

OPINION NO. 86-020

Syllabus:

1. The scope of practice of an electrologist is, pursuant to R.C. 4713.01(J), the removal of hair by electrolysis from the face, scalp, neck, or shoulders, or superfluous hair from the human body except from inside the ear, nose, or a body orifice and except from a mole, an elevation of skin, a pigmented area of the breast, or scar tissue.
2. The State Medical Board is responsible, pursuant to R.C. 4731.15(A), for establishing rules defining the scope of practice of a cosmetic therapist, subject to the restriction that the practice of cosmetic therapy may not include hair removal by an electrologist, as defined in R.C. 4713.01(J). The State Medical Board is not precluded from including within the scope of practice of cosmetic therapy the use of electrolysis for the purpose of removing hair from inside the ear, nose, or a body orifice or from a mole, an elevation of skin, a pigmented area of the breast, or scar tissue.
3. Any person, including a cosmetic therapist certified by the State Medical Board, who wishes to practice as an electrologist, as defined in R.C. 4713.01(J), must obtain a license from the State Board of Cosmetology in order to so practice. A cosmetic therapist may, however, practice cosmetic therapy, as provided in R.C. 4731.15(A) and any appropriate rules promulgated by the State Medical Board.
4. The examination, licensure, and regulation of electrologists, as defined in R.C. 4713.01(J), are within the exclusive jurisdiction of the State Board of Cosmetology. If the State Medical Board adopts a rule defining the scope of practice of cosmetic therapy to include the use of electrolysis for the purpose of removing hair from the ear, nose, or a body orifice or from a mole, an elevation of skin, a pigmented area of the breast, or scar tissue, then the Medical Board has exclusive jurisdiction to regulate such practice of electrolysis by cosmetic therapists.
5. A person who is licensed as both a cosmetic therapist and an electrologist may provide services as a cosmetic therapist in the same building in which he performs services as an electrologist, provided such services are provided in separate rooms or separate parts of the building.

To: John E. Rauch, D.O., President, State Medical Board, Columbus, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, March 28, 1986

I have before me your request for my opinion, in which you ask the following questions:

1. May Cosmetic Therapists, duly licensed pursuant to Chapter 4731. by the State Medical Board,

- continue to practice without also being licensed by the Cosmetology Board as electrologists?
2. Does the Cosmetology Board have sole and exclusive jurisdiction over all persons desiring to perform electrolysis?
 3. If Cosmetic Therapists must also be licensed by the Cosmetology Board as electrologists to perform electrolysis, may they also continue to perform the other services permitted to Cosmetic Therapists which are regulated under Chapter 4731., notwithstanding R.C. 4713.14(A)?
 4. What is the scope of practice for each practitioner?

Your questions are prompted by the recent passage of 1983-1984 Ohio Laws, Part II, 2859 (Am. Sub. H.B. 289, eff. Nov. 1, 1984), which amends and enacts several provisions in R.C. Chapters 4713 (cosmetologists) and 4731 (physicians; limited practitioners) for the purpose of transferring the regulation of the practice of certain types of electrolysis and the examination and licensure of electrologists from the State Medical Board to the State Board of Cosmetology. Before addressing your specific questions, I must discuss generally the statutory scheme governing the practice of electrolysis.

Prior to its amendment in Am. Sub. H.B. 289, R.C. 4731.15 authorized the State Medical Board to examine and register persons desiring to practice any limited branch of medicine or surgery, including cosmetic therapy, and to establish rules governing such limited practice. See 1967-1968 Ohio Laws 1741, 2246 (Am. Sub. S.B. 258, eff. Dec. 13, 1967). Consistent therewith the State Medical Board promulgated a rule defining cosmetic therapy and delineating the scope of practice of cosmetic therapists, the current version of which appears at 7 Ohio Admin. Code 4731-1-08 and reads as follows:

(A) Cosmetic therapy is the removal of hair from the face, scalp, neck or shoulders, and the therapeutic removal of superfluous or abnormal hair from the human body, and the systematic friction, stroking, slapping, kneading or tapping to the face, scalp, neck or shoulders.

(B) A practitioner of cosmetic therapy shall not remove hair except from the face, scalp, neck or shoulders by application of current through an electric needle to the hair papilla or except the therapeutic removal of superfluous or abnormal hair from the human body by application of current through an electric needle to the hair papilla.

(C) A practitioner of cosmetic therapy shall examine the appropriate parts, but shall not examine, diagnose, or treat other diseases or conditions than those indicated herein as within the scope of cosmetic therapy.

The Medical Board also promulgated rules providing for the Board's examination, rule 4731-1-05, and certification, rule 4731-1-04, of cosmetic therapists. See also rule 4731-1-01 (empowering Medical Board to suspend or revoke certificates of cosmetic therapists for violations of Board's rules); rule 4731-1-10 (qualifications of applicants for certificates to practice cosmetic therapy). Thus, by rules adopted by the State Medical Board pursuant to R.C. 4731.15, individuals certified by the Medical Board as cosmetic therapists were permitted to use electrolysis to remove hair from the face.

scalp, neck or shoulders and to therapeutically remove superfluous or abnormal hair from the human body.

The enactment of Am. Sub. H.B. 289, amending R.C. 4731.15 and R.C. Chapter 4713, effectively removed from the jurisdiction of the State Medical Board the regulation of the practice of electrolysis for certain purposes and the certification of individuals who utilize electrolysis for those purposes. I turn now to a discussion of those provisions of Am. Sub. H.B. 289.

R.C. 4713.071, as enacted by Am. Sub. H.B. 289, vests in the State Board of Cosmetology the power to license persons who have passed an appropriate examination conducted by the Board to engage in the practice of electrolysis.¹ See R.C. 4713.041 (setting forth the qualifications applicants must meet in order to receive an electrologist's license); R.C. 4713.061 (examinations administered to applicants for licensure as electrologists shall include practical demonstrations and written or oral tests); R.C. 4713.171 (causes for which State Board of Cosmetology may deny, suspend or revoke a license to practice electrolysis). No person may practice electrolysis without a license. R.C. 4713.20(B).

R.C. 4713.01(J), as enacted by Am. Sub. H.B. 289, defines "electrologist" for purposes of R.C. 4713.01-.21 to mean:

a person who for pay, free, or otherwise engages in the removal of hair by electrolysis from the face, scalp, neck, or shoulders, or superfluous hair from the human body except from inside the ear, nose, or a body orifice and except from a mole, an elevation of skin, a pigmented area of the breast, or scar tissue.

Similarly, R.C. 4713.01(K) defines electrolysis as "the permanent removal of hair by application of electric current through a needle or needles to hair papillae." Thus, the State Board of Cosmetology is now responsible for examining, licensing, and regulating the practice of persons who engage in the removal of hair by electrolysis from the face, scalp, neck, or shoulders, or superfluous hair from the human body except from inside the ear, nose, or a body orifice and except from a mole, an elevation of skin, a pigmented area of the breast, or scar tissue.

In keeping with the intent of the General Assembly that the responsibility for the licensure and regulation of persons who use electrolysis for those purposes enumerated in R.C. 4713.01(J) shall rest with the State Board of Cosmetology, R.C. 4731.15(A), as amended by Am. Sub. H.B. 289, states in part that, "[t]he term 'cosmetic therapy' as used in Chapter 4731. of the Revised Code does not, after December 31, 1984, include hair removal by an electrologist as defined in section 4713.01 of the Revised Code." Thus, in promulgating any rule defining the scope of practice of cosmetic therapy, the State Medical Board may not provide that cosmetic therapy includes hair removal now performed by electrologists, as defined in R.C. 4713.01(J). The Medical Board is not precluded, however, from including within the scope of practice of cosmetic therapy the use of electrolysis for the purpose of removing hair from inside the ear, nose, or a body orifice or from a mole, an

¹ The State Board of Cosmetology is also responsible for the regulation and licensure of electrolysis schools and electrolysis instructors. See R.C. 4713.042; R.C. 4713.151.

elevation of skin, a pigmented area of the breast, or scar tissue.

I now direct my attention to the specific questions set forth in your letter. For ease of discussion, I will address first your fourth question concerning the scope of practice for cosmetic therapists and electrologists. I believe the scope of practice of an electrologist is clearly set forth as part of R.C. 4713.01(J)'s definition of electrologist. Thus, the scope of practice of an electrologist is confined to the removal of hair by electrolysis from the face, scalp, neck, or shoulders, or superfluous hair from the human body except from inside the ear, nose, or a body orifice and except from a mole, an elevation of skin, a pigmented area of the breast, or scar tissue.

The State Medical Board is responsible, pursuant to R.C. 4731.15(A), for establishing rules defining the scope of practice of a cosmetic therapist, subject to the restriction that the practice of cosmetic therapy may not, after December 31, 1984, include hair removal by an electrologist as defined in R.C. 4713.01(J). R.C. 4731.15(A). As noted above, it does not appear that the State Medical Board is precluded from including within the scope of practice of cosmetic therapy the utilization of electrolysis for the purpose of removing hair from inside the ear, nose, or a body orifice or from a mole, an elevation of skin, a pigmented area of the breast, or scar tissue.

In your first question, you ask whether cosmetic therapists, duly licensed pursuant to R.C. Chapter 4731 by the State Medical Board, may continue to practice without also being licensed by the State Board of Cosmetology as electrologists. As discussed above, Am. Sub. H.B. 289 has transferred the responsibility for licensing and regulating persons who wish to utilize electrolysis for the purpose of removing hair from the human body other than from inside the ear, nose, or a body orifice or from a mole, an elevation of skin, a pigmented area of the breast, or scar tissue to the State Board of Cosmetology. R.C. 4713.071. R.C. 4713.20(B) provides that no one may practice electrolysis without a license and makes no exception for cosmetic therapists certified by the State Medical Board. Thus, a cosmetic therapist who holds a certificate to practice issued by the State Medical Board pursuant to R.C. 4731.15 must obtain a license to practice electrolysis from the State Board of Cosmetology should he wish to utilize electrolysis for those purposes set forth in R.C. 4713.01(J).² Certified cosmetic therapists may, however, continue to practice cosmetic therapy as provided in R.C. 4731.15 and as defined in any appropriate rules promulgated by the State Medical Board.

² Section four (uncodified) of 1983-1984 Ohio Laws, Part II, 2859 (Am. Sub. H.B. 289, eff. Nov. 1, 1984) provides as follows:

During calendar year 1985, the State Board of Cosmetology shall waive the examination required by section 4713.041 of the Revised Code for an applicant who holds a certificate from the State Medical Board authorizing him to practice cosmetic therapy and who is registered with the State Medical Board. A person so licensed as an electrologist may continue, as authorized by Section 4731.41 of the Revised Code, to identify himself in his practice and advertising as a

In your second question you ask whether the State Board of Cosmetology has sole and exclusive jurisdiction over all persons desiring to perform electrolysis. As discussed above, the State Board of Cosmetology licenses and regulates persons who wish to utilize electrolysis for the purposes set forth in R.C. 4713.01(J). The State Medical Board, pursuant to R.C. 4731.15(A), licenses and regulates cosmetic therapists and must under that statute promulgate rules governing the practice of cosmetic therapy. Although the Medical Board is precluded from including within the scope of practice of cosmetic therapy hair removal by an electrologist as defined in R.C. 4713.01(J), I am unaware of any provision which would prohibit the Board from defining the scope of practice of cosmetic therapy to include the utilization of electrolysis for the purpose of removing hair from inside the ear, nose, or a body orifice or from a mole, an elevation of skin, a pigmented area of the breast, or scar tissue.

Your third question asks whether cosmetic therapists, if they are required to be licensed by the State Board of Cosmetology as electrologists to perform electrolysis, may continue to perform the other services permitted them by R.C. Chapter 4731, which are regulated thereunder, notwithstanding R.C. 4713.14(A). In this regard R.C. 4713.14(A) provides in part as follows:

Except as provided in division (B)³ of this section, rooms used as beauty salons or as electrolysis offices shall be used only for the practice of services regulated and licensed under Chapter 4713. of the Revised Code, and must be kept in a clean and sanitary condition and be properly ventilated. (Footnote added.)

The practical effect of R.C. 4713.14(A) is to preclude the use of rooms used as beauty salons or electrolysis offices for the practice of services other than those regulated and licensed under R.C. Chapter 4713. Thus, in the case of rooms used as electrolysis offices, such rooms may only be utilized for performing electrolysis for those purposes specified in

cosmetic therapist or Doctor of Cosmetic Therapy in accordance with rules of the State Medical Board.

Thus, certified cosmetic therapists who applied for licensure as electrologists during calendar year 1985 were not required to take and pass the examination required by R.C. 4713.041 and conducted by the State Board of Cosmetology in order to be licensed as electrologists. Section four makes clear, however, that a cosmetic therapist is still required to be licensed by the State Board of Cosmetology before he may practice as an electrologist.

³ R.C. 4713.14(B) provides that where the owner or operator of a beauty salon or a school of cosmetology has a permit issued under R.C. 4713.25 for the operation of tanning facilities, such facilities may be operated in beauty salons and schools of cosmetology in accordance with rules that the State Board of Cosmetology may adopt pertaining to the operation of tanning facilities in beauty salons and schools.

R.C. 4713.01(J) or for providing any of the cosmetological services enumerated in R.C. 4713.01(A). I discern nothing in R.C. 4713.14(A), however, that would prohibit a person licensed as both a cosmetic therapist and electrologist from providing his services as a cosmetic therapist in the same building in which he performs his services as an electrologist. R.C. 4713.14(A) merely provides that "rooms" used as electrolysis offices may only be used for the practice of services regulated under R.C. Chapter 4713. R.C. 4713.01(L) defines "electrolysis office" to mean "any premises, building, or part of a building wherein electrolysis is practiced....A licensed electrologist may practice electrolysis in an electrolysis office or in a beauty salon." Thus, the General Assembly has recognized that an electrologist may practice in a building or in part of a building. If the practice of an electrologist encompasses an entire building, he may not offer his services as a certified cosmetic therapist in that building. If, however, he practices as an electrologist in only one room or in only part of a building, he may offer his services as a cosmetic therapist in other rooms of the same building.

In conclusion, it is my opinion, and you are advised, that:

1. The scope of practice of an electrologist is, pursuant to R.C. 4713.01(J), the removal of hair by electrolysis from the face, scalp, neck, or shoulders, or superfluous hair from the human body except from inside the ear, nose, or a body orifice and except from a mole, an elevation of skin, a pigmented area of the breast, or scar tissue.
2. The State Medical Board is responsible, pursuant to R.C. 4731.15(A), for establishing rules defining the scope of practice of a cosmetic therapist, subject to the restriction that the practice of cosmetic therapy may not include hair removal by an electrologist, as defined in R.C. 4713.01(J). The State Medical Board is not precluded from including within the scope of practice of cosmetic therapy the use of electrolysis for the purpose of removing hair from inside the ear, nose, or a body orifice or from a mole, an elevation of skin, a pigmented area of the breast, or scar tissue.
3. Any person, including a cosmetic therapist certified by the State Medical Board, who wishes to practice as an electrologist, as defined in R.C. 4713.01(J), must obtain a license from the State Board of Cosmetology in order to so practice. A cosmetic therapist may, however, practice cosmetic therapy, as provided in R.C. 4731.15(A) and any appropriate rules promulgated by the State Medical Board.
4. The examination, licensure, and regulation of electrologists, as defined in R.C. 4713.01(J), are within the exclusive jurisdiction of the State Board of Cosmetology. If the State Medical Board adopts a rule defining the scope of practice of cosmetic therapy to include the use of electrolysis for the purpose of removing hair from the ear, nose, or a body orifice or from a mole, an elevation of skin, a pigmented area of the breast, or scar tissue, then the Medical

Board has exclusive jurisdiction to regulate such practice of electrolysis by cosmetic therapists.

5. A person who is licensed as both a cosmetic therapist and an electrologist may provide services as a cosmetic therapist in the same building in which he performs services as an electrologist, provided such services are provided in separate rooms or separate parts of the building.