

Requested by Representative NOSSE

**PROPOSED AMENDMENTS TO
HOUSE BILL 2970**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and delete line 3 and insert “676.579, 676.612, 676.613, 676.622, 676.630,
3 678.733 and 690.005; and declaring an emergency.”.

4 Delete lines 5 through 22 and delete pages 2 through 13 and insert:
5

6 **“ESTHETICS**
7

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

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

13 **“(2) The Board of Certified Advanced Estheticians may adopt rules**
14 **to carry out this section.**

15 **“SECTION 3. ORS 676.579 is amended to read:**

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

19 **“(b) The Director of the Oregon Health Authority shall establish the**
20 **qualifications for and appoint the Director of the Health Licensing Office,**
21 **who holds office at the pleasure of the Director of the Oregon Health Au-**

1 thority.

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

5 “(d) The Director of the Health Licensing Office is in the unclassified
6 service.

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

13 “(3) The Director of the Health Licensing Office is responsible for carry-
14 ing out the duties, functions and powers under ORS 675.365 to 675.410,
15 676.560 to 676.625, **676.630 to 676.660**, 676.665 to 676.689, 676.810, 676.815,
16 676.825, 676.992, 678.710 to 678.820, 680.500 to 680.565, 681.700 to 681.730,
17 681.740 to 681.758, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to
18 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015
19 to 694.170 and ORS chapter 700.

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

23 **“SECTION 4.** ORS 676.612 is amended to read:

24 “676.612. (1) Subject to ORS 676.616 and 687.445, and in the manner pre-
25 scribed in ORS chapter 183 for contested cases and as specified in ORS
26 675.385, **676.660**, 676.685, 676.825, 678.780, 680.535, 681.733, 681.755, 687.445,
27 688.734, 688.836, 690.167, 690.407, 691.477, 694.147 and 700.111, the Health Li-
28 censing Office may refuse to issue or renew, may suspend or revoke or may
29 otherwise condition or limit an authorization or may discipline or place on
30 probation an authorization holder for commission of the prohibited acts

1 listed in subsection (2) of this section.

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

4 “(a) Fraud, misrepresentation, concealment of material facts or deception
5 in applying for or obtaining an authorization to practice in this state, or in
6 any written or oral communication to the office concerning the issuance or
7 retention of the authorization.

8 “(b) Using, causing or promoting the use of any advertising matter, pro-
9 motional literature, testimonial, guarantee, warranty, label, insignia or any
10 other representation, however disseminated or published, that is false, mis-
11 leading or deceptive.

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

15 “(d) Practicing under a false, misleading or deceptive name, or
16 impersonating another authorization holder.

17 “(e) Permitting a person other than the authorization holder to use the
18 authorization.

19 “(f) Practicing with a physical or mental condition that presents an un-
20 reasonable risk of harm to the authorization holder or to the person or
21 property of others in the course of performing the authorization holder’s
22 duties.

23 “(g) Practicing while under the influence of alcohol, cannabis, controlled
24 substances or other skill-impairing substances, or engaging in the illegal use
25 of controlled substances or other skill-impairing substances so as to create
26 a risk of harm to the person or property of others in the course of performing
27 the duties of an authorization holder.

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

30 “(i) Employing, directly or indirectly, any suspended, uncertified, unli-

1 censed or unregistered person to practice a regulated occupation or profes-
2 sion subject to the authority of the boards, councils and programs listed in
3 ORS 676.565.

4 “(j) Unprofessional conduct, negligence, incompetence, repeated violations
5 or any departure from or failure to conform to standards of practice in per-
6 forming services or practicing in a regulated occupation or profession subject
7 to the authority of the boards, councils and programs listed under ORS
8 676.565.

9 “(k) Conviction of any criminal offense, subject to ORS 670.280. A copy
10 of the record of conviction, certified by the clerk of the court entering the
11 conviction, is conclusive evidence of the conviction. A plea of no contest or
12 an admission of guilt is a conviction for purposes of this paragraph.

13 “(L) Failing to report any adverse action, as required by statute or rule,
14 taken against the authorization holder by another regulatory jurisdiction or
15 any peer review body, health care institution, professional association, gov-
16 ernmental agency, law enforcement agency or court for acts or conduct
17 similar to acts or conduct that would constitute grounds for disciplinary
18 action as described in this section.

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

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

23 “(o) Failing to cooperate with the office in any investigation, inspection
24 or request for information.

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

29 “(q) Selling or fraudulently obtaining or furnishing any record related to
30 practice in a regulated occupation or profession subject to the authority of

1 the boards, councils and programs listed in ORS 676.565, or aiding or
2 abetting such an act.

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

6 “(3) For the purpose of requesting a state or nationwide criminal records
7 check under ORS 181A.195, the office may require the fingerprints of a per-
8 son who is:

9 “(a) Applying for an authorization;

10 “(b) Applying for renewal of an authorization; or

11 “(c) Under investigation by the office.

12 “(4) If the office places an authorization holder on probation under sub-
13 section (1) of this section, the office, in consultation with the appropriate
14 board, council or program, may determine and at any time modify the con-
15 ditions of the probation.

16 “(5) If an authorization is suspended, the authorization holder may not
17 practice during the term of suspension. Upon the expiration of the term of
18 suspension, the authorization may be reinstated by the office if the condi-
19 tions of suspension no longer exist and the authorization holder has satisfied
20 all requirements in the relevant statutes or administrative rules for issuance,
21 renewal or reinstatement.

22 “**SECTION 5.** ORS 676.613 is amended to read:

23 “676.613. (1) In addition to all other remedies, when it appears to the
24 Health Licensing Office that a person is engaged in, has engaged in or is
25 about to engage in any act, practice or transaction that violates any pro-
26 vision of ORS 675.365 to 675.410, **676.630 to 676.660**, 676.665 to 676.689,
27 676.810, 676.815, 678.710 to 678.820, 680.500 to 680.565, 681.700 to 681.730,
28 681.740 to 681.758, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840,
29 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 or 694.015 to 694.170
30 or ORS chapter 700, the office may, through the Attorney General or the

1 district attorney of the county in which the act, practice or transaction oc-
2 curs or will occur, apply to the court for an injunction restraining the person
3 from the act, practice or transaction.

4 “(2) A court may issue an injunction under this section without proof of
5 actual damages. An injunction issued under this section does not relieve a
6 person from any other prosecution or enforcement action taken for violation
7 of statutes listed in subsection (1) of this section.

8 **“SECTION 6.** ORS 676.622 is amended to read:

9 “676.622. (1) A transaction conducted through a state or local system or
10 network that provides electronic access to the Health Licensing Office in-
11 formation and services is exempt from any requirement under ORS 675.365
12 to 675.410, 676.560 to 676.625, **676.630 to 676.660**, 676.665 to 676.689, 676.810,
13 676.815, 676.992, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758,
14 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225,
15 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS chapter
16 700, and rules adopted thereunder, requiring an original signature or the
17 submission of handwritten materials.

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

20 **“SECTION 7.** ORS 676.630 is amended to read:

21 “676.630. As used in ORS 676.630 to 676.660:

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

27 “(a) Skin rejuvenation;

28 “(b) Photo rejuvenation;

29 “(c) Body contouring;

30 “(d) Dyschromia reduction;

1 “(e) Cellulite reduction;

2 “(f) Hair removal or reduction; and

3 “(g) Nonablative tattoo removal.

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

6 “(3) ‘Device’ has the meaning given that term by the Board of Cer-
7 tified Advanced Estheticians by rule, in collaboration with the Board
8 of Cosmetology.

9 “[3] (4) ‘Esthetician’ means a person certified to practice esthetics under
10 ORS 690.005 to 690.225.

11 “[4] (5) ‘Nonablative’ means involving an action performed on the skin
12 or hair of a person that does not result in the wounding of skin or underly-
13 ing tissue.

14 “**SECTION 8.** ORS 690.005 is amended to read:

15 “690.005. As used in ORS 690.005 to 690.225:

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

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

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

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

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

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

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

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

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

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

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

14 “(c) Makeup artistry.

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

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

17 “[*f*] *Facial and body waxing.*]

18 “(6) ‘Facility’ means an establishment operated on a regular or irregular
19 basis for the purpose of providing services in one or more fields of practice.

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

21 “(a) Barbering.

22 “(b) Esthetics.

23 “(c) Hair design.

24 “(d) Nail technology.

25 “(e) Natural hair care.

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

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

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

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

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

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

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

13 **“(12)(a) ‘Mechanical or electrical apparatus, appliance or device’**
14 **includes, but is not limited to, galvanic current, high-frequency**
15 **microcurrents, light-emitting diode therapy and microdermabrasion**
16 **that does not penetrate beyond the epidermis except through natural**
17 **physiological effects.**

18 **“(b) ‘Mechanical or electrical apparatus, appliance or device’ does**
19 **not include lasers or intense pulsed light or a device, as that term is**
20 **defined by the Board of Cosmetology by rule, in collaboration with the**
21 **Board of Certified Advanced Estheticians.**

22 “[(12)] (13) ‘Nail technology’ means any of the following manicuring or
23 pedicuring practices performed for cosmetic purposes and not for medical
24 diagnosis or treatment of disease or physical or mental ailments:

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

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

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

1 “[(13)(a)] (14)(a) ‘Natural hair care’ means:

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

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

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

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

12 “(b) ‘Natural hair care’ does not include the use of scissors, except as
13 provided in paragraph (a)(B) of this subsection, penetrating chemical hair
14 treatments, chemical hair coloring agents, chemical hair straightening
15 agents, chemical hair joining agents, permanent wave styles or chemical hair
16 bleaching agents.

17 “[(14)] (15) ‘Practitioner’ means a person certified to perform services in-
18 cluded within a field of practice.

19 “[(15)] (16) ‘Registration’ means a written authorization issued to an in-
20 dependent contractor to hold forth to the public as a business entity pro-
21 viding services in a field of practice.

22 “[(16)] (17) ‘School’ means an educational establishment that has a license
23 issued by the Department of Education and is operated for the purpose of
24 teaching one or more fields of practice. For purposes of this subsection, ‘field
25 of practice’ does not include natural hair care.

26 “[(17)] (18) ‘Temporary facility permit’ means a written authorization is-
27 sued under ORS 690.055 to provide services on a temporary basis in one or
28 more fields of practice.

29

30 **“RESIDENTIAL CARE FACILITY ADMINISTRATORS**

1 **SECTION 9.** ORS 678.733 is amended to read:

2 “678.733. (1) The Health Licensing Office may issue a residential care fa-
3 cility administrator license to an applicant who:

4 “(a) Is at least 21 years of age;

5 “(b) Has earned at least a high school diploma or its equivalent[;], **as**
6 **indicated by evidence of the following, in a form deemed sufficient by**
7 **the office:**

8 **“(A) Completion of high school or an equivalent educational level;**

9 **“(B) Passage of an approved high school equivalency test, including**
10 **but not limited to the General Educational Development (GED) test;**
11 **or**

12 **“(C) Graduation from a post-secondary institution;**

13 “(c)(A) For at least two of the last five years has been employed in a
14 professional or managerial capacity in a health or social service related field,
15 or has a combination of experience and education deemed sufficient by the
16 office; or

17 “(B) Has earned at least a bachelor’s degree in a health or social service
18 related field;

19 “(d) Has completed at least 40 hours of training approved by the office
20 by rule;

21 “(e) Pays a licensure fee; and

22 “(f) Passes an examination described in ORS 678.743.

23 **“(2) Evidence of the education described in subsection (1)(b) of this**
24 **section may be provided by a diploma or other document, or by facts,**
25 **circumstances or other indicators deemed sufficient by the office.**

26 “[2] (3) When issuing a license under this section, the office shall con-
27 sider the qualifications for employment under ORS 443.004.

28 **SECTION 10. The amendments to ORS 678.733 by section 9 of this**
29 **2021 Act apply to residential care facility administrator license appli-**
30 **cations submitted to the Health Licensing Office on or after the ef-**

1 **fective date of this 2021 Act.**

2

3

“CAPTIONS

4

5 **“SECTION 11. The unit captions used in this 2021 Act are provided**
6 **only for the convenience of the reader and do not become part of the**
7 **statutory law of this state or express any legislative intent in the**
8 **enactment of this 2021 Act.**

9

10

“EMERGENCY CLAUSE

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12 **“SECTION 12. This 2021 Act being necessary for the immediate**
13 **preservation of the public peace, health and safety, an emergency is**
14 **declared to exist, and this 2021 Act takes effect on its passage.”.**

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