

2016 -- H 7743

=====  
LC004948  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

—————  
A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- LASER AND ENERGY-BASED  
PROCEDURES

Introduced By: Representative Kathleen A. Fogarty

Date Introduced: February 25, 2016

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"

2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 37.8

4 LASER AND ENERGY-BASED PROCEDURES

5 **5-37.8-1. Definitions.** -- As used in this chapter:

6 (1) "Board" means the board of medical licensure and discipline.

7 (2) "Delegate" means a non-physician tasked with performing a laser or energy-based  
8 procedure.

9 (3) "Energy-based procedure" means a medical procedure using an ultrasound,  
10 cryolipolysis, microwave or radio frequency device that is not expected or intended to remove,  
11 burn, or vaporize the live epidermal surface of the skin, but may damage underlying tissue, if  
12 used inappropriately.

13 (4) "Laser procedure" means a medical procedure using a laser or intense pulsed light  
14 device that is not expected or intended to remove, burn, or vaporize the live epidermal surface of  
15 the skin, but may damage underlying tissue, if used inappropriately. This definition includes  
16 procedures related to laser hair removal.

17 (5) "Physician" means a person with a license to practice allopathic or osteopathic  
18 medicine in this state under the provisions of this chapter and chapter 37 of this title.

1 (6) "Supervision" means the overseeing of the delegated laser or energy-based procedures  
2 performed by a delegate. Supervision shall only be provided by a physician.

3 (7) "Surgery" means a procedure performed for the purpose of structurally altering the  
4 human body by the incision or destruction of tissues and is part of the practice of medicine. This  
5 definition includes the diagnostic or therapeutic treatment of conditions or disease processes by  
6 any instruments causing localized alteration or transposition of human tissue which include  
7 lasers, ultrasound, ionizing radiation, scalpels, probes, and needles. The tissue can be cut, burned,  
8 vaporized, frozen, sutured, probed, or manipulated by closed reductions for major dislocations or  
9 fractures, or otherwise altered by mechanical, thermal, light-based, electromagnetic, or chemical  
10 means. All of these surgical procedures are invasive, including those that are performed with  
11 lasers, and the risks of any surgical procedure are not eliminated by using a light knife or laser in  
12 place of a metal knife, or scalpel.

13 **5-37.8-2. General restrictions.** -- (a) The use of a laser or energy-based device that is  
14 expected or intended to remove, burn, or vaporize the live epidermal surface of the skin is surgery  
15 and may only be performed by a physician.

16 (b) A laser or energy-based procedure, including laser-assisted hair removal, may be  
17 performed by a delegate if the procedure has been delegated, the delegating physician provides  
18 the appropriate on-site supervision, and the delegate has met the necessary training requirements.

19 **5-37.8-3. Delegation of laser or energy-based procedures.** -- (a) Prior to delegating the  
20 performance of a laser or energy-based procedure, the delegating physician shall perform the  
21 initial assessment of the patient to determine which procedure is appropriate for the patient and  
22 determine the settings on the chosen device.

23 (b) Prior to delegating the performance of a laser or energy-based procedure, the  
24 delegating physician shall ensure that the delegate has satisfactorily met the training requirements  
25 and that the procedure is within the scope of practice for the delegate's profession. The delegating  
26 physician is responsible for ensuring that the delegate performing the procedure has demonstrated  
27 sufficient proficiency for each laser and energy-based procedure performed.

28 (c) Prior to the performance of a delegated laser or energy-based procedure, the  
29 delegating physician shall inform the patient about the training and qualifications of who will be  
30 performing the procedure.

31 (d) A physician may delegate the performance of a laser and energy-based procedure  
32 through the use of a written protocol. The written protocol shall provide, at a minimum:

33 (1) The identification of the devices and settings to be used;

34 (2) A description of appropriate care and follow-up for common complications, injuries,

1 or adverse reactions that may result from the laser procedure, including a plan to manage medical  
2 emergencies;

3 (3) A description of the treatment plan to be followed for each procedure delegated under  
4 the written protocol, including the method to be used for documenting decisions, communicating  
5 with the delegating physician, and recording all treatment provided in the patient's record; and

6 (4) A quality assurance plan for monitoring care provided by the delegate, including  
7 patient care review and any necessary follow-up.

8 (e) The written protocol shall be annually reviewed by the delegating physician and the  
9 delegate and updated as necessary. The written protocol shall be provided to the board or to any  
10 patient, upon request.

11 **5-37.8-4. Supervision.** -- A delegate may only perform a delegated laser or energy-based  
12 procedure under the on-site supervision of a physician. On-site supervision requires:

13 (1) A physician to be physically present in the facility where the procedure is to be  
14 performed for at least the entire duration of the procedure; and

15 (2) A physician shall be immediately available and able to respond promptly to any  
16 question or problem that may occur while the procedure is being performed.

17 **5-37.8-5. Training.** -- (a) A physician who delegates the performance of a laser or  
18 energy-based procedure shall be able to document to the board the completion of appropriate  
19 training in the physics, safety, and surgical techniques involved in the use of laser and energy-  
20 based devices capable of damaging living tissues. This training should include an extensive  
21 understanding of cutaneous medicine and surgery, the indications and contraindications for such  
22 procedures, the pre- and post-operative care involved in treatment, as well as the treatment of  
23 complications associated with these devices.

24 (b) For each laser and energy-based procedure to be performed, it is the responsibility of  
25 the delegating physician to ensure that the delegate is appropriately trained in the indications and  
26 contraindications and the pre- and post-operative care involved in treatment.

27 **5-37.8-6. Violations and enforcement.** -- Failure to comply with any provision under  
28 this chapter or knowingly delegating a laser or energy-based procedure other than as authorized  
29 under this chapter shall constitute unprofessional conduct, as defined in §5-37-5.1.

30 SECTION 2. This act shall take effect upon passage.

=====  
LC004948  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- LASER AND ENERGY-BASED  
PROCEDURES

\*\*\*

- 1           This act would provide guidelines for the delegation by physicians of laser or energy-
- 2 based procedures to a properly trained and qualified individual.
- 3           This act would take effect upon passage.

=====  
LC004948

=====