

EXPANDING DEFINITION OF SKIN CARE SERVICES

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House Bills 5683 and 5684 (H-1) as reported from committee
Sponsor: Rep. Tullio Liberati, Jr.
Committee: Regulatory Reform
Complete to 6-20-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bills 5683 and 5684 would amend the Public Health Code and the Occupational Code to expand the services that can be performed by licensed estheticians and cosmetologists.

House Bill 5684 would amend the Occupational Code to expand the skin care services that can be performed by estheticians and cosmetologists.

Currently, the act allows these professionals to perform the following as skin care services:

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

The bill would add thread to the allowable means for the temporary removal of hair, would provide that the ban on the use of tanning equipment does not apply to spray tans, and would add all of the following to the list of skin care services that can be offered:

- Exfoliating only the dead skin cells, including the use of a product, chemical, mechanical device, electrical service, or *class 1 medical device* to exfoliate the dead skin cells.
- Dermaplaning.
- Microdermabrasion or *nonmedical grade* hydrodermabrasion. (However, an individual issued an esthetician or cosmetologist license before the bill's effective date would be prohibited from performing microdermabrasion or nonmedical grade hydrodermabrasion unless they have documented training to perform those services.)
- Applying a nonmedical grade chemical peel.
- *High-frequency treatment*.
- Eyebrow services, including lamination and, if performed with a product that does not last for more than six weeks, eyebrow tinting.
- Eyelash services, including extensions and tinting.
- Facial cupping.

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

Nonmedical grade would mean a product or material that is not certified for medical use only.

High-frequency treatment would mean a skin care service that uses electrical current of at least 5 megahertz to treat various conditions, including acne, wrinkles, and skin renewal.

Under the bill, estheticians and cosmetologists who perform light therapy services could only use noninvasive light therapy that is approved by the U.S. Food and Drug Administration and does not penetrate into an individual's layers of living skin.

In addition, the bill would require estheticians and cosmetologists to comply with Part 138 of the Public Health Code¹ regarding the disposal of ***medical waste***.

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

None of the above provisions would prohibit an esthetician or cosmetologist from performing an act, task, or function related to a skin care service under the delegation of a physician under section 16215 of the Public Health Code.²

Finally, the bill would require LARA to promulgate rules to implement the bill within 18 months of its effective date.

MCL 339.1201 et seq.

House Bill 5683 would amend the Public Health Code to provide that Parts 170³ and 175⁴ of the code do not prohibit a licensed esthetician or cosmetologist from performing acts described

¹ <https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-368-1978-12-138>

² <https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-333-16215>

³ <https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-368-1978-15-170>

⁴ <https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-368-1978-15-175>

in section 1210 of the Occupational Code (as amended by House Bill 5684) that are considered the practice of medicine or osteopathic medicine and surgery, as long as those activities are within the individual's scope of practice and the individual does not use the words, titles, or letters protected under Part 170 or 175, as applicable.

Proposed MCL 333.17011b and 333.17511b

Neither bill would take effect unless both were enacted.

BRIEF DISCUSSION:

According to committee testimony, the Board of Cosmetology has proposed rule changes that would limit the scope of practice of estheticians to narrowly include what is allowed by statute, unless they are supervised by a physician.⁵ The bills are intended to expand the scope of practice to include the services that would be removed by the proposed rules.

Supporters of the bills argue that the practices that would be restricted are safe for estheticians to perform, as they undergo hours of training before they are licensed. They also point to the 40 other states that allow estheticians to perform the services in contention.

Opponents of the bills argue that they could allow cosmetologists or estheticians to perform services that could be considered invasive or medical.

FISCAL IMPACT:

The bills would not have a fiscal impact any units of state or local government.

POSITIONS:

Representatives of the following entities testified in support of the bills (5-14-24):

- Douglas J. Aveda Institute
- Bombshell Salon & Spa

The following entities indicated support for the bills:

- 906 Beauty, LLC. (5-14-24)
- A Fresh Look, LLC (5-14-24)
- Above Average Beauty Skin Spa (5-14-24)
- Allure Skin and Beauty (5-14-24)
- The Avalon Day Spa of Riverview (5-14-24)
- Bare Confidence Skin (5-14-24)
- Chasing Vanity Salon and Medi Spa (5-14-24)
- Coiffeteria Salon (5-14-24)
- Detroit Lashes (5-14-24)
- Doll Face Skin Club (5-14-24)
- The Dragonfly Esthetics (5-14-24)

⁵ <https://www.fox17online.com/homepage-showcase/board-of-cosmetology-discusses-public-comments-on-new-proposed-lara-rules-impacting-estheticians>

- Earthly Esthetics (5-14-24)
- Elevate Salon Institute (5-14-24)
- Ellie Taylor Beauty & Alissa Walker LLC (5-14-24)
- Epicentral Skin Care and Waxing (5-14-24)
- The Face Place Acne + Esthetics (5-14-24)
- Hand and Stone (5-14-24)
- Harrington Salon and Day Spa (5-14-24)
- Identities Salon (5-14-24)
- JJ Wright's Salon (5-14-24)
- Just Posh Esthetics & Massage, LLC. (5-14-24)
- K Bella Hair Studio (5-14-24)
- K Vitality Spa (5-14-24)
- L'espirit Academy (5-14-24)
- LC Spa and Ashiatsu (5-14-24)
- Lisia's Electrolysis & Laser (5-14-24)
- Mae Marie Spa (5-14-24)
- The Michigan Beautician (5-14-24)
- Michigan College of Beauty (6-18-24)
- The More You Glow (5-14-24)
- Mother Earth Spa (5-14-24)
- Moxie Skin Studio (5-14-24)
- Nourish Skin Spa (5-14-24)
- The Nycole Glow (5-14-24)
- On Point Spa (5-14-24)
- The Palomar Spa (5-14-24)
- Pink Beach Brows and Pink Beach Academy (5-14-24)
- Rach Gulli Esthetics (5-14-24)
- Reva Salon and Spa (5-14-24)
- Roots Salon and Spa (5-14-24)
- The Rouge Salon and Spa (5-14-24)
- Sabo Skin Care and Spa (5-14-24)
- Salon 401 (5-14-24)
- The Salon Professional Academy Holland (5-14-24)
- Skin Studio (5-14-24)
- Sugaring NYC (5-14-24)
- Undeniably Boutique – The Kalamazoo Esthetician (5-14-24)
- Wax Spa Studio (5-14-24)
- Willow & Co Spa (5-14-24)

The Michigan Medical Spa Association indicated opposition to the bill. (6-18-24)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.