

Governor's Office of Management and Budget

Alexis Sturm

Director



IL Regulatory Sunset Act Review of The Electrologist Licensing Act

April 14, 2023

**To the Honorable JB Pritzker
Governor of Illinois**

Governor Pritzker:

The Governor's Office of Management and Budget (GOMB), in compliance with the requirements set forth in the Illinois Regulatory Sunset Act (5 ILCS 80), has conducted a review of the Electrologist Licensing Act (225 ILCS 412), which is scheduled to sunset on January 1, 2024. As a result of this review, GOMB makes the following recommendation:

The Electrologist Licensing Act (225 ILCS 412) should be continued with the following modifications to its existing statutory and administrative rule framework:

- Updating the language to comport with recently updated acts; and
- Removing outdated language (i.e., sections allowing for grandfathering if applied for licensure prior to the effective date of the act, roster language, etc.)

GOMB's examination of this act was conducted considering the nine factors set out in Section 6 of the Illinois Regulatory Sunset Act. The following report details the criteria and data utilized to come to the above recommendation.

Very sincerely and respectfully,

Alexis Sturm
Director
Governor's Office of Management and Budget

Criteria (1) “The extent to which the agency or program has permitted qualified applicants to serve the public.”

As of May 19, 2022, a total of 121 new licenses were issued in fiscal year 2022. Below are the numbers of new licenses issued in the previous five fiscal years.

Table 1: Total Number of Licenses issued between FY2018 – FY2022

| License Type | 2018 | 2019 | 2020 | 2021 | 2022 |
|---------------|------|------|------|------|------|
| Electrologist | 120 | 133 | 136 | 113 | 121 |

Electrologists have the following licensure fee structure:

Table 2: Electrologist Licensure Fee Structure

| License Type | Fee Amount |
|--------------------------|--|
| Initial Application | \$125 |
| Renewal Fee | \$62/year |
| Restoration after Lapse | \$50 fee, plus all lapsed renewal fees |
| Certification of License | \$20 |

The International Board of Electrology Certification (“IBEC”) examination is the examination for electrologist licensure. The passing score on the examination is determined by the testing entity. Applicants who fail the examination three times in Illinois or any other jurisdiction are required to submit proof of successful completion of 100 hours in an electrology education program in a course of study on the subjects of the portion failed in the third examination (Ill. Adm. Code tit. 68, sec. 1246.20).

The Illinois Department of Financial and Professional Regulation (IDFPR) reports that PROMETRIC now does the registration and scheduling of the Licensed Electrologist Examination which is the IBEC examination. The exams are offered daily; however, IDFPR does not control administering the exam. PROMETRIC conducts the registration and scheduling of the Licensed Electrologist Examination. The exam is used nationwide.

There are several electrology programs throughout the State of Illinois. These programs are accredited by the American Electrology Association, which serves as the national accreditation association for electrology programs.

While some states require electrologist license candidates to complete 400 hours of training and education, other states require as many as 1,000 hours or more of formal training before issuing a license. Some states allow candidates to complete an apprenticeship, which involves on-site training under the close supervision of a licensed electrologist in lieu of a formal electrolysis program through a school of cosmetology. In some states, an apprenticeship of this kind is required to become licensed.

Some states regulate and license electrologists through their cosmetology board, while other states license them through their department of professional regulation or department of medical examiners, among others. Still other states have their own board of electrolysis examiners dedicated only to licensing qualified electrologists.

Lastly, some states do not license electrologists. In states without formal licensing requirements, estheticians, and cosmetologists undergo voluntary training to become familiar with equipment, methodologies and safety protocols associated with electrolysis hair removal.

To date, the following states have no formal licensing requirements in place for electrologists:

- Alabama
- Alaska
- Arizona
- Colorado
- Georgia
- Kentucky
- Minnesota
- Mississippi
- Missouri
- New York
- Pennsylvania
- South Carolina
- South Dakota
- Texas
- Virginia
- Washington
- West Virginia
- Wyoming

To date, 32 states and the District of Columbia have specific licensing requirements in place for electrologists.

Criteria (2) “The extent to which the trade, business, profession, occupation, or industry being regulated is being administered in a nondiscriminatory manner both in terms of employment and rendering of services.”

The Illinois Department of Financial and Professional Regulation (“IDFPR”) has not received any complaints alleging discrimination by electrologists. IDFPR does not collect information on the gender, race, or ethnicity of licensees. IDFPR has received no complaints citing discrimination in the licensing process, and no external sources of have published any information regarding discriminatory practices in licensure.

Criteria (3) “The extent to which the regulatory agency or program has operated in the public interest, and the extent to which its operation has been impeded or enhanced by existing statutes, procedures, and practices of any other department of state government, and any other circumstances, including budgetary resources, and personnel matters.”

IDFPR is tasked with processing applications for licenses and renewal licenses for over 1.2 million professionals practicing in the State of Illinois. IDFPR has adopted internal policies, sought legislative and administrative rule changes, and developed enhanced licensing processes to maintain efficiency and efficacy. Implementation of online, paperless licensing is one example of such a policy that has proved to be successful. While some procedures, such as the disciplinary process for licensees can be lengthy, this is done to ensure thoroughness and proper due process for complaints against regulated professionals.

Criteria (4) “The extent to which the agency running the program has recommended statutory changes to the General Assembly that would benefit the public as opposed to the persons it regulates.”

N/A

Criteria (5) “The extent to which the agency or program has required the persons it regulates to report to it

concerning the impact of rules and decisions of the agency or the impact of the program on the public regarding improved service, economy of service, and availability of service.”

IDFPR promulgates rules through the process established by the Joint Committee on Administrative Rules (“JCAR”), the administrative body responsible for approving rule proposals by state agencies. Rules may be shared with the professional’s boards, associations, and industry prior to being filed. The rulemaking process includes a public comment period after which IDFPR responds to the comments received during that period. This process allows for input from industry and community stakeholders impacted by IDFPR’s proposed changes. IDFPR works with lawmakers, community stakeholders, and members of industry to ensure that regulations effectively protect Illinois citizens.

Additionally, IDFPR works with lawmakers, community stakeholders, and members of industry to ensure that regulations effectively protect Illinois citizens. While this is not codified into statute, such informal approaches have been shown to strengthen the relationships between various stakeholders, including regulators, legislators, industry, and consumer advocates.¹

Criteria (6) “The extent to which persons regulated by the agency or under the program have been required to assess the problems in their industry that affect the public.”

IDFPR asserts that the Administrative Rules of the Electrologist Licensing Act allows IDFPR to suspend or revoke a license, refuse to issue, or renew a license or take disciplinary action, based upon its finding of dishonorable, unethical or unprofessional conduct within the meaning of Section 75 of the Act.

Criteria (7) “The extent to which the agency or program has encouraged participation by the public in making its rules and decisions as opposed to participation solely by the persons it regulates and the extent to which such rules and decisions are consistent with statutory authority.”

IDFPR asserts that it adheres to the guidelines and requirements established by the JCAR and the Illinois General Assembly (“ILGA”) for approving rule proposals, legislative changes, and internal policies. Promulgated rules are consistent with agency Acts and statutory changes. Decisions made by the agency are based on the Acts and Rules and legislative intent. JCAR reviews rules to ensure that the agency does not exceed their rule-making authority granted to them by the General Assembly.

Criteria (8) “The efficiency with which formal public complaints filed with the regulatory agency or under the program concerning persons subject to regulation have been processed to completion, by the executive director of the regulatory agencies or programs, by the Attorney General and by any other applicable department of the State government.”

Complaints made against licensees of IDFPR’s Division of Professional Regulation may be filed via mail, e-mail, or phone to DPR’s Complaint Intake Unit, in the Statewide Enforcement Section.

After processing, a complaint is referred to the Investigations Unit and assigned to an investigator. An investigator may collect documents, interview witnesses, conduct inspections, and gather information to review the complaint for potential licensing law violations. Investigations may close a complaint for various reasons. Investigations may refer the case to the Prosecutions Unit for further review.

When a complaint is referred to the Prosecutions Unit, it is referred to as a “case.” Cases are assigned to a

¹ https://www.ncsl.org/Portals/1/Documents/Labor/NCSL_DOL_Report_05_web_REVISED.pdf

prosecuting attorney who may seek additional information and/or pursue non-disciplinary or disciplinary action. Disciplinary action includes revocation, suspension, probation, and reprimand of a license. Illinois law also allows for the imposition of disciplinary fines. Non-disciplinary action includes administrative fees, the completion of continuing education, and other similar activities. Prosecutions may take a variety of steps, such as filing a formal pleading and/or conducting an informal settlement conference. The Department and the licensee may enter into a negotiated written agreement regarding the case. Alternatively, Prosecutions may close the case due to various reasons, such as insufficient evidence, the allegations are not a violation or are unfounded, or an expiration of the statute of limitations. If needed, a formal hearing is held before an administrative law judge, where evidence may be submitted and where witnesses may testify. After the hearing, the administrative law judge submits a recommendation to a professional board or committee, if applicable. The board or committee then delivers its recommendation to the Director of the Division. The Director then issues a final administrative order. Following the Director's order, the licensee may appeal the decision in circuit court under the Illinois Administrative Review Act. When applicable, the Division of Professional Regulation works with outside entities such as state's attorneys, the Illinois Attorney General, other states, and federal and state governmental agencies to pursue further action, such as criminal or civil action.

Over the past five years, the Division of Professional Regulation's Complaint Intake Unit has opened seven complaints against licensees, with one public discipline being issued.

Criteria (9) "The extent to which changes are necessary in the enabling laws of the agency or program to adequately comply with the factors listed in this section."

IDFPR recommends the sunset of the act be extended and that statutory language be modernized in order to implement more streamlined and efficient regulation of this profession, which will ensure safety and welfare of the general public and ease the burden of regulatory compliance by:

- Updating the language to comport with recently updated acts; and
- Removing outdated language (i.e., sections allowing for grandfathering of individuals if they applied for licensure prior to the effective date of the act, roster language, etc.) that currently allows for confusion.

Conclusion:

The Electrologist Licensing Act governs the licensure of electrology in the State of Illinois. The absence of regulation of electrologists would pose a significant and direct harm to the safety and welfare of the public. It also would jeopardize the ethical standards that help to preserve the best interests of consumers and the services for permanent hair removal. Electrolysis involves inserting a fine, sterile probe into the natural opening of the hair follicle. The probe sends a small, electric current to the area, thus destroying the follicle's ability to regenerate and grow. If not done correctly, electrolysis can harm the follicle leading to inflammation. In some cases, there are also chances of scarring or infection with the use of unsterilized probes. Therefore, the public health and safety of the public is put at risk without proper training and licensing of electrologists.

IDFPR recommends the sunset of the act be extended due to the utmost importance that this profession be regulated for the safety and welfare of the public. It is recommended that the statutory language be modernized in order to support efficient regulation of the profession and reduce regulatory compliance burdens. The sections mentioned above would not be significantly altered.