

**A-Engrossed**  
**House Bill 4016**

Ordered by the House February 17  
Including House Amendments dated February 17

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rules for Representative Tina Kotek)

**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.

*[Directs Oregon Health Authority to study health care. Requires authority to report to interim committee of Legislative Assembly.]*

*[Sunsets January 2, 2021.]*

**Defines "device" for purposes of practice of advanced nonablative esthetics. Allows person certified to practice esthetics to use items other than devices.**

**Prohibits person certified to practice esthetics from using mechanical or electrical apparatus, appliance or device unless authorized by Health Licensing Office by rule. Defines "mechanical or electrical apparatus, appliance or device."**

*[Declares emergency, effective on passage.]*

**Takes effect on 91st day following adjournment sine die.**

**A BILL FOR AN ACT**

1  
2 Relating to health care; creating new provisions; amending ORS 676.630, 676.635, 690.005 and  
3 690.015; and prescribing an effective date.

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

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 uses a laser, **intense**  
8 **pulsed light** or other device [*registered with the United States Food and Drug Administration*] for  
9 nonablative procedures performed on the skin or hair, including, but not limited to, procedures  
10 performed in conjunction with one of the following modalities:

- 11 (a) Skin rejuvenation;  
12 (b) Photo rejuvenation;  
13 (c) Body contouring;  
14 (d) Dyschromia reduction;  
15 (e) Cellulite reduction;  
16 (f) Hair removal or reduction; and  
17 (g) Nonablative tattoo removal.

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

20 (3) **"Device" has the meaning given that term by the Board of Certified Advanced**  
21 **Estheticians by rule.**

22 [(3)] (4) "Esthetician" means a person certified to practice esthetics under ORS 690.005 to  
23 690.225.

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

3        **SECTION 2.** ORS 676.635 is amended to read:

4        676.635. (1) A person may not practice advanced nonablative esthetics procedures or use a title,  
5 word or abbreviation, including the designation certified advanced esthetician, that indicates that  
6 the person is authorized to practice advanced nonablative esthetics procedures unless the person is  
7 certified by the Board of Certified Advanced Estheticians under ORS 676.640.

8        (2) Notwithstanding ORS 677.080, a certified advanced esthetician may practice advanced  
9 nonablative esthetics procedures.

10        (3) This section does not apply to:

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

13        (b) A student enrolled in an advanced nonablative esthetics education program or training pro-  
14 gram or in an advanced nonablative esthetics program that combines education and training.

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

18        **SECTION 3.** ORS 690.005 is amended to read:

19        690.005. As used in ORS 690.005 to 690.225:

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

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

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

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

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

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

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

32        (4) “Demonstration permit” means a written authorization for a person to practice, demonstrate  
33 and teach one or more fields of practice on a temporary basis.

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

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

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

41        (c) Makeup artistry.

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

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

44        [(f) Facial and body waxing.]

45        (6) “Facility” means an establishment operated on a regular or irregular basis for the purpose

1 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 practitioner to practice  
9 outside or away from a licensed facility.

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

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

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

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

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

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

23 **(12)(a) "Mechanical or electrical apparatus, appliance or device" includes, but is not lim-**  
24 **ited to, galvanic current, high-frequency microcurrents, light-emitting diode therapy and**  
25 **microdermabrasion.**

26 **(b) "Mechanical or electrical apparatus, appliance or device" does not include lasers or**  
27 **intense pulsed light or a device as that term is defined in ORS 676.630.**

28 *[(12)]* (13) "Nail technology" means any of the following manicuring or pedicuring practices  
29 performed for cosmetic purposes and not for medical diagnosis or treatment of disease or physical  
30 or mental ailments:

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

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

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

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

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

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

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

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

45 (b) "Natural hair care" does not include the use of scissors, except as provided in paragraph

1 (a)(B) of this subsection, penetrating chemical hair treatments, chemical hair coloring agents,  
2 chemical hair straightening agents, chemical hair joining agents, permanent wave styles or chemical  
3 hair bleaching agents.

4 [(14)] (15) "Practitioner" means a person certified to perform services included within a field of  
5 practice.

6 [(15)] (16) "Registration" means a written authorization issued to an independent contractor to  
7 hold forth to the public as a business entity providing services in a field of practice.

8 [(16)] (17) "School" means an educational establishment that has a license issued by the De-  
9 partment of Education and is operated for the purpose of teaching one or more fields of practice.  
10 For purposes of this subsection, "field of practice" does not include natural hair care.

11 [(17)] (18) "Temporary facility permit" means a written authorization issued under ORS 690.055  
12 to provide services on a temporary basis in one or more fields of practice.

13 **SECTION 4.** ORS 690.015 is amended to read:

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

19 (2) A person may not:

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

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

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

25 (d) Practice hair design, barbering, esthetics, nail technology or natural hair care as an inde-  
26 pendent contractor without a registration.

27 (e) Display a sign or in any way advertise or purport to offer services in a field of practice  
28 without first obtaining a permit, certificate, independent contractor registration or facility license.

29 (f) Knowingly make a false statement on an application to obtain or renew a certificate, regis-  
30 tration, license or permit.

31 [(g) *Allow an individual in the employ or under the supervision or control of the person to perform*  
32 *in a field of practice without a certificate or permit.*]

33 **(g) Use a mechanical or electrical apparatus, appliance or device or other technique be-**  
34 **yond the epidermis if the person is certified to practice esthetics under ORS 690.048, unless**  
35 **otherwise authorized by the office by rule.**

36 (h) Sell, barter or offer to sell or barter a document evidencing a certificate, registration, license  
37 or permit.

38 (i) Purchase or procure by barter a document evidencing a certificate with intent to use it as  
39 evidence of the person's qualification as a practitioner.

40 (j) Materially alter with fraudulent intent a document evidencing a certificate, registration, li-  
41 cense or permit.

42 (k) Use or attempt to use a fraudulently obtained, counterfeited or materially altered document  
43 evidencing a certificate, registration, license or permit.

44 **SECTION 5. (1) The amendments to ORS 676.630, 676.635, 690.005 and 690.015 by sections**  
45 **1 to 4 of this 2020 Act become operative on January 1, 2021.**

1           **(2) The Board of Certified Advanced Estheticians and the Health Licensing Office may**  
2 **take any action before the operative date specified in subsection (1) of this section that is**  
3 **necessary to enable the board or the office to exercise, on and after the operative date**  
4 **specified in subsection (1) of this section, all of the duties, functions and powers conferred**  
5 **on the board or the office by the amendments to ORS 676.630, 676.635, 690.005 and 690.015 by**  
6 **sections 1 to 4 of this 2020 Act.**

7           **SECTION 6. This 2020 Act takes effect on the 91st day after the date on which the 2020**  
8 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

9

---