

## ***Hair Laser Removal Is Not Health Care***

Jeff Parrott/ South Bend Tribune/ May 10, 2008

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“The Indiana Court of Appeals has ruled that cosmetic laser hair removal, a growing trend nationally, is not “health care”, clearing the way for two lawsuits to proceed.

The claimants sued over burns and permanent disfigurement they say suffered during cosmetic laser hair removal. Specifically, they claim a nurse who performed the procedures, without a doctor present, had set the laser device too high.

A request was submitted to dismiss the suit, arguing the procedures were medical in nature and therefore were subject to Indiana’s Medical Malpractice Act.

Such a finding would have required the plaintiffs to file their complaints with a three-physician “medical review” panel, under the auspices of the Indiana Department of Insurance/ Indiana Medical Malpractice Act. If the panel had found their claims were not frivolous they could have filed suit in court, the process’ all claims of medical malpractice follow in Indiana.

The defense attorney argued the laser treatment constitutes health care because it was performed by a registered nurse, used technology that required training and skill and could have resulted in burning and scarring if not administered properly.

The appeals court affirmed the ruling, primarily because physicians were not involved in treatment, and the operator of the laser machine was not required to be a health care worker or possess health care credentials.

“The claimants could have legally obtained the same treatment somewhere other than a health care facility, and could have legally done so without the assistance or participation of someone with valid health care licensing or certification credentials.” The three judge appellate panel wrote, “***In those respects, the laser hair removal treatment is analogous to tattooing or tanning, both of which alter the body for cosmetic purposes, but neither of which need be performed by licensed or certified physician or health care professional.***”

Being allowed to pursue the cases as simple negligence lawsuits also exempts them from \$1,250,000 damages capitation, which Indiana medical malpractice cases are subject, plaintiffs attorney said, and noting he has no idea whether his clients’ damages will be that high.”

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- **\$1,000,000 Excess Contingent Professional Liability is a possible solution.**
  - The above article has been edited for clarification and to remove names of parties involved.

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