obligation placed upon an  
26 electrologist;

27 (13) Accepting and performing professional responsibilities which the licensee  
28 knows, or has reason to know, he or she is not competent to perform;

29 (14) Delegating professional responsibilities to a person the licensee knows, or has  
30 reason to know, is unqualified by training, experience, or licensure to perform;

31 (15) Gross or repeated malpractice or the inability to practice electrology with  
32 reasonable skill and safety;

33 (16) Judicially determined mental incompetency;

34 (17) Practicing or attempting to practice electrology under a name other than his  
35 or her own;

36 (18) Being unable to practice electrology with reasonable skill and safety because  
37 of a mental or physical condition or illness, or the use of alcohol, controlled substances, or  
38 any other substance which impairs one's ability to practice. For any electrologist who is  
39 suspected of conduct in violation of this subdivision, the board:

40 (a) May, upon probable cause, compel a licensee to submit to a mental or physical  
41 examination by physicians designated by the board, and the cost of an examination shall  
42 be borne by the licensee, and his or her failure to submit to such an examination constitutes  
43 an admission of the allegations against him or her, consequent upon which a default and  
44 a final order may be entered without the taking of testimony or presentation of evidence,  
45 unless the failure was due to circumstances beyond his or her control;

46 (b) Shall afford any licensee who is disciplined under this subdivision, an  
47 opportunity, at reasonable intervals, to demonstrate that he or she can resume the practice

48 of electrology with reasonable skill and safety; and

49 (c) Shall not use the record of any proceeding under this subdivision or an order  
50 entered under this subdivision against a licensee in any other proceeding;

51 (19) Disclosing the identity of or information about a patient without written  
52 permission, except for information which does not identify a patient and which is used for  
53 training purposes in an approved electrolysis training program;

54 (20) Practicing or attempting to practice any permanent hair removal except as  
55 described in section 324.600; or

56 (21) Operating any electrolysis facility unless it has been duly licensed as provided  
57 in sections 324.600 to 324.698.

58 2. If the board finds any person in violation of any of the grounds set forth in  
59 subsection 1 of this section, including conduct that would constitute a substantial violation  
60 of subsection 1 of this section which occurred prior to licensure, the board may impose one  
61 or more of the following penalties:

62 (1) Denial of the application for licensure;

63 (2) Revocation or suspension of the license;

64 (3) An administrative fine not to exceed five thousand dollars for each separate  
65 offense;

66 (4) Placement of the licensee on probation for a specified time and subjecting the  
67 licensee to such conditions as the board determines necessary, including, but not limited  
68 to, requiring treatment, continuing education courses, reexamination, or working under  
69 the supervision of a licensed electrologist;

70 (5) Issuance of a reprimand to the licensee; or

71 (6) Restriction on a licensee's practice.

72 3. The board shall not issue or reinstate a license to a person deemed unqualified  
73 by the board until the board is satisfied that such person has complied with any terms and  
74 conditions of the board and the licensee can safely practice electrology.

75 4. The board may, by rule, establish guidelines for the disposition of disciplinary  
76 cases involving specific types of violations. The guidelines may include minimum and  
77 maximum fines, periods of supervision on probation, or conditions upon probation or  
78 reissuance of a license.

324.690. A person is guilty of a class A misdemeanor if such person:

2 (1) Practices or attempts to practice electrology or hold himself or herself out to be  
3 an electrologist without holding an active license;

4 (2) Practices or attempts to practice electrology under a name other than his or her  
5 own name;

6           (3) Uses or attempts to use a revoked or suspended license or the license of another  
7 person;

8           (4) Obtains or attempts to obtain a license by bribery, fraud, or knowing  
9 misrepresentation;

10          (5) Employs an unlicensed person to practice electrology;

11          (6) Practices or attempts to practice any permanent hair removal except as  
12 described in section 324.600.

          324.695. Sections 324.600 to 324.698 shall not apply to the delivery of electrolysis  
2 services by:

3           (1) A physician licensed pursuant to chapter 334, RSMo; or

4           (2) A student delivering electrolysis services to another in an approved electrolysis  
5 training program under the direct supervision of a licensed electrologist.

          324.698. 1. The board shall establish by rule the collection of fees for the following  
2 purposes:

3           (1) License application fee: a fee not to exceed one hundred dollars;

4           (2) Examination fee: a fee not to exceed three hundred dollars;

5           (3) Initial licensure fee: a fee not to exceed one hundred dollars;

6           (4) Renewal fee: a fee not to exceed one hundred dollars biennially;

7           (5) Reactivation fee: a fee not to exceed one hundred dollars;

8           (6) Inspection fee for facility: a fee not to exceed one hundred dollars biennially.

9           2. The board shall not charge more than the actual cost incurred for the  
10 implementation of sections 324.600 to 324.698.

11          3. No rule or portion of a rule promulgated pursuant to the authority of sections  
12 324.600 to 324.698 shall become effective unless it has been promulgated pursuant to  
13 chapter 536, RSMo.