

A-Engrossed
House Bill 2970

Ordered by the House April 6
Including House Amendments dated April 6

Sponsored by Representative NOSSE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Defines "device" for purposes of practice of advanced nonablative esthetics. [*Allows person certified to practice esthetics to use items other than devices.*] **Prohibits use of device not registered with United States Food and Drug Administration. Defines "mechanical or electrical apparatus, appliance or device" for purposes of esthetics.**

Provides that Board of Certified Advanced Estheticians is subject to oversight by Health Licensing Office.

[*Prohibits person certified to practice esthetics from using mechanical or electrical apparatus, appliance or device without specific authorization by Board of Certified Advanced Estheticians. Defines "mechanical or electrical apparatus, appliance or device."*]

[*Requires health insurance policies to provide coverage for certain prescription drugs prescribed and dispensed by pharmacists and pharmacist fees for related patient consultation. Prohibits certain insurers from requiring prior authorization for medication prescribed for treatment of opioid or opiate withdrawal or post-exposure prophylaxes antiretroviral drugs, or restricting reimbursement for specified medication-assisted treatments.*]

[*Establishes Senior Emergency Medical Services Innovation Program in Department of Human Services to fund and monitor certain local public sector pilot projects related to emergency medical services for seniors. Sunsets January 2, 2025.*]

[*Preempts local governments from enacting certain regulations related to, and from imposing fees on, long term care facilities and residential care facilities. Creates exemptions from preemption. Sunsets January 2, 2025.*]

Specifies evidence of education that applicant for residential care facility administrator license must provide to Health Licensing Office.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health care; creating new provisions; amending ORS 676.579, 676.612, 676.613, 676.622,
3 676.630, 678.733 and 690.005; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5
6 **ESTHETICS**

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8 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 676.630 to**
9 **676.660.**

10 **SECTION 2. (1) A person may not use a device that is not registered with the United**
11 **States Food and Drug Administration to perform advanced nonablative esthetics procedures.**

12 **(2) The Board of Certified Advanced Estheticians may adopt rules to carry out this sec-**
13 **tion.**

14 **SECTION 3. ORS 676.579 is amended to read:**

15 676.579. (1)(a) The Health Licensing Office is under the supervision and control of a director,
16 who is responsible for the performance of the duties, functions and powers and for the organization

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 of the office.

2 (b) The Director of the Oregon Health Authority shall establish the qualifications for and ap-
3 point the Director of the Health Licensing Office, who holds office at the pleasure of the Director
4 of the Oregon Health Authority.

5 (c) The Director of the Health Licensing Office shall receive a salary as provided by law or, if
6 not so provided, as prescribed by the Director of the Oregon Health Authority.

7 (d) The Director of the Health Licensing Office is in the unclassified service.

8 (2) The Director of the Health Licensing Office shall provide the boards, councils and programs
9 administered by the office with any services and employees as the office requires to carry out the
10 office's duties. Subject to any applicable provisions of the State Personnel Relations Law, the Di-
11 rector of the Health Licensing Office shall appoint all subordinate officers and employees of the of-
12 fice, prescribe their duties and fix their compensation.

13 (3) The Director of the Health Licensing Office is responsible for carrying out the duties, func-
14 tions and powers under ORS 675.365 to 675.410, 676.560 to 676.625, **676.630 to 676.660**, 676.665 to
15 676.689, 676.810, 676.815, 676.825, 676.992, 678.710 to 678.820, 680.500 to 680.565, 681.700 to 681.730,
16 681.740 to 681.758, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to 688.840, 690.005 to
17 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS chapter 700.

18 (4) The enumeration of duties, functions and powers in subsection (3) of this section is not in-
19 tended to be exclusive or to limit the duties, functions and powers imposed on or vested in the office
20 by other statutes.

21 **SECTION 4.** ORS 676.612 is amended to read:

22 676.612. (1) Subject to ORS 676.616 and 687.445, and in the manner prescribed in ORS chapter
23 183 for contested cases and as specified in ORS 675.385, **676.660**, 676.685, 676.825, 678.780, 680.535,
24 681.733, 681.755, 687.445, 688.734, 688.836, 690.167, 690.407, 691.477, 694.147 and 700.111, the Health
25 Licensing Office may refuse to issue or renew, may suspend or revoke or may otherwise condition
26 or limit an authorization or may discipline or place on probation an authorization holder for com-
27 mission of the prohibited acts listed in subsection (2) of this section.

28 (2) A person subject to the authority of a board, council or program listed in ORS 676.565
29 commits a prohibited act if the person engages in:

30 (a) Fraud, misrepresentation, concealment of material facts or deception in applying for or ob-
31 taining an authorization to practice in this state, or in any written or oral communication to the
32 office concerning the issuance or retention of the authorization.

33 (b) Using, causing or promoting the use of any advertising matter, promotional literature, testi-
34 monial, guarantee, warranty, label, insignia or any other representation, however disseminated or
35 published, that is false, misleading or deceptive.

36 (c) Making a representation that the authorization holder knew or should have known is false
37 or misleading regarding skill or the efficacy or value of treatment or remedy administered by the
38 authorization holder.

39 (d) Practicing under a false, misleading or deceptive name, or impersonating another authori-
40 zation holder.

41 (e) Permitting a person other than the authorization holder to use the authorization.

42 (f) Practicing with a physical or mental condition that presents an unreasonable risk of harm
43 to the authorization holder or to the person or property of others in the course of performing the
44 authorization holder's duties.

45 (g) Practicing while under the influence of alcohol, cannabis, controlled substances or other

1 skill-impairing substances, or engaging in the illegal use of controlled substances or other skill-
2 impairing substances so as to create a risk of harm to the person or property of others in the course
3 of performing the duties of an authorization holder.

4 (h) Failing to properly and reasonably accept responsibility for the actions of employees.

5 (i) Employing, directly or indirectly, any suspended, uncertified, unlicensed or unregistered per-
6 son to practice a regulated occupation or profession subject to the authority of the boards, councils
7 and programs listed in ORS 676.565.

8 (j) Unprofessional conduct, negligence, incompetence, repeated violations or any departure from
9 or failure to conform to standards of practice in performing services or practicing in a regulated
10 occupation or profession subject to the authority of the boards, councils and programs listed under
11 ORS 676.565.

12 (k) Conviction of any criminal offense, subject to ORS 670.280. A copy of the record of con-
13 viction, certified by the clerk of the court entering the conviction, is conclusive evidence of the
14 conviction. A plea of no contest or an admission of guilt is a conviction for purposes of this para-
15 graph.

16 (L) Failing to report any adverse action, as required by statute or rule, taken against the au-
17 thorization holder by another regulatory jurisdiction or any peer review body, health care institu-
18 tion, professional association, governmental agency, law enforcement agency or court for acts or
19 conduct similar to acts or conduct that would constitute grounds for disciplinary action as described
20 in this section.

21 (m) Violation of a statute regulating an occupation or profession subject to the authority of the
22 boards, councils and programs listed in ORS 676.565.

23 (n) Violation of any rule regulating an occupation or profession subject to the authority of the
24 boards, councils and programs listed in ORS 676.565.

25 (o) Failing to cooperate with the office in any investigation, inspection or request for informa-
26 tion.

27 (p) Selling or fraudulently obtaining or furnishing an authorization to practice in a regulated
28 occupation or profession subject to the authority of the boards, councils and programs listed in ORS
29 676.565, or aiding or abetting such an act.

30 (q) Selling or fraudulently obtaining or furnishing any record related to practice in a regulated
31 occupation or profession subject to the authority of the boards, councils and programs listed in ORS
32 676.565, or aiding or abetting such an act.

33 (r) Failing to pay an outstanding civil penalty or fee that is due or failing to meet the terms of
34 any order issued by the office that has become final.

35 (3) For the purpose of requesting a state or nationwide criminal records check under ORS
36 181A.195, the office may require the fingerprints of a person who is:

37 (a) Applying for an authorization;

38 (b) Applying for renewal of an authorization; or

39 (c) Under investigation by the office.

40 (4) If the office places an authorization holder on probation under subsection (1) of this section,
41 the office, in consultation with the appropriate board, council or program, may determine and at any
42 time modify the conditions of the probation.

43 (5) If an authorization is suspended, the authorization holder may not practice during the term
44 of suspension. Upon the expiration of the term of suspension, the authorization may be reinstated
45 by the office if the conditions of suspension no longer exist and the authorization holder has satis-

1 fied all requirements in the relevant statutes or administrative rules for issuance, renewal or rein-
2 statement.

3 **SECTION 5.** ORS 676.613 is amended to read:

4 676.613. (1) In addition to all other remedies, when it appears to the Health Licensing Office that
5 a person is engaged in, has engaged in or is about to engage in any act, practice or transaction that
6 violates any provision of ORS 675.365 to 675.410, **676.630 to 676.660**, 676.665 to 676.689, 676.810,
7 676.815, 678.710 to 678.820, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758, 687.405 to
8 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to
9 691.485 or 694.015 to 694.170 or ORS chapter 700, the office may, through the Attorney General or
10 the district attorney of the county in which the act, practice or transaction occurs or will occur,
11 apply to the court for an injunction restraining the person from the act, practice or transaction.

12 (2) A court may issue an injunction under this section without proof of actual damages. An in-
13 junction issued under this section does not relieve a person from any other prosecution or enforce-
14 ment action taken for violation of statutes listed in subsection (1) of this section.

15 **SECTION 6.** ORS 676.622 is amended to read:

16 676.622. (1) A transaction conducted through a state or local system or network that provides
17 electronic access to the Health Licensing Office information and services is exempt from any re-
18 quirement under ORS 675.365 to 675.410, 676.560 to 676.625, **676.630 to 676.660**, 676.665 to 676.689,
19 676.810, 676.815, 676.992, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758, 687.405 to 687.495,
20 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and
21 694.015 to 694.170 and ORS chapter 700, and rules adopted thereunder, requiring an original signa-
22 ture or the submission of handwritten materials.

23 (2) Electronic signatures subject to ORS 84.001 to 84.061 and facsimile signatures are acceptable
24 and have the same force as original signatures.

25 **SECTION 7.** ORS 676.630 is amended to read:

26 676.630. As used in ORS 676.630 to 676.660:

27 (1) "Advanced nonablative esthetics procedure" means a procedure that uses a laser, **intense**
28 **pulsed light** or other device [*registered with the United States Food and Drug Administration*] for
29 nonablative procedures performed on the skin or hair, including, but not limited to, procedures
30 performed in conjunction with one of the following modalities:

- 31 (a) Skin rejuvenation;
- 32 (b) Photo rejuvenation;
- 33 (c) Body contouring;
- 34 (d) Dyschromia reduction;
- 35 (e) Cellulite reduction;
- 36 (f) Hair removal or reduction; and
- 37 (g) Nonablative tattoo removal.

38 (2) "Certified advanced esthetician" means a person certified to practice advanced nonablative
39 esthetics procedures under ORS 676.630 to 676.660.

40 (3) "**Device**" has the meaning given that term by the Board of Certified Advanced
41 **Estheticians by rule, in collaboration with the Board of Cosmetology.**

42 [(3)] (4) "Esthetician" means a person certified to practice esthetics under ORS 690.005 to
43 690.225.

44 [(4)] (5) "Nonablative" means involving an action performed on the skin or hair of a person that
45 does not result in the wounding of skin or underlying tissue.

1 **SECTION 8.** ORS 690.005 is amended to read:

2 690.005. As used in ORS 690.005 to 690.225:

3 (1) "Barbering" means any of the following practices, when done upon the human body for cos-
4 metic purposes and not for medical diagnosis or treatment of disease or physical or mental ailments:

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

6 (b) Applying hair tonics, dressings and rinses.

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

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

11 (2) "Certificate" means a written authorization for the holder to perform in one or more fields
12 of practice.

13 (3) "Cosmetology" means the art or science of beautifying and improving the skin, nails and hair
14 and the study of cosmetics and their application.

15 (4) "Demonstration permit" means a written authorization for a person to practice, demonstrate
16 and teach one or more fields of practice on a temporary basis.

17 (5) "Esthetics" means any of the following skin care or facial care practices performed on the
18 human body or face for the purpose of keeping the skin of the human body or face healthy and at-
19 tractive and not for medical diagnosis or treatment of disease or physical or mental ailments:

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

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

24 (c) Makeup artistry.

25 (d) **Eyebrow and** eyelash services.

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

27 [*(f) Facial and body waxing.*]

28 (6) "Facility" means an establishment operated on a regular or irregular basis for the purpose
29 of providing services in one or more fields of practice.

30 (7) "Field of practice" means the following cosmetology disciplines:

31 (a) Barbering.

32 (b) Esthetics.

33 (c) Hair design.

34 (d) Nail technology.

35 (e) Natural hair care.

36 (8) "Freelance license" means a written authorization that allows a practitioner to practice
37 outside or away from a licensed facility.

38 (9) "Hair design" means any of the following practices, when done upon the human body for
39 cosmetic purposes and not for medical diagnosis or treatment of disease or physical or mental
40 ailments:

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

42 (b) Styling, permanent waving, relaxing, cutting, singeing, bleaching, coloring, shampooing, con-
43 ditioning, applying hair products or similar work upon the hair of an individual.

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

1 (10) "Independent contractor" means a practitioner who qualifies as an independent contractor
2 under ORS 670.600 and who is not under the control and direction of a facility license holder.

3 (11) "License" means a written authorization issued under ORS 690.055 to a person to operate
4 a facility or freelance business for providing services related to one or more fields of practice to the
5 public.

6 (12)(a) **"Mechanical or electrical apparatus, appliance or device" includes, but is not lim-**
7 **ited to, galvanic current, high-frequency microcurrents, light-emitting diode therapy and**
8 **microdermabrasion that does not penetrate beyond the epidermis except through natural**
9 **physiological effects.**

10 (b) **"Mechanical or electrical apparatus, appliance or device" does not include lasers or**
11 **intense pulsed light or a device, as that term is defined by the Board of Cosmetology by rule,**
12 **in collaboration with the Board of Certified Advanced Estheticians.**

13 [(12)] (13) "Nail technology" means any of the following manicuring or pedicuring practices
14 performed for cosmetic purposes and not for medical diagnosis or treatment of disease or physical
15 or mental ailments:

16 (a) Cutting, trimming, polishing, coloring, tinting, cleansing or otherwise treating the nails of the
17 hands or feet.

18 (b) Massaging, cleansing, treating or beautifying the hands, arms below the elbow, feet or legs
19 below the knee.

20 (c) Applying, sculpturing or removing artificial nails of the hands or feet.

21 [(13)(a)] (14)(a) "Natural hair care" means:

22 (A) The braiding, cornrowing, extending, lacing, locking, sewing, twisting, weaving or wrapping
23 of human hair, natural fibers, synthetic fibers or hair extensions through the use of hands or simple
24 devices such as clips, combs, hairpins or needle and thread;

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

27 (C) The making of customized wigs from natural hair, natural fibers, synthetic fibers or hair
28 extensions; or

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

30 (b) "Natural hair care" does not include the use of scissors, except as provided in paragraph
31 (a)(B) of this subsection, penetrating chemical hair treatments, chemical hair coloring agents,
32 chemical hair straightening agents, chemical hair joining agents, permanent wave styles or chemical
33 hair bleaching agents.

34 [(14)] (15) "Practitioner" means a person certified to perform services included within a field of
35 practice.

36 [(15)] (16) "Registration" means a written authorization issued to an independent contractor to
37 hold forth to the public as a business entity providing services in a field of practice.

38 [(16)] (17) "School" means an educational establishment that has a license issued by the De-
39 partment of Education and is operated for the purpose of teaching one or more fields of practice.
40 For purposes of this subsection, "field of practice" does not include natural hair care.

41 [(17)] (18) "Temporary facility permit" means a written authorization issued under ORS 690.055
42 to provide services on a temporary basis in one or more fields of practice.

43
44 **RESIDENTIAL CARE FACILITY ADMINISTRATORS**
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