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House Bill 5683 (as passed by the House)
House Bill 5684 (Substitute H-1 as passed by the House)
Sponsor: Representative Tullio Liberati
House Committee: Regulatory Reform
Senate Committee: Regulatory Affairs

Date Completed: 9-25-24

CONTENT

House Bill 5683 would amend the Public Health Code to provide that the Code would not prohibit a licensed esthetician or cosmetologist from performing skin care services that were considered the practice of medicine or osteopathic medicine and surgery if those activities were within the individual's scope of practice.

House Bill 5684 (H-1) would amend the Occupational Code to do the following:

- **Expand the definition of "skin care services" as it relates to cosmetologists' and estheticians' scopes of practice.**
- **Require an esthetician or cosmetologist who performed a light therapy service to use only noninvasive light therapy that met certain requirements.**
- **Require an esthetician or cosmetologist who performed a skin care service to comply with Part 138 (Medical Waste) of the Public Health Code.**

The bills are tie-barred.

House Bill 5684 (H-1)

Generally, Article 12 of the Occupational Code prescribes licensure requirements for cosmetologists and estheticians. Among other things, the Code authorizes licensed cosmetologists and estheticians to perform skin care services.

Currently, "skin care services" includes the following services or combination of services:

- Beautifying the skin of the body of an individual using cosmetic preparations, antiseptics, tonics, lotions, or creams, including body wrapping.
- Cleansing or stimulating the skin of the body using the hands, devices, apparatus, or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- The temporary removal of hair from the body of an individual using depilatories, waxes, razors, scissors, clippers, or tweezers.
- Giving facials, applying removable makeup, applying eyelashes, or any other application of a preparation or beauty enhancement to the body of an individual but does not include applying permanent makeup or the use of tanning equipment.

The bill would replace this definition with reference to the following provision.

Under the bill, an esthetician or a cosmetologist could perform the following skin care services or combination of skin care services:

- Beautifying the skin of the body of an individual by using cosmetic preparations, antiseptics, tonics, lotions, or creams, including body wrapping.
- Cleansing or stimulating the skin of the body of an individual by using the hands, devices, apparatus, *noninvasive light*, or appliances, with or without using cosmetic preparations, antiseptics, tonics, lotions, or creams.
- The temporary removal of hair from the body of an individual by using *hands-only techniques in combination with* depilatories, waxes, razors, scissors, clippers, *thread*, or tweezers.
- Facials, applying removable makeup, eyelashes, or any other application of a preparation or beauty enhancement to the body of an individual, not including permanent makeup or the use of tanning equipment, *except for spray tan equipment*.
- Exfoliating only the dead skin cells of an individual, during which an esthetician or cosmetologist could use a product, chemical, mechanical device, electrical service, or class one medical device¹ to exfoliate the dead skin cells.
- Dermaplaning.
- Microdermabrasion or nonmedical grade² hydrodermabrasion; however, an individual who was issued an esthetician or cosmetologist license before the bill's effective date could not perform these services unless the individual had documented training.
- Applying a nonmedical grade chemical peel.
- High-frequency treatment.³
- Eyebrow services, including lamination and tinting, the latter of which would have to be performed with a product that did not last for more than six weeks.
- Eyelash services, including extensions and tinting.
- Facial cupping.

The bill would require an esthetician or cosmetologist who performed a light therapy service to use only noninvasive light therapy that was approved by the United States Food and Drug Administration and did not penetrate an individual's layers of living skin.

Additionally, the bill would require an esthetician or cosmetologist who performed a skin care service to comply with Part 138 of the Public Health Code. (Part 138 requires waste producing facilities to register with the Department of Licensing and Regulatory Affairs (LARA) and develop a written medical waste management plan. It also prescribes requirements for the containment, storage, decontamination, and disposal of medical waste.)

"Medical waste" would mean that term as defined in the Public Health Code: any of the following that are not generated from a household, a farm operation or other agricultural business, a home for the aged, or a home health care agency:

- Cultures and stocks of infectious agents and associated biologicals, including laboratory waste, biological production wastes, discarded live and attenuated vaccines, culture dishes, and related devices.
- Liquid human and animal waste, including blood and blood products and body fluids, but not including urine or materials stained with blood or body fluids.
- Pathological waste.
- Sharps.

¹ "Class 1 medical device" would mean a low-risk device that requires minimal regulatory oversight and is used for basic aesthetic procedures, including LED light therapy and noninvasive skin care tools, such as galvanic current at not less than 0.1 and not more than 0.5 milliamperes for a duration of not more than 20 minutes, and microcurrent that does not cause visible contractions.

² "Nonmedical grade" means a product or material that is *not* certified for medical use only.

³ "High-frequency treatment" would mean a skin care service that uses electrical current of at least five megahertz to treat various conditions, including acne, wrinkles, and skin renewal.

- Contaminated wastes from animals that have been exposed to agents infectious to humans, these being primarily research animals.

Currently, the Public Health Code allows a physician to delegate to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience the performance of selected acts, tasks, or functions that fall within the scope of practice of the physician's profession and will be performed under the physician's supervision.⁴ The bill would not prohibit an esthetician or cosmetologist from performing delegated tasks related to skin care services. Lastly, the bill would require LARA to promulgate rules under the Administrative Procedures Act to implement the bill within 18 months after the bill's effective date.

House Bill 5683

The bill provides that Part 170 (Medicine) and Part 175 (Osteopathic Medicine and Surgery) of the Public Health Code would not prohibit an individual licensed as an esthetician or cosmetologist under Article 12 of the Occupational Code from performing the activities described in **House Bill 5684 (H-1)** that were considered the practice of medicine or osteopathic medicine and surgery if those activities were within the individual's scope of practice. (Generally, Article 12 provides for the licensure of estheticians, cosmetologists, electrologists, and manicurists; the requirements for cosmetology services; and the requirements for cosmetology establishments and schools); however, the individual could not use the following protected words, titles, or letters:

- "Doctor of medicine".
- "M.D."
- "Physician's assistant".
- "P.A."

Proposed MCL 333.17011b & 333.17511b (H.B. 5683)
MCL 339.1201 and 339.1210 (H.B. 5684)

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Analyst: Nathan Leaman

⁴ MCL 333.16215

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.