

HB 4016-6
(LC 130)
2/12/20 (SCT/ps)

Requested by HOUSE COMMITTEE ON HEALTH CARE (at the request of Oregon Estheticians for Fair Licensing)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4016**

1 On page 1 of the printed bill, line 2, after “care;” delete the rest of the
2 line and insert “creating new provisions; amending ORS 676.630, 676.635,
3 690.005 and 690.015; and prescribing an effective date.”.

4 Delete lines 4 through 10 and insert:

5 **“SECTION 1.** ORS 676.630 is amended to read:

6 “676.630. As used in ORS 676.630 to 676.660:

7 “(1) ‘Advanced nonablative esthetics procedure’ means a procedure that
8 uses a laser, **intense pulsed light** or other device [*registered with the United*
9 *States Food and Drug Administration*] for nonablative procedures performed
10 on the skin or hair, including, but not limited to, procedures performed in
11 conjunction with one of the following modalities:

12 “(a) Skin rejuvenation;

13 “(b) Photo rejuvenation;

14 “(c) Body contouring;

15 “(d) Dyschromia reduction;

16 “(e) Cellulite reduction;

17 “(f) Hair removal or reduction; and

18 “(g) Nonablative tattoo removal.

19 “(2) ‘Certified advanced esthetician’ means a person certified to practice
20 advanced nonablative esthetics procedures under ORS 676.630 to 676.660.

21 **“(3) ‘Device’ has the meaning given that term by the Board of Cer-**

1 **tified Advanced Estheticians by rule.**

2 “[3] (4) ‘Esthetician’ means a person certified to practice esthetics under
3 ORS 690.005 to 690.225.

4 “[4] (5) ‘Nonablative’ means involving an action performed on the skin
5 or hair of a person that does not result in the wounding of skin or underly-
6 ing tissue.

7 **“SECTION 2.** ORS 676.635 is amended to read:

8 “676.635. (1) A person may not practice advanced nonablative esthetics
9 procedures or use a title, word or abbreviation, including the designation
10 certified advanced esthetician, that indicates that the person is authorized
11 to practice advanced nonablative esthetics procedures unless the person is
12 certified by the Board of Certified Advanced Estheticians under ORS 676.640.

13 “(2) Notwithstanding ORS 677.080, a certified advanced esthetician may
14 practice advanced nonablative esthetics procedures.

15 “(3) This section does not apply to:

16 “(a) A person who is a licensed health care professional if the person’s
17 scope of practice includes the practice of advanced nonablative esthetics
18 procedures; or

19 “(b) A student enrolled in an advanced nonablative esthetics education
20 program or training program or in an advanced nonablative esthetics pro-
21 gram that combines education and training.

22 **“(4) Notwithstanding subsection (1) of this section, a person who is**
23 **certified to practice esthetics under ORS 690.048 may, to the extent**
24 **reasonably appropriate for the person’s practice, use an item that is**
25 **not a device.**

26 **“SECTION 3.** ORS 690.005 is amended to read:

27 “690.005. As used in ORS 690.005 to 690.225:

28 “(1) ‘Barbering’ means any of the following practices, when done upon the
29 human body for cosmetic purposes and not for medical diagnosis or treatment
30 of disease or physical or mental ailments:

1 “(a) Shampooing, styling, cutting, singeing and conditioning of the hair
2 of an individual.

3 “(b) Applying hair tonics, dressings and rinses.

4 “(c) Massaging of the scalp, face and neck and applying facial and scalp
5 treatments with creams, lotions, oils and other cosmetic preparations, either
6 by hand or mechanical appliances, except that the mechanical appliances
7 may not be galvanic or faradic.

8 “(d) Shaving, trimming or cutting of the beard or mustache.

9 “(2) ‘Certificate’ means a written authorization for the holder to perform
10 in one or more fields of practice.

11 “(3) ‘Cosmetology’ means the art or science of beautifying and improving
12 the skin, nails and hair and the study of cosmetics and their application.

13 “(4) ‘Demonstration permit’ means a written authorization for a person
14 to practice, demonstrate and teach one or more fields of practice on a tem-
15 porary basis.

16 “(5) ‘Esthetics’ means any of the following skin care or facial care prac-
17 tices performed on the human body or face for the purpose of keeping the
18 skin of the human body or face healthy and attractive and not for medical
19 diagnosis or treatment of disease or physical or mental ailments:

20 “(a) The use of the hands or mechanical or electric apparatuses [*or*], ap-
21 pliances **or devices** for cleansing, stimulating, manipulating, exfoliating or
22 applying lotions or creams.

23 “(b) Temporary removal of hair **by using lotion, cream, an appliance,**
24 **wax, thread, sugar, tweezers, dermaplaning, a depilatory or other**
25 **means.**

26 “(c) Makeup artistry.

27 “(d) **Eyebrow and** eyelash services.

28 “(e) Facial and body [*wrapping*] **treatments.**

29 “[*f*] *Facial and body waxing.*]

30 “(6) ‘Facility’ means an establishment operated on a regular or irregular

1 basis for the purpose of providing services in one or more fields of practice.

2 “(7) ‘Field of practice’ means the following cosmetology disciplines:

3 “(a) Barbering.

4 “(b) Esthetics.

5 “(c) Hair design.

6 “(d) Nail technology.

7 “(e) Natural hair care.

8 “(8) ‘Freelance license’ means a written authorization that allows a
9 practitioner to practice outside or away from a licensed facility.

10 “(9) ‘Hair design’ means any of the following practices, when done upon
11 the human body for cosmetic purposes and not for medical diagnosis or
12 treatment of disease or physical or mental ailments:

13 “(a) Shaving, trimming or cutting of the beard or mustache.

14 “(b) Styling, permanent waving, relaxing, cutting, singeing, bleaching,
15 coloring, shampooing, conditioning, applying hair products or similar work
16 upon the hair of an individual.

17 “(c) Massaging the scalp and neck when performed in conjunction with
18 activities in paragraph (a) or (b) of this subsection.

19 “(10) ‘Independent contractor’ means a practitioner who qualifies as an
20 independent contractor under ORS 670.600 and who is not under the control
21 and direction of a facility license holder.

22 “(11) ‘License’ means a written authorization issued under ORS 690.055
23 to a person to operate a facility or freelance business for providing services
24 related to one or more fields of practice to the public.

25 “(12)(a) **‘Mechanical or electrical apparatus, appliance or device’**
26 **includes, but is not limited to, galvanic current, high-frequency**
27 **microcurrents, light-emitting diode therapy and microdermabrasion.**

28 “(b) **‘Mechanical or electrical apparatus, appliance or device’ does**
29 **not include lasers or intense pulsed light or a device as that term is**
30 **defined in ORS 676.630.**

1 “[~~(12)~~] **(13)** ‘Nail technology’ means any of the following manicuring or
2 pedicuring practices performed for cosmetic purposes and not for medical
3 diagnosis or treatment of disease or physical or mental ailments:

4 “(a) Cutting, trimming, polishing, coloring, tinting, cleansing or otherwise
5 treating the nails of the hands or feet.

6 “(b) Massaging, cleansing, treating or beautifying the hands, arms below
7 the elbow, feet or legs below the knee.

8 “(c) Applying, sculpturing or removing artificial nails of the hands or
9 feet.

10 “[~~(13)~~(a)] **(14)(a)** ‘Natural hair care’ means:

11 “(A) The braiding, cornrowing, extending, lacing, locking, sewing, twist-
12 ing, weaving or wrapping of human hair, natural fibers, synthetic fibers or
13 hair extensions through the use of hands or simple devices such as clips,
14 combs, hairpins or needle and thread;

15 “(B) The use of scissors to trim synthetic fibers, hair extensions or
16 sewn-in weave extensions as is necessary to perform the activities described
17 in this paragraph;

18 “(C) The making of customized wigs from natural hair, natural fibers,
19 synthetic fibers or hair extensions; or

20 “(D) Shampooing or conditioning of the hair of an individual.

21 “(b) ‘Natural hair care’ does not include the use of scissors, except as
22 provided in paragraph (a)(B) of this subsection, penetrating chemical hair
23 treatments, chemical hair coloring agents, chemical hair straightening
24 agents, chemical hair joining agents, permanent wave styles or chemical hair
25 bleaching agents.

26 “[~~(14)~~] **(15)** ‘Practitioner’ means a person certified to perform services in-
27 cluded within a field of practice.

28 “[~~(15)~~] **(16)** ‘Registration’ means a written authorization issued to an in-
29 dependent contractor to hold forth to the public as a business entity pro-
30 viding services in a field of practice.

1 “[~~(16)~~] (17) ‘School’ means an educational establishment that has a license
2 issued by the Department of Education and is operated for the purpose of
3 teaching one or more fields of practice. For purposes of this subsection, ‘field
4 of practice’ does not include natural hair care.

5 “[~~(17)~~] (18) ‘Temporary facility permit’ means a written authorization is-
6 sued under ORS 690.055 to provide services on a temporary basis in one or
7 more fields of practice.

8 **“SECTION 4.** ORS 690.015 is amended to read:

9 “690.015. (1) This section establishes prohibitions relating to the practice
10 of hair design, barbering, esthetics, nail technology and natural hair care.
11 The prohibitions under this section are subject to the exemptions under ORS
12 690.025. A person who commits an act prohibited under this section is subject
13 to the penalties under ORS 690.992 in addition to any administrative action
14 taken by or any civil penalty imposed by the Health Licensing Office under
15 ORS 676.612.

16 “(2) A person may not:

17 “(a) Perform or attempt to perform services in a field of practice without
18 an active certificate, demonstration permit, registration or freelance license.

19 “(b) Operate a facility without a license or temporary facility permit.

20 “(c) Perform or attempt to perform services in a field of practice outside
21 a licensed facility or temporary facility unless the person holds a freelance
22 license issued under ORS 690.123.

23 “(d) Practice hair design, barbering, esthetics, nail technology or natural
24 hair care as an independent contractor without a registration.

25 “(e) Display a sign or in any way advertise or purport to offer services
26 in a field of practice without first obtaining a permit, certificate, independ-
27 ent contractor registration or facility license.

28 “(f) Knowingly make a false statement on an application to obtain or re-
29 new a certificate, registration, license or permit.

30 “[~~(g)~~] *Allow an individual in the employ or under the supervision or control*

1 *of the person to perform in a field of practice without a certificate or permit.]*

2 “(g) Use a mechanical or electrical apparatus, appliance or device
3 or other technique beyond the epidermis if the person is certified to
4 practice esthetics under ORS 690.048, unless otherwise authorized by
5 the office by rule.

6 “(h) Sell, barter or offer to sell or barter a document evidencing a certifi-
7 cate, registration, license or permit.

8 “(i) Purchase or procure by barter a document evidencing a certificate
9 with intent to use it as evidence of the person’s qualification as a practi-
10 tioner.

11 “(j) Materially alter with fraudulent intent a document evidencing a cer-
12 tificate, registration, license or permit.

13 “(k) Use or attempt to use a fraudulently obtained, counterfeited or
14 materially altered document evidencing a certificate, registration, license or
15 permit.

16 **“SECTION 5. (1) The amendments to ORS 676.630, 676.635, 690.005**
17 **and 690.015 by sections 1 to 4 of this 2020 Act become operative on**
18 **January 1, 2021.**

19 **“(2) The Board of Certified Advanced Estheticians and the Health**
20 **Licensing Office may take any action before the operative date speci-**
21 **fied in subsection (1) of this section that is necessary to enable the**
22 **board or the office to exercise, on and after the operative date speci-**
23 **fied in subsection (1) of this section, all of the duties, functions and**
24 **powers conferred on the board or the office by the amendments to ORS**
25 **676.630, 676.635, 690.005 and 690.015 by sections 1 to 4 of this 2020 Act.**

26 **“SECTION 6. This 2020 Act takes effect on the 91st day after the**
27 **date on which the 2020 regular session of the Eightieth Legislative**
28 **Assembly adjourns sine die.”.**

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