



# Oregon

John A. Kitzhaber, MD, Governor

## *Health Licensing Agency*

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**WHO:** Oregon Health Licensing Agency  
Board of Cosmetology

**WHEN:** July 25, 2011 – 9 am

**WHERE:** Oregon Health Licensing Agency  
Rhoades Conference Room  
700 Summer St NE, Suite 320  
Salem, Oregon

### **What is the purpose of the meeting?**

The purpose of the meeting is to conduct regular board business. Please use appropriate language, manners and protocols when conducting board business. A working lunch may be served for board members and designated staff in attendance. A copy of the agenda is printed with this notice. Please visit <http://egov.oregon.gov/OHLA/COS/meetings.shtml> for current meeting information.

### **Is the public or licensees allowed to attend the meeting?**

Yes. Members of the public are invited and encouraged to be in attendance at all board/council meetings. All public audience members are asked to sign-in on the attendance roster prior to the meeting. Comments may be heard under public comment at the end of the meeting. Please wait to be recognized by the Chairperson prior to commenting.

### **Is it possible to watch the meeting live on the internet?**

Yes. You may access the meeting at <https://oregon.ilinc.com/join/bbmpbkm> (Link provided is specific to this meeting date) If you need assistance accessing the meeting contact the iLinc Join Help Desk at 1-800-799-4510, and select option "1."

### **What if the board/council enters into executive session?**

Prior to entering into executive session the board/council chairperson will announce the nature of and the authority for holding executive session, at which time all audience members are asked to leave the room with the exception of news media and designated staff. Executive session would be held according to ORS 192.660.

No final actions or final decisions will be made in executive session. The board/council will return to open session before taking any final action or making any final decisions.

### **Who do I contact if I have questions or need special accommodations?**

The meeting location is accessible to persons with disabilities. A request for accommodations for persons with disabilities should be made at least 48 hours before the meeting. For questions or requests contact a board specialist at (503) 373-2049.

All members are asked to please give at least 24-hour notice if they are unable to attend the meeting so arrangements may be made.



Oregon Health Licensing Agency  
Board of Cosmetology



9 am, Monday, July 25, 2011  
700 Summer Street N.E., Suite 320  
Salem, Oregon

**Call to Order**

***Introduce new board member: Lisa Bonner Brown***

1. **Approval of Agenda**
2. **Approval of Minutes**
  - ◆ April 25, 2011
3. **Reports**
  - ◆ Director's Report
    - Administrative Rulemaking Plan
    - 2013 Legislative Concept Discussion
  - ◆ Statistical Report
    - Licensing, Active License Trends & Web Site Traffic
  - ◆ 2009-2011 Budget
    - Revenues & Expenditures
  - ◆ Regulatory Division Report
  - ◆ Policy, Legislation & Administrative Rules

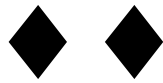
**Working Lunch**

4. **Items for Board Action**
  - ◆ Additional Training for (2) Applicants
5. **Public Comment**
6. **Other Board Business**
  - ◆ Board Interest File
7. **Executive Session (If needed)**

**Agenda is subject to change.**

**For the most up to date information visit [www.oregon.gov/OHLA](http://www.oregon.gov/OHLA)**

# **Approval of Minutes**



**April 25, 2011**



Oregon Health Licensing Agency  
Board of Cosmetology



9 am, Monday, April 25, 2011  
700 Summer Street NE, Suite 320  
Salem, Oregon

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**MINUTES**

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**MEMBERS PRESENT**

Debora Masten, Chair  
Sharon Wisner, Vice-Chair  
Herb Hirst  
Shelly Couch  
Tiffany Galvan  
Heidi Zuniga

**MEMBERS ABSENT:**

None

**STAFF PRESENT**

Randy Everitt, Director  
Sylvie McMillan, Fiscal Services and Licensing Manager  
David Sparks, Regulatory Operations Manager  
Kraig Bohot, Public Information Officer  
Samie Patnode, Policy Analyst  
Mike Simpson, Budget and Statistical Analyst  
Amanda Perkins, Board Specialist  
Sinnamon Harris, Board Specialist  
Tina McCallister, Investigator/Inspector

**GUESTS PRESENT:**

Mary DeCuman  
Mike Snook  
Tammy Kennedy

\*This meeting was live audio streamed.

**Call to Order**

Debora Masten, Chair, called the meeting of the Board of Direct Cosmetology to order at am, Monday, 9:03 am, April 25, 2011, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon. Roll was called.

**1. Approval of Agenda**

**MOTION:**

Shelly Couch made a motion with a second by Heidi Zuniga to approve the agenda. Motion passed unanimously.

**2. Approval of Minutes**

**MOTION:**

Shelly Couch made a motion with a second by Sharon Wisner to approve the minutes for January 24, 2011. Motion passed unanimously.

### **3. Reports**

- **Directors Report**

Randy Everitt, Director, gave a brief overview of the meeting's agenda and spoke about the amount of time the Legislation and Rules Committee had spent on working on rulemaking. He also mentioned the career school association meeting in Springfield, Oregon. Everitt attended and had answered questions about the agency.

- **Outreach and Communications**

Kraig Bohot, Public Information Officer, presented an overview of public information activities at OHLA. Bohot briefly explained: *Licensing Line*, print publications, OHLA website, media relations, presentations, public record requests, and application forms and the main publication *Central Issues*. Bohot noted the OHLA website has 50 global pages and 270 pages.

Bohot reviewed some items of board interest articles. *Is Your Hair Treatment Toxic?* by Jessica Knoll, April 2011 issue of Cosmopolitan magazine, regarding formaldehyde, was provided by Sharon Wisner and two OregonLive.com articles by Katy Muldoon entitled, *"Health Alert About Brazilian Blowout, Issued Months Ago in Oregon, Goes Nationwide"* and *"Brazilian Blowout Drops Lawsuit Against Oregon OSHA and OHSU."*

- **Statistical Report**

Sylvie McMillan, Fiscal Services and Licensing Manager, presented an overview of statistics related to the board. Statistics included were licensing, examination and regulatory statistics, active license trends, complaints, and website traffic. McMillan explained the statistics regarding facility ownership as not necessarily being for new salons but new owners of an established salon or the salon itself may have moved. McMillan noted if a facility changes ownership or the salon is moved to a new location, the owners must obtain a new facility license.

- **2010-2011 Budget**

McMillan presented the statement of cash flow for the 7/01/09-3/31/2011 period and the projected cash flow statement 7/01/2009 through 6/30/2011.

McMillan explained the transfer-out cost adjustment reflected in the cash flow statement. In 2007 HB 3233 created the Sex Offender Treatment Board (SOTB) and added it under Oregon Health Licensing Agency's umbrella of boards. Legislation created SOTB in 2007 but the board did not officially begin until July 1, 2009. The expenses associated with the board's creation, such as rule-writing, occurred prior to the board's actual formation. SOTB had been added into the agency's cost allocation model before they were actually a board. They paid approximately \$85,000 in cost allocations that should have not been charged to SOTB. McMillan explained when a new board, that did not exist before, comes on board to the agency those existing boards pay the upfront costs. The Board of Cosmetology share of those costs was \$ 67,000. McMillan further explained the cash was not leaving the agency just being allocated from all the different boards that were in place when SOTB was originally brought into the agency back to SOTB. Once the board is under the agency's umbrella it becomes self-sustaining.

• **Regulatory Operations Division Report**

David Sparks, Regulatory Operations Manager, reported on enforcement activity. Between July 2009 and April 2011, 322 complaints were filed with the agency. Of the 322 complaints, 82 remain open.

<b>Open complaints</b>	
<b>Complaint Count</b>	<b>Complaint Type Description</b>
<b>53</b>	<b>Licensing Concern</b>
<b>20</b>	<b>Safety/Sanitation Issues</b>
<b>9</b>	<b>Services Provided</b>

During the current regulatory reporting period between January 18, 2011 and April 19, 2011 the agency received 60 complaints.

Sparks noted that as of February 1, 2011, the inspectors started working from home to free up space for more administrative personnel at the agency. The inspectors have been issued agency computer laptops and can now leave directly from home to their field destinations. Debora Masten asked about the percentage of first time offenses. Sparks replied where the inspectors had left warnings 70% were in compliance when the inspectors performed follow-up inspections.

Sparks said since the agency adopted the investigative protocols regulatory staff has been training for 2.5 months with Everitt regarding elements of the 28 point protocol including fact gathering, interviewing skills and reporting formats. Staff also trained with Katharine Lozano, Assistant Attorney General for the agency, in formal hearing procedures, and administrative rules and laws. Everitt provided regulatory with a test, on the aforementioned subjects, that the investigators and inspectors had to pass before they were allowed back out in the field. Everitt stated he was very pleased and proud of the job performance of the investigators and inspectors.

Sparks mentioned that regulatory was working on a civil penalties matrix for rules with no defined civil penalty attached for uniformity. The matrix will consider severity of the violation, health and safety factor and the number of times someone was cited for the same violation.

Sparks reported that Brazilian Blowout had withdrawn their lawsuit against Oregon Occupational Safety and Health Division (OSHA). Sparks also said the inspectors are distributing literature on their rounds to hair salons to warn about hair-smoothing products with formaldehyde.

• **Policy, Legislation & Administrative Rules**

Samie Patnode, Policy Analyst, provided a legislative overview for the board. She said, HB 2144, the OHLA "housekeeping" bill, which added the cosmetology field of practice, has not moved out of the House Health Care Committee, noting that if the bill does not move by June 1, it may die. Many of the changes in HB 2144 can be added by administrative rule with the exception of the cosmetology field of practice and internships for environmental health and wastewater specialists.

-OHLA Notice of Proposed Rulemaking

Patnode stated the agency filed proposed administrative rules that include protocols for authorization

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holders who are in active military status, definition of "appearance," incompetence and negligence as used in the law. Public comment is being accepted through June 28, 2011.

#### **4. Items for Board Action**

**NOTE:** Heidi Zuniga, board member, recused herself from the deliberations and the vote regarding the adoption of permanent administrative rules due to a conflict of interest.

- **Adopt Permanent Administrative Rules**

Patnode presented the board an issue statement with detailed information regarding revisions within OAR 817. Patnode stated proposed rules were published in the March 1, 2011, Oregon Bulletin and public comment was accepted through March 28, 2011, at 5 pm. She noted a public rule hearing was held on March 28, 2011, at 9 am, and one individual testified. Board members were provided public comment and the hearing officer report prior to the meeting.

#### **Highlights of the Permanent Administrative Rule Change Discussion**

During the review of revised OAR 817-005-0005 Definitions section, Herb Hirst inquired about the removal of definition for the terms "suspend" and "incompetency." Patnode explained the terms were removed upon review by Katharine Lozano, Assistant Attorney General, but Patnode will consult with the AAG for the reasoning behind the removal.

#### **OAR 817-030-005 Application Requirements - Certification Pathway 2 -Reciprocity**

Hirst asked if there are any states that Oregon does not accept through the reciprocity pathway. McMillan stated the agency researched each state and compared them to Oregon requirements and qualifications, including required school hours and examinations. McMillan stated many states limit estheticians to working from the neck up. The esthetic scope of practice in Oregon is full body skin care which is taught in all Oregon schools. Many states are not substantially equivalent to Oregon's certification requirements. McMillan noted that the board's Web page has information regarding reciprocity and the agency continuously monitors other state's standards and requirements.

#### **OAR 817-030-0071 Practical Examination Evaluation**

Patnode stated public comment regarding practical examination evaluations focused on procedures for educational institutions to get their practical examination approved if they failed the evaluation two times. Board members discussed other options for granting a third examination including OHLA prescribed training for instructors and a waiting period of 90 days. Discussion focused on the board's lack of authority to require licensed teachers to take OHLA prescribed training. Hirst stated that Department of Education (DOE) has criteria and requirements that must be met. Tina McCallister, Investigator for the agency, provided the board with a brief overview of previous procedures for performing practical examination evaluations. Previously, the agency had hosted training to provide information based on practical examination evaluation requirements to invited participants.

Board recommended that if a school fails a practical examination evaluation they be required to provide written approval from DOE to OHLA stating the school is in compliance.

#### **MOTION:**

Herb Hirst made the motion with a second by Shelly Couch to adopt permanent administrative rules with the following effective dates: May 5, 2011, all rules with the exception of certain fees; June 1, 2011, fee reduction for initial practitioners; July 1 2011, establish fee for safety and infection control

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training and fees for reactivation of a dormant authorization. Debora Masten, Sharon Wisner, Herb Hirst, Tiffany Galvan and Shelly Couch voted aye. The motion passed unanimously.

- Esthetician Scope of Practice - Skin/micro-needling

Patnode stated the agency has received several inquiries regarding skin or micro-needling regarding whether or not it is considered esthetics under the law. She stated there is no scientific or reliable data regarding skin or micro-needling services or devices. Most information found on the internet is provided by manufacturers.

Patnode said it appears that these devices are for home or professional use, depending on the type of device and the depth in which the needles penetrate the skin. She provided a brief overview of the process of skin or micro needling, including penetration of needle, risks, and contraindications. Patnode stated the Food and Drug Administration are not currently requiring skin or micro-needling devices be registered. The intended use may vary based on the depth the needle may penetrate including stimulating collagen, smoothing wrinkles, and improving depressed acne scarring.

The question before the board: *Is skin/micro-needling within an esthetician's scope of practice?*

Patnode outlined the Public Advice Protocols that included the board considering the following questions before determining a course of action:

1. Can the board or agency determine the answer without legal advice?
2. Should the board refer the question to the Scope of Practice, Standards & Procedures Committee?
3. Should the board refer the question to agency Assistant Attorney General (AAG) and if so should a Scope of Practice & Procedures Standards Committee be scheduled for question and answer with the agency and legal counsel?
4. Should the board decline to address?

The board should also consider cost for legal advice and how much time may be necessary to obtain official advice from legal counsel.

### **Discussion**

Masten stated there are skin or micro-needling procedures that are very superficial and ones that are more in-depth. She said the board should be able to define depth of penetration including boundaries. Patnode advised referring the question to the agency AAG first as there is no good evidence-based data regarding skin or micro-needling. Everitt stated the AAG does work very closely with the Board of Medicine and is familiar with what would be considered an "invasive" procedure. Masten recommended the Scope of Practice, Standards & Procedures Committee review the information and provide a recommendation to the AAG.

### **MOTION:**

Herb Hirst made a motion with a second by Sharon Wisner to refer the issue of skin or micro-needling to the Scope of Practice & Procedures Standards Committee for further study and then, as necessary, refer to the AAG. The motion passed unanimously.

A date was set for June 1, 2011, for the Scope of Practice & Procedures Standards Committee to meet.

### **5. Public Comment**

Mary C. DeCuman, nail technician, presented the board with written comments and stated she would like to bring to the board's attention nurses versus manicurist issue. She had contacted the Nursing Board and was informed that nurses may cut nails for health reasons only and they are required to have a business license. Nurses may take a three-hour seminar in Portland but it is not required before cutting nails. Whereas nail technicians must attend school for 600 hours, take state board examinations, pay fees, comply with all the rules and regulations of the Board of Cosmetology, and be subject to inspections. DeCuman stated nurses operate foot care clinics and services at senior centers, retirement residences, assisted living residences and private residences offering everything from cut and go to full manicures and pedicures with spa treatments and polish. She stated she has witnessed many safety and sanitation violations. DeCuman's proposal to the Board of Cosmetology is that the nurses be required to bring in their nursing license, take the same nail examination as all other nail practitioners, pay all the fees involved, and be subject to inspections by this agency. This would protect the nail technician's integrity for all the practitioner's in the state of Oregon who have gone through the proper steps to perform feet and hand care.

Mike Snook, cosmetology school owner, expressed his concern over the process of administrative rulemaking. In January, 2011, the board voted to approve the {proposed} rules as they had been written at that point. After that date the rules submitted for public comment had several changes. Snook stated he believed once the proposed rules are voted upon, they should remain the same until they have gone through the public comment process. After the public comment process there may be some changes to be made. Even today, Snook continued, there were some changes made involving the Department of Education that he didn't think the DOE had been contacted about. Some of the changes are being made without involving either other agencies or the public. Today the board has voted on these rules and the public comment period is over. The only place to comment is now after the fact. Not vetting issues first through other agencies makes it hard for the agencies to get along. Snook stated the board needs to look at how these rules are changing, make sure that everybody understands what those changes are and has had a chance to comment on the changes. Snook advised against making large changes once the rules have been originally voted upon, even if they are proposed rules.

### **6. Other Board Business/Board Interest**

Board interest was reported by Kraig Bohot under "Outreach and Communication"

### **7. Executive Session-Place Holder**

The board did not enter into executive session.

The meeting adjourned at approximately 12:03 pm.

Prepared by: Sinnamon Harris, Board Specialist

# **Director's Report**



## OREGON HEALTH LICENSING AGENCY

**Randy Everitt, Director**

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### **Strategic Plan to Complete Rulemaking for all OHLA Regulated Programs within 18 Months**

Board of Athletic Trainers (AT)

Board of Body Art Practitioners (BAP)

Board of Cosmetology (COS)

Board of Denture Technology (DT)

Board of Examiners of Licensed Dietitians (BELD)

Board of Direct Entry Midwifery (DEM)

Environmental Health Registration Board (EHRB)

Advisory Council on Hearing Aids (HAS)

Nursing Home Administrators Board (NHAB)

Respiratory Therapist and Polysomnographic Technologist Licensing Board (RTPT)

Sex Offender Treatment Board (SOTB)

#### **Key components to achieving the strategic plan:**

- Implement a rulemaking plan/structure
- Train new ASD employees
- Delineate priority of programs (see chart below)
- Meeting with stakeholders and staff in an integrated process

#### **Priority Levels**

- Level 1
  - If a temporary rule is currently in place
  - If it is a new profession
  - If there is a significant public safety
- Level 2
  - If rules need to be synchronized with OHLA model
- Level 3
  - Required 5 year review is necessary

#### **Things that should be considered:**

- Reasons for emergency rule changes (try to avoid this as only a band aid)
  - Risks to public safety
  - Significant litigation risk
  - Significant barriers to licensure without increase staff time
- Unexpected or unplanned fee changes
- Other policy duties and responsibilities
  - Legislation
  - Issue responses
  - Program specific questions related to scope of practice

#### **Steps to begin implementation of strategic plan:**

- Approve timeline to complete strategic rulemaking plan
  - 1's July 2011-December 2011
  - 2's January 2012-June 2012
  - 3's July 2012-December 2012

Board	Rulemaking/Policy	Scheduled Meetings in June/July of 2011	Rating 1-3 (1 being highest priority)
Body Art Practitioners	<ul style="list-style-type: none"> <li>• Prohibitions</li> <li>• Curriculum-Sources</li> <li>• Qualifications, education, training and examination</li> <li>• Apprentice vs. career school model</li> <li>• Fields of practice</li> <li>• Facility standards</li> <li>• Licensing roll-out</li> </ul>	July 6, 2011 Workgroup July 18, 2011 Leg/Rules	1
Direct Entry Midwifery	<ul style="list-style-type: none"> <li>• Temporary Rule #1 -3<sup>rd</sup> degree lacerations -peer review -breach restrictions -amend post-date protocol</li> <li>• Temporary Rule #2 -Extend risk information implementation date</li> <li>• M.I.M generating risk information packets</li> <li>• Leg/Rules to review all temporary rules</li> <li>• File proposed/permanent etc</li> </ul>	July 8, 2011 Leg/Rules July 11, 2011 Board Conf. Call July 27, 2011 M.I.M.	1  September 1 temporary rule increasing fee.
Nursing Home Administrators	<ul style="list-style-type: none"> <li>• OHLA synchronization</li> <li>• Complete overhaul</li> <li>• Reduce 1 year rule schedule to 6 months?</li> </ul>	July 12, 2011 Leg/Rules July 13, 2011 Full Board	1
Respiratory Therapist Polysomnographic Technicians	<ul style="list-style-type: none"> <li>• Integrate polysomnographers</li> <li>• Work on definitions “place,” “emergency procedures”</li> <li>• General clean-up</li> </ul>	July 15, 2011 Leg/Rules July 22, 2011 Leg/Rules July 29, 2011 Leg/Rules	1
Fees	<ul style="list-style-type: none"> <li>• AT/HAS/RT to one year initial and renewal cycles</li> </ul>		1
Athletic Trainers	<ul style="list-style-type: none"> <li>• Agency/Program synchronization</li> <li>• Continuing education- concussions</li> <li>• One year renewal cycle- ALL or just initial registrants</li> <li>• BOC certified must be registered in Oregon</li> </ul>	June 22, 2011 9 am Leg/Rules July 28, 2011 Full Board	2
Denture Technology	<ul style="list-style-type: none"> <li>• OHLA synchronization</li> <li>• Temporary Licensure</li> <li>• Reviewing education and qualifications</li> </ul>		2
OHLA	<ul style="list-style-type: none"> <li>• Complete overhaul</li> </ul>		2

Hearing Aids	<ul style="list-style-type: none"> <li>• OHLA synchronization</li> <li>• Education standards 160-520</li> <li>• Supervision issues related to education</li> </ul>	June 17, 2011 Full Council	2
Cosmetology	<ul style="list-style-type: none"> <li>• Skin-needling</li> <li>• Hair design vs. Esthetics related to eye brow/lash tinting</li> <li>• Report outcome of product safety committee to full board</li> </ul>	July 25, 2011 Full Board	3
Environmental Health Registration	<ul style="list-style-type: none"> <li>• Completing permanent rulemaking</li> <li>• Start second rule track to look at duties of an environmental health specialist</li> </ul>	June 30, 2011 Ed/Exam July 19, 2011 Full Board	3
Sex Offender Treatment	<ul style="list-style-type: none"> <li>• Review current rules</li> <li>• Fees</li> <li>• Recruitment of registrants</li> <li>• Present rule schedule on 6/24 still?</li> </ul>	June 24, 2011 Full Board	3
Dieticians	<ul style="list-style-type: none"> <li>• OHLA synchronization</li> <li>• Complete overhaul</li> </ul>		3

# **Statistical Report**



**Licensing, Active License Trends &  
Web Site Traffic**

# Oregon Health Licensing Agency

## Board of Cosmetology

2009-11 Biennium

Jul09-Sep09    Oct09-Dec09    Jan10-Mar10    Apr10-Jun10    Jul10-Sep10    Oct10-Dec10    Jan11-Mar11    Apr11-Jun11

### Authorizations Issued / Reinstated / Renewed

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Total
New issued Facility licenses	169	113	153	158	189	137	192	175	1286
New issued Independent Contractor registrations	253	216	288	329	332	245	294	242	2199
New issued Certificate of Identification certificates	28	37	61	71	65	49	76	66	453
New issued Barber certificates	16	22	15	16	10	12	17	12	120
New issued Hair Design certificates	168	285	343	259	305	283	274	280	2197
New issued Esthetician certificates	147	183	281	281	247	217	279	293	1928
New issued Nail Tech certificates	119	155	214	176	188	174	184	233	1443
New issued Temporary Facility licenses	0	0	0	0	0	0	0	1	1
Re-issued authorizations	89	85	167	215	282	177	152	187	1354
Renewals - Over the counter (OTC) or by mail	6198	3161	2865	2724	4286	3631	4387	4416	31668
Renewals - Online	3883	2231	2821	2767	3406	3292	3567	4016	25983
% of authorizations renewed OTC or by mail	61%	59%	50%	50%	56%	52%	55%	52%	55%
% of authorizations renewed online	39%	41%	50%	50%	44%	48%	45%	48%	45%

### Complaints / Inspections / Proposed Sanctions / Final Orders

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Total
Critical Complaints regarding licensing	12	9	6	4	3	7	0	0	41
Critical Complaints regarding safety/sanitation	1	1	0	1	0	0	0	0	3
Complaints regarding licensing concerns	12	11	20	28	43	29	17	35	195
Complaints regarding safety/sanitation issues	12	8	9	7	9	15	15	23	98
Complaints regarding services provided	4	1	5	4	8	3	9	8	42
Complaints referred to another Regulatory Entity	0	0	0	0	0	0	0	2	2
Complaints closed	40	30	40	44	60	50	31	41	336
Inspections	1950	558	879	2098	3490	1373	1638	1400	13386
Notice of Proposed Sanctions	172	75	85	48	23	39	3	98	543
Final orders issued	163	115	84	51	26	40	5	60	544

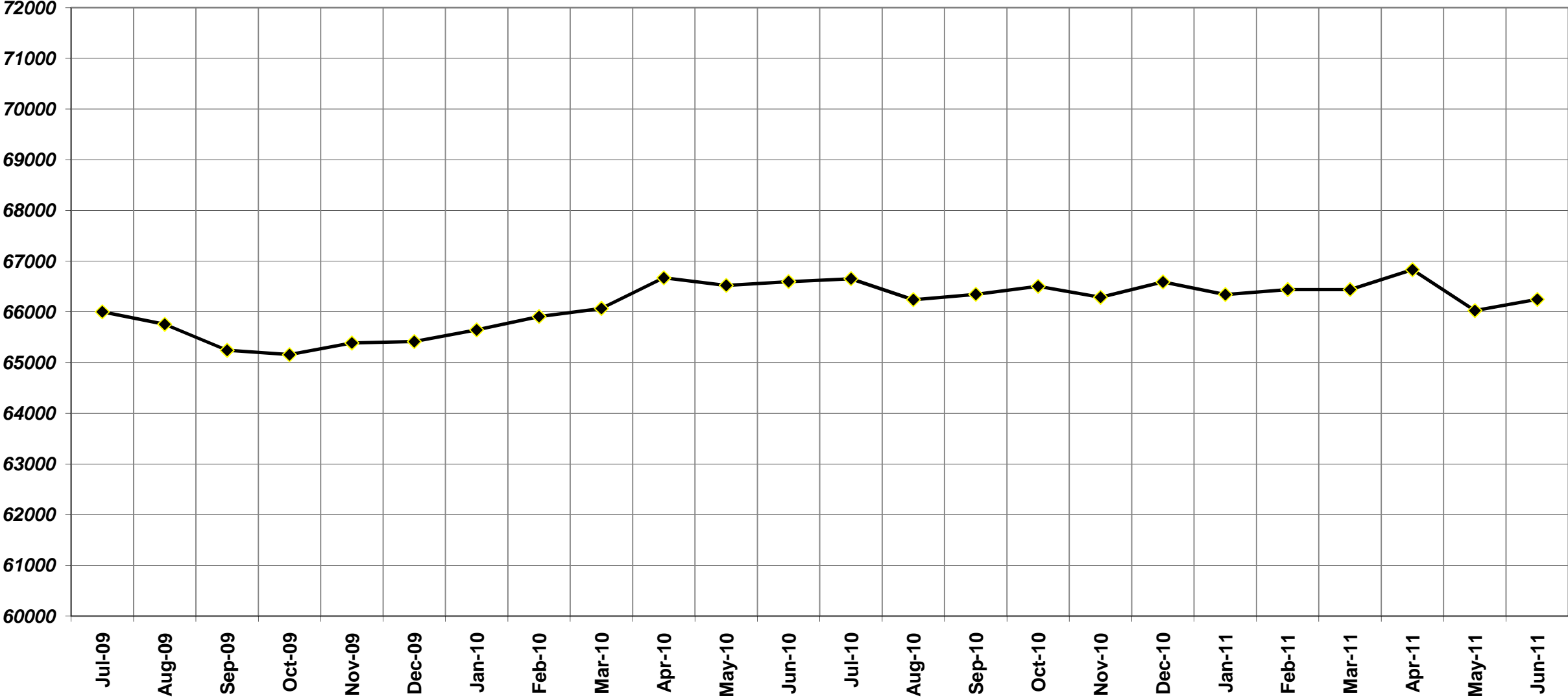
# Oregon Health Licensing Agency

## Board of Cosmetology

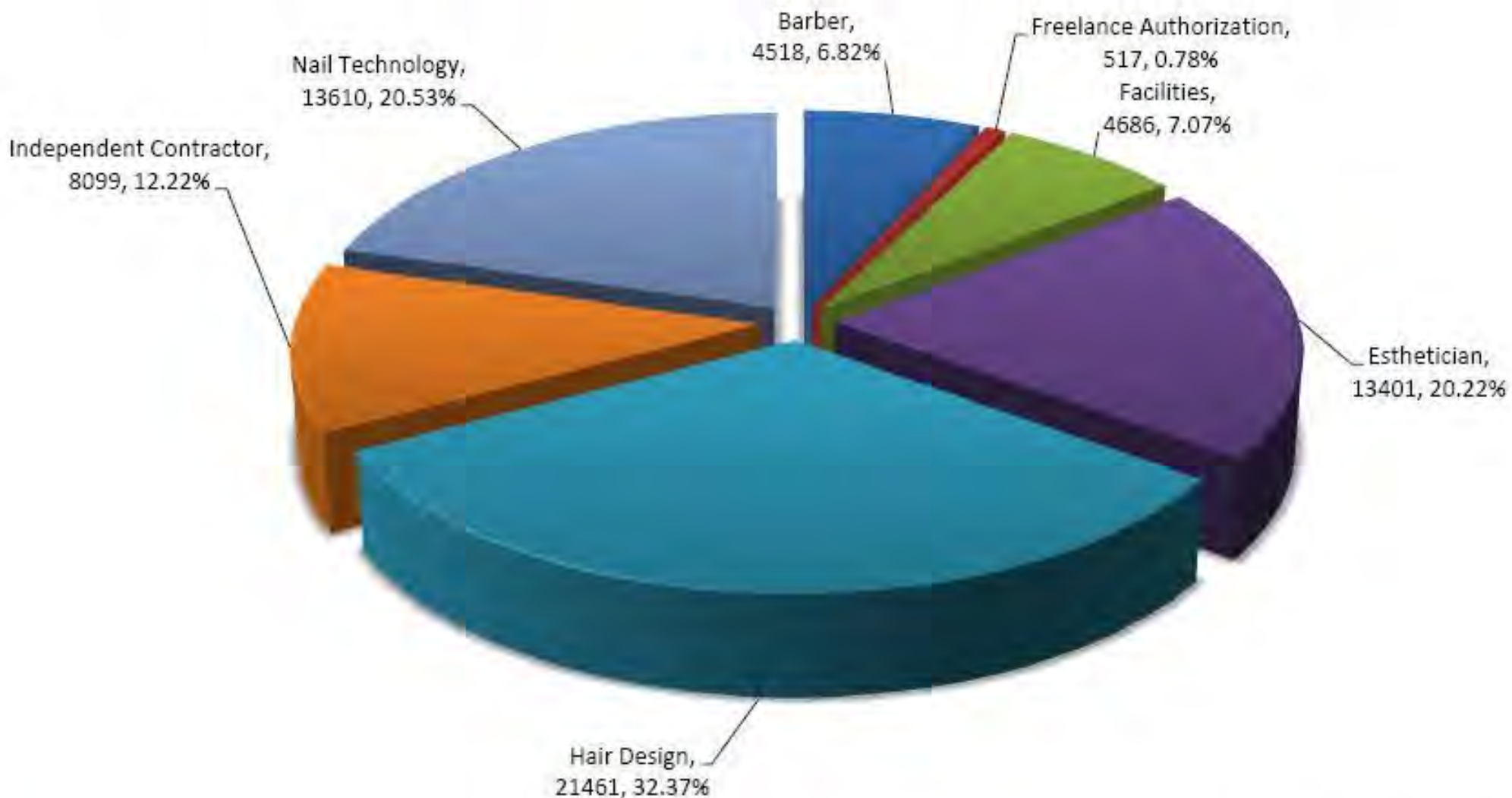
2009-11 Biennium

<b>Examination Report</b>	<b>Jul09-Sep09</b>	<b>Oct09-Dec09</b>	<b>Jan10-Mar10</b>	<b>Apr10-Jun10</b>	<b>Jul10-Sep10</b>	<b>Oct10-Dec10</b>	<b>Jan11-Mar11</b>	<b>Apr11-Jun11</b>	
Oregon Laws and Rules	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Total
State Exams passed	362	437	469	467	498	455	470	528	3686
State Exams failed	51	49	41	59	52	57	62	87	458
% Passed	88%	90%	92%	89%	91%	89%	88%	86%	89%
National Hair Design Exam	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Total
National Exams passed	135	189	6	0	0	0	0	0	330
National Exams failed	20	13	2	0	0	0	0	0	35
% Passed	87%	94%	75%	0%	0%	0%	0%	0%	90%
State Hair Design Exam	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Total
State Exams passed	0	25	252	228	315	299	284	287	1690
State Exams failed	0	3	31	40	48	60	64	57	303
% Passed	0%	89%	89%	85%	87%	83%	82%	83%	85%
National Barber Exam	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Total
National Exams passed	7	8	0	0	0	0	0	0	15
National Exams failed	3	0	0	0	0	0	0	0	3
% Passed	70%	100%	0%	0%	0%	0%	0%	0%	83%
State Barber Exam	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Total
State Exams passed	0	1	7	12	8	14	18	13	73
State Exams failed	0	2	3	13	18	9	15	20	80
% Passed	0%	33%	70%	48%	31%	61%	55%	39%	48%
National Esthetics Exam	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Total
National Exams passed	129	124	4	0	0	0	0	0	257
National Exams failed	68	53	10	0	0	0	0	0	131
% Passed	65%	70%	29%	0%	0%	0%	0%	0%	66%
State Esthetics Exam	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Total
State Exams passed	0	18	215	251	251	218	285	302	1540
State Exams failed	0	1	15	21	22	30	34	51	174
% Passed	0%	95%	93%	92%	92%	88%	89%	86%	90%
National Nail Tech Exam	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Total
National Exams passed	106	139	18	0	0	0	0	0	263
National Exams failed	24	40	24	0	0	0	0	0	88
% Passed	82%	78%	43%	0%	0%	0%	0%	0%	75%
State Nail Tech Exam	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	5th Qtr	6th Qtr	7th Qtr	8th Qtr	Total
State Exams passed	0	14	154	163	196	177	188	242	1134
State Exams failed	0	2	43	68	88	80	87	113	481
% Passed	0%	88%	78%	71%	69%	69%	68%	68%	70%

**Oregon Health Licensing Agency**  
**Board of Cosmetology**  
**Active license trend through June 2011**  
**2009-11 Biennium**

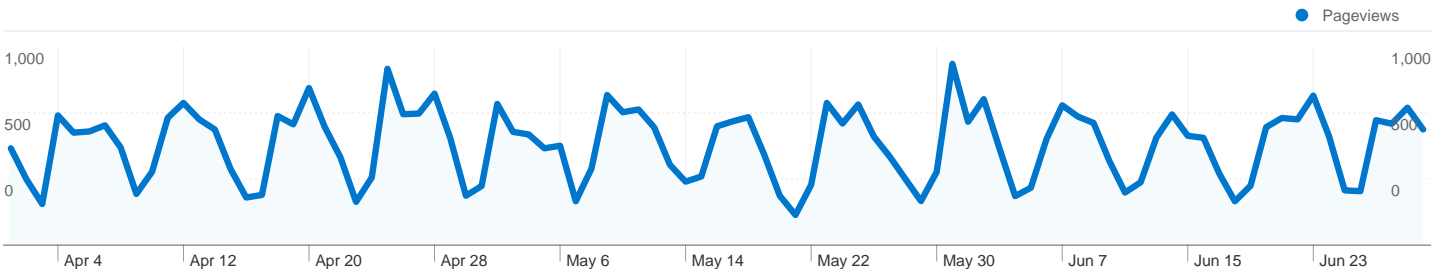


# Oregon Health Licensing Agency Board of Cosmetology Authorization Volume as of July 2011



Total Volume: 66,292

This report is generated in fast-access mode.



## 87 pages were viewed a total of 46,914 times

Pivoted by 34 sources

Filtered for pages containing "OHLA/COS"

### Content Performance

<b>Pageviews</b> <b>46,914</b> % of Site Total: 35.28%	<b>Unique Pageviews</b> <b>37,256</b> % of Site Total: 34.98%	<b>Avg. Time on Page</b> <b>00:01:20</b> Site Avg: 00:01:13 (8.68%)	<b>Bounce Rate</b> <b>36.90%</b> Site Avg: 46.69% (-20.98%)	<b>% Exit</b> <b>31.71%</b> Site Avg: 36.84% (-13.95%)	<b>\$ Index</b> <b>\$0.00</b> Site Avg: \$0.00 (0.00%)
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Pivot by: Source

1 - 5 of 34

Page	Total Pageviews	google Pageviews	oregon.gov Pageviews	bing Pageviews	(direct) Pageviews	yahoo Pageviews
/OHLA/COS/index.shtml	10,257	7,155	599	563	669	493
/OHLA/COS/COSlaws_rules.shtml	4,546	2,255	704	458	105	140
/OHLA/COS/how_to_get_licensed.shtml	4,441	2,608	634	352	70	140
/OHLA/COS/forms.shtml	4,264	704	2,819	352	211	35
/OHLA/COS/contact_us.shtml	3,348	2,608	105	140	35	211
/OHLA/COS/COSfees.shtml	2,996	1,691	352	246	70	105
/OHLA/COS/Reciprocity.shtml	2,643	1,480	352	211	70	70
/OHLA/COS/cosoverview.shtml	2,044	1,409	0	246	35	70
/OHLA/COS/docs/Forms/Cosmetology_Practitioner_Packet.pdf	1,127	387	493	70	70	0
/OHLA/COS/Features/Bacterial_Skin_Infections.shtml	775	105	0	0	70	0

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# **2011-2013 Budget**



**Revenues & Expenditures**

**Oregon Health Licensing Agency**  
**Board of Cosmetology**  
**Cumulative Revenue and Expenditures**  
**For the Biennium 2009-11**

<b>OREGON HEALTH LICENSING AGENCY</b> <b>COSMETOLOGY FUND 7520</b> <b>STATEMENT OF CASH FLOW</b> <b>FOR THE PERIOD 07/01/09 - 6/30/11</b>	
09-'11 Beginning Cash Balance	\$ (99,912.46)
Revenues	\$ 5,064,319.47
Dept of Education Transfers In	\$ 8,100.00
Transfer Out - Cost/Cash Adj.	\$ (67,378.21)
Expenditures	\$ 4,661,620.78
Less: Accrued Expenditures	\$ (17,422.69)
Less: Total Expenditures	\$ (4,644,198.09)
Subtotal: Resources Available	\$ 260,930.71
Change in (Current Assets)/Liabilities	\$ 2,630.80
<b>Ending Cash Balance (Actual)</b>	<b>\$ 263,561.51</b>
<b>Cost Allocation_7/1/2009 - 1/31/2010</b>	
Indirect Cost %	76.39%
<b>Cost Allocation_2/1/2010 - 9/30/2010</b>	
Indirect Cost %	75.35%
<b>Cost Allocation_10/1/2010 - 6/30/2011</b>	
Indirect Cost % - DO / BSD / LICEN	78.27%
Regulatory Usage Costs	

**Oregon Health Licensing Agency**  
**Board of Cosmetology**  
**Cumulative Revenue and Expenditures**  
**For the Biennium 2009-11**

<b>OREGON HEALTH LICENSING AGENCY</b> <b>COSMETOLOGY FUND 7520</b> <b>STATEMENT OF CASH FLOW</b> <b>FOR THE PERIOD 07/01/09 - 12/31/11</b>	
09-'11 Beginning Cash Balance	\$ (99,912.46)
Revenues	\$ 5,064,319.47
Dept of Education Transfers In	\$ 8,100.00
Transfer Out - Cost/Cash Adj.	\$ (67,378.21)
Expenditures	\$ 4,691,620.78
Less: Accrued Expenditures	\$ -
Less: Total Expenditures	\$ (4,691,620.78)
Subtotal: Resources Available	\$ 213,508.02
Change in (Current Assets)/Liabilities	\$ -
<b>Ending Cash Balance (Estimate)</b>	<b>\$ 213,508.02</b>
<b>Cost Allocation_7/1/2009 - 1/31/2010</b>	
Indirect Cost %	76.39%
<b>Cost Allocation_2/1/2010 - 9/30/2010</b>	
Indirect Cost %	75.35%
<b>Cost Allocation_10/1/2010 - 6/30/2011</b>	
Indirect Cost % - DO / BSD / LICEN	78.27%
Regulatory Usage Costs	

**Oregon Health Licensing Agency**  
**Board of Cosmetology**  
**Cumulative Revenue and Expenditures**  
**For the Biennium 2011-13**

OREGON HEALTH LICENSING AGENCY COSMETOLOGY FUND 7520 STATEMENT OF CASH FLOW FOR THE PERIOD 07/01/11- 06/30/13	
11-13' Beginning Cash Balance	\$ 213,508.02
Revenues	\$ 5,857,702.41
Dept of Education Transfers In	\$ 8,400.00
Expenditures	\$ 5,203,800.76
Less: Accrued Expenditures	\$ -
Less: Total Expenditures	\$ (5,203,800.76)
Subtotal: Resources Available	\$ 875,809.67
Change in (Current Assets)/Liabilities	\$ -
<b>Ending Cash Balance (Estimate)</b>	<b>\$ 875,809.67</b>
<b>Ending Cash Balance Goal</b>	<b>\$ 660,000.00</b>
<b>COSMETOLOGY, Platinum Allocation, 07/1/11 - 12/31/11</b>	
License Volume Rate	91.95%
Small Board / Council Assessments	- 6.00%
<b>Shared Cost Rate for ADMIN, FISCAL/LICENSING, REGULATORY</b>	<b>85.95%</b>
<b>Educational Services, Cost Rate</b>	<b>26.32%</b>
<b>Frontline and Customer Support, Cost Rate</b>	<b>91.95%</b>
<b>Cosmetology Support Staff, Direct</b>	<b>100.00%</b>
<b>Inspections, Cost Rate</b>	<b>93.24%</b>
<b>Cosmetology Investigations, Direct</b>	<b>100.00%</b>
<b>Cosmetology Regulatory Admin, Direct</b>	<b>100.00%</b>
<b>Other Direct Cosmetology Expenditures</b>	<b>100.00%</b>

**Regulatory  
Operations Division  
Report**



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## BOARD OF COSMETOLOGY

### Regulatory Operations Division Report July 25, 2011

Between July 2009 and June 2011, 381 complaints were filed with the agency.  
Of the 381 complaints, 45 remain open.

Open complaints	
Complaint Count	Complaint Type Description
1	Critical Complaint regarding licensing
21	Licensing Concern
13	Safety/Sanitation Issues
10	Services Provided

#### Critical Licensing: 1

- **One** is still under investigation

#### Licensing concerns: 21

- **One** of the investigations are complete and are in the process of being closed
  - **One** resulted in a Notice of Intent to Suspend
- **Twenty** are under investigation

#### Sanitation Issues: 13

- **Thirteen** are under investigation

#### Service concerns: 10

- All are under investigation

**The current regulatory reporting period is July 1, 2011 through July 25, 2011. The Agency received 12 complaints during this reporting period.**

**Critical Licensing concerns: 0**

**Licensing concerns: 7**

- **Seven** are under investigation

**Sanitation Issues: 3**

- **Three** are under investigation

**Service concerns: 1**

- Under investigation

OREGON HEALTH LICENSING AGENCY

"FILING A COMPLAINT"

GO TO THE OREGON HEALTH LICENSING AGENCY (OHLA) WEBSITE:  
<http://www.oregon.gov/OHLA>

CLICK ON "CONSUMER HELP"

CLICK ON "COMPLAINT FORMS"

TOP OF PAGE CLICK ON "CONSUMER COMPLAINT FORMS"

CLICK ON ONE OF THE LISTED REGULATED PROFESSIONS

COMPLAINT FORM WILL COME UP

E-MAIL, FAX OR MAIL THE COMPLAINT TO THE OHLA

# **Policy, Legislation & Administrative Rules**

Secretary of State  
Certificate and Order for Filing  
**PERMANENT ADMINISTRATIVE RULES**

I certify that the attached copies\* are true, full and correct copies of the PERMANENT Rule(s) adopted on August 15, 2011 by the \_\_\_\_\_  
Date prior to or same as filing date

<u>Oregon Health Licensing Agency</u>	<u>OAR 331</u>
<b>Agency and Division</b>	<b>Administrative Rules Chapter Number</b>
<u>Samantha Patnode, Policy Analyst</u>	<u>700 Summer St. NE, Suite 320, Salem, Oregon 97301-1287</u>
<b>Rules Coordinator</b>	<b>Address</b>
	<u>503-373-1917</u>
	<b>Telephone</b>

to become effective August 15, 2011. Rulemaking Notice was published in the June 2011 Oregon Bulletin.\*\*  
Date upon filing or later Month and Year

**RULE CAPTION**

Define terms used in ORS 676.612 and active military status protocols for authorization holders.

**Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.**

**RULEMAKING ACTION**

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

**ADOPT:** 331-010-0050

**AMEND:** 331-020-0040, 331-020-0070

**REPEAL:** 817

Stat. Auth.: ORS 676.615

Other Auth.: ORS 408.450

Stats. Implemented: ORS 676.607, 676.608, 676.612, 408.450

**RULE SUMMARY**

Adopt 331-010-0050 allowing authorization holders in active military status waiver of renewal, fees and continuing education requirements, as well as protocols for restoration of former authorization status.

Define and clarify what constitutes an appearance before the agency during investigations of alleged violations of statutes or rules under the authority of the Oregon Health Licensing Agency (OHLA), its boards or councils.

Define and clarify the terms incompetence and negligence used in ORS 676.612 in relation to the boards or councils under the OHLA.

<u>Randall Everitt, Director</u>	<u>8/15/11</u>
<b>Authorized Signer</b>	<b>Printed name</b>
	<b>Date</b>

\*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. \*\*The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 m on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.  
ARC 930-2005

# **Items for Board Action**

# Issue Statement

**Issue:**

Determine additional training requirements for Long Truong prior to taking the Nail Technology written examination for his eighth attempt.

**Discussion:**

Effective June 1, 2011 OAR 817-030-0065(1)(g) requires the board to determine an applicant's ability and requirements to retake the written examination(s) for the eighth attempt (this used to be an agency policy).

In order to qualify for certification, applicants must receive a passing score of at least 75 percent on the written examination(s).

**Mr. Truong's Examination History:**

- First attempt on May 3, 2010, score of 59%, failure rate of 41%
- Second attempt on June 7, 2010, score of 60%, failure rate of 40%
- Third attempt on June 15, 2010, score of 59%, failure rate of 41%
- Fourth attempt on September 2, 2010, score of 70%, failure rate of 30%
- Fifth attempt on September 14, 2010, score of 74%, failure rate of 26%
- Sixth attempt on September 22, 2010, score of 72%, failure rate of 28%
- Seventh attempt on March 15, 2011, score of 70%, failure rate of 30%

The nail technology written examination contains 100 questions and is separated into six content areas. Listed below are the examination content areas, the number of questions within each content area, the average number and percent of questions Mr. Truong answered correctly and incorrectly, and his overall content area failure rate.

Examination Content Area	# of Questions	Ave% Correct	Ave # Correct	Ave % Incorrect	Ave # Incorrect	Overall Failure %
Chemicals	18	67%	12	33%	6	6%
Standards	4	50%	2	50%	2	2%
Diseases	14	57%	8	43%	6	6%
Definitions	18	56%	10	44%	8	8%
Equipment	23	74%	17	26%	6	6%
General	23	74%	17	26%	6	6%
<b>Total</b>	100					33%

**Recommendation:**

Due to Mr. Truong failing the examination on his seventh attempt with an average passing score of 67% and an average failure rate of 33%, the agency recommends Mr. Truong complete 33% or 115 hours of the initial 350 hours of training. Training hours would be reported via certification of completed hours signed by an authorized representative at a licensed cosmetology career school.

The 33% or 115 hours would be as follows:

- |                |             |
|----------------|-------------|
| 6% or 21 hours | Chemicals   |
| 2% or 7 hours  | Standards   |
| 6% or 21 hours | Diseases    |
| 8% or 24 hours | Definitions |
| 6% or 21 hours | Equipment   |
| 6% or 21 hours | General     |

33% or 115 hours

**Recommendation Continued:**

To approve the agency's recommendation to require Mr. Truong to complete training hours as listed above, prior to taking the nail technology written examination for his eighth attempt.

# Issue Statement

**Issue:**

Determine additional training requirements for Tuoi Nguyen prior to taking the Nail Technology written examination for her eighth attempt.

**Discussion:**

Effective June 1, 2011 OAR 817-030-0065(1)(g) requires the board to determine an applicant's ability and requirements to retake the written examination(s) for the eighth attempt (this used to be an agency policy).

In order to qualify for certification, applicants must receive a passing score of at least 75 percent on the written examination(s).

**Ms. Nguyen's Examination History:**

- First attempt on July 28, 2006, score of 58%, failure rate of 42%
- Second attempt on June 5, 2007, score of 71%, failure rate of 29%
- Third attempt on November 2, 2010, score of 34%, failure rate of 66%
- Fourth attempt on December 13, 2010, score of 32%, failure rate of 68%
- Fifth attempt on December 21, 2010, score of 28%, failure rate of 72%
- Sixth attempt on February 24, 2011, score of 57%, failure rate of 43%
- Seventh attempt on March 9, 2011, score of 69%, failure rate of 31%

The nail technology written examination contains 100 questions and is separated into six content areas. Listed below are the examination content areas, the number of questions within each content area, the average number and percent of questions Ms. Nguyen answered correctly and incorrectly and her overall content area failure rate of the last five examinations (do not have the content areas for 2006 and 2007).

Examination Content Area	# of Questions	Ave% Correct	Ave # Correct	Ave % Incorrect	Ave # Incorrect	Overall Failure %
Chemicals	18	39%	7	61%	11	11%
Standards	4	50%	2	50%	2	2%
Diseases	14	36%	5	64%	9	9%
Definitions	18	44%	8	56%	10	10%
Equipment	23	52%	12	48%	11	11%
General	23	48%	11	52%	12	12%
<b>Total</b>	100					55%

**Recommendation:**

Due to Ms. Nguyen failing the examination on her seventh attempt with an average passing score of the last five examinations of 45% and an average failure rate of 55%, the agency recommends Ms. Nguyen complete 55% or 194 hours of the initial 350 hours of training. Training hours would be reported via certification of completed hours signed by an authorized representative at a licensed cosmetology career school.

The 55% or 194 hours would be as follows:

- |                  |             |
|------------------|-------------|
| 11% or 39 hours  | Chemicals   |
| 2% or 7 hours    | Standards   |
| 9% or 32 hours   | Diseases    |
| 10% or 35 hours  | Definitions |
| 11% or 39 hours  | Equipment   |
| 12% or 42 hours  | General     |
| 55% or 194 hours |             |

**Recommendation Continued:**

To approve the agency's recommendation to require Ms. Nguyen to complete training hours as listed above, prior to taking the nail technology written examination for her eighth attempt.

# **Public Comment**

# **Other Board Business**



## **Board Interest File**

- a. Email response to Ms. McArtor**
- b. Email response to Ms. Ford**
- c. Article: Program helps Prevent Foot Infections**
- d. Article: Dirt Under the Nails**
- e. Article: Chemicals May Be risky to Nail Salon Workers**
- f. Article: Calls for FDA to Regulate Hair Straighteners**



# Oregon

John A. Kitzhaber, MD, Governor

## Health Licensing Agency

700 Summer St. NE, Suite 320

Salem, Oregon 97301-1287

Telephone (503) 378-8667

FAX (503) 585-9114

E-Mail: [ohla.info@state.or.us](mailto:ohla.info@state.or.us)

Web Site: [www.Oregon.gov/OHLA](http://www.Oregon.gov/OHLA)

July 25, 2011

Connie McArtor  
12500 SE River Road, Apt 29  
Portland, OR 97222

Dear Ms. McArtor,

Thank you for your inquiry and recommendations regarding the Board of Cosmetology (formally Board of Barbers and Hairdressers). Many of the issues you discuss in your letter are currently available to the cosmetology profession.

Regarding your certificate COS-FT-098523 which became inactive on June 30, 2009, you have until June 30, 2012, to renew your certificate before it becomes expired. Once a certificate becomes expired a certificate holder is required to meet all application requirements under OAR 817-030-0005 including passage of the board approved practical and written examination. I have attached an OAR 817-030-0005 for your convenience. The following is a break-down of fees which, if paid will bring your certificate valid through June 30, 2013:

Reason for Fee	Fee
Renewal for 2009 thru 2011	\$45
Renewal for 2011 thru 2013	\$45
Late fees for 2009, 2010 & 2011	\$90
<b>Total Owed</b>	<b>\$180</b>

To address your recommendation related to health insurance the Board of Cosmetology was involved with the original funding of what is now the Family Health Insurance Assistance Program (FHIAP). FIAHP may help Oregon families pay up to 95% of their monthly private health insurance premiums. I have linked the Web address as well as some information from their Web page. <http://www.oregon.gov/OHA/OPHP/FHIAP/index.shtml>.

The Board of Cosmetology was also involved in a scholarship program which provides scholarships to students of cosmetology, which is administered by the Oregon Students Assistance Commission (OSAC). The last time the board received the report from the OSAC was May 8, 2006. I have provided a copy of the report provided in 2006. <http://www.osac.state.or.us/>

Standards for cosmetology instructors are administered by the Department of Education (DOE) Private Career Schools. I encourage you to contact DOE at (503) 947-5600 and discuss the idea of "Excellence in Cosmetology" award.

Under ORS 690.025 the Oregon Health Licensing Agency (agency) may exempt cosmetology practitioner from providing services at charitable or fund raising events. In order to be reviewed for the exemption please contact Sylvie McMillian at (503) 191-1974.

If you have any questions please contact me at (503) 373-1917 or [samie.patnode@state.or.us](mailto:samie.patnode@state.or.us).

Sincerely,

Samantha Patnode

Policy Analyst

Oregon Health Licensing Agency

**817-030-0005**

### **Application Requirements**

An individual applying for a certification in a field of practice must:

- (1) Meet the requirements of OAR 331 division 30;
- (2) Submit a completed application form prescribed by the agency, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application, and examination fees; and
- (3) Meet all education, examination and training requirements in effect at the time of application through one of the following pathways:
  - (a) Certification Pathway 1 – Graduation from an educational institution:
    - (A) Submit official transcript from an educational institution showing proof of hours for a field of practice as required by the Department of Education pursuant to ORS 345.400 and OAR 581-045-0200; or
    - (B) Submit a passing score of a board-approved practical examination within two years before the date of application in each field of practice; and
    - (C) Completion and passage of a board-approved written examination within two years before the date of application including the Oregon laws and rules examination. An applicant with a current certification who is seeking to add a field of practice must pass the Oregon laws and rules examination if the applicant has not passed this examination within two years of applying to add a field of practice.
    - (D) An applicant is not required to provide proof of official transcripts in a field of practice the applicant was previously certified in Oregon.
  - (b) Certification Pathway 2 – Reciprocity:
    - (A) Submit an affidavit of licensure pursuant to OAR 331-030-0040 from another state, which is active with no current or pending disciplinary action and is substantially equivalent to Oregon certification requirements pursuant to ORS 690.047; and
    - (B) Completion and passage of a board approved written examination within two years before the date of application including the Oregon laws and rules examination. An applicant with a current certification who is seeking to add a field of practice must pass the Oregon laws and rules examination if the applicant has not passed this examination within two years of applying to add a field of practice.

(c) Upon passage of all required examinations and before receipt of certificate, the applicant must pay all certification fees.

(4) An applicant coming from a competency based educational institution under ORS 345.400 may be required to submit additional information to the agency.

Stat. Auth.: ORS 690.035, 690.046 & 690.165

Stats. Implemented: ORS 690.035, 690.046 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 1-1981, f. & ef. 10-1-81; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f-5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 3-2008(Temp), f. 11-28-08, cert. ef. 12-1-08 thru 4-30-09; Administrative correction 5-20-09; BOC 1-2009, f. & cert. ef. 6-1-09

## Background

The Family Health Insurance Assistance Program (FHIAP) was created by the 1997 Oregon Legislature to help uninsured, income-eligible Oregonians afford private health insurance. The program pays from 50 to 95 percent (100 percent for children up to 19 years of age) of its members' monthly premium for health insurance. FHIAP does not help pay for deductibles, co-pays, or other coinsurance.

## Eligibility Criteria

FHIAP applicants and/or their dependents must:

- Be uninsured for the previous two months, except for those leaving the OHP/Medicaid program (and a few exceptions)
- Meet income guidelines
- Reside in Oregon
- Be a U.S. citizen or a qualified non-citizen
- Not be eligible for or receiving Medicare

*Also*

The employer's insurance plan must meet certain minimum benefit levels.

## How the Program Works

**Group Market:** FHIAP applicants who have access to employer-sponsored insurance must enroll in that coverage if the employer plan meets a minimum level of benefits (benchmark) and the employer pays a portion of the premiums. Once approved, the member has the premium withheld from his or her paycheck. FHIAP reimburses the employee after receiving a copy of the pay stub showing that the premium was withheld. FHIAP also will subsidize premiums for part-time employees who are allowed to buy health insurance through the employer but must pay the entire premium themselves.

Employees who would have qualified for FHIAP sometimes learn about the program shortly after enrolling in insurance at work. **In this case, employees who have had their insurance less than 120 days may still apply to FHIAP.**

Also, many health insurance carriers make FHIAP eligibility a "qualifying event," allowing FHIAP members to enroll in the employer's group plan immediately instead of waiting for open enrollment.

**Individual Market:** FHIAP can sometimes help applicants who do not have access to group insurance or work part-time and do not qualify for insurance. When openings are available they select an individual health plan from a list FHIAP provides. FHIAP then bills members for their share of the premium.

**Program Openings:** Applicants may call 888-564-9669 to put their names on a reservation list for an application or, they may do this online: [www.fhiap.oregon.gov](http://www.fhiap.oregon.gov).

FHIAP may subsidize dental and vision as well as medical insurance. The dental and/or vision plan does not have to meet a benchmark.

## Benefits to Employers/Producers

FHIAP allows some business owners to offer health coverage for the first time because eligible employees can use FHIAP subsidies to offset their share of the cost and/or to add eligible dependents to the plan. That can result in 100 percent participation in an employer-sponsored plan.

Health insurance producers (agents) can assist employers with use of FHIAP. Health insurance coverage costs the same, with or without an insurance producer. Insurance producers can help you with your application and plan selection. If you would like a referral to an insurance producer in your area call and ask for a FHIAP producer referral at 888-564-9669.

## The Employer Role

When an employee applies to FHIAP, the employer will be asked to complete a *Group Insurance Information* form and provide a summary of the health benefits (including prescription drug coverage) to the employee or FHIAP. FHIAP will ask the employee or the employer for a new summary of health benefits each year. Also, the employer completes a one-page form for each employee who is approved by FHIAP. As rate changes occur, the employer or employee provide updated information to FHIAP.

## Questions/Information

Contact us by any of the methods below. Ask for brochures/posters or a member of FHIAP's Information, Education, and Outreach staff to conduct a FHIAP workshop.

Visit FHIAP's website to learn more about the program. If you are an employer or health insurance producer (agent), print the "Request for Benchmark Analysis" form to learn how to make sure the employer's health plan meets FHIAP's minimum standards.



## Program Availability:

State Programs	0 – 200% FPL	201% – 300% FPL	Above 300% FPL
<b>Family Health Insurance Assistance Program (FHIAP)</b>  For Kids and Adults	<b>ESI</b> premium assistance of 50-95 percent for adults, and 100 percent for kids up to age 19*.		
<b>Healthy Kids</b>  For Kids Age 18 and Younger	<b>OHP Plus</b> coverage with no premiums or co-payments.  <b>ESI</b> premium assistance of 100 percent (placed in OHP Plus, initially).	<b>Healthy KidsConnect</b> premium assistance of 85 or 90 percent.  <b>ESI</b> premium assistance of 85 or 90 percent.	<b>Healthy KidsConnect</b> with no premium assistance (family pays full premium).

**ESI = Employer Sponsored (Group) Insurance**

**FPL = Federal Poverty Level (see income chart on back)**

**Healthy KidsConnect = Private market insurance option for Healthy Kids**

**OHP Plus = Oregon Health Plan Plus**

**FHIAP:** Helps pay for health insurance premiums for kids and adults that qualify. Members pay deductibles, co-payments, and other costs not covered by insurance. Applicants must have been uninsured for the past two months (with some exceptions), meet income, and other qualifications. FHIAP helps those with insurance available at work. FHIAP can sometimes help those who can't get insurance at work. Details at: [www.fhiap.oregon.gov](http://www.fhiap.oregon.gov), or call 888-564-9669.

**Healthy Kids:** Provides access to health insurance for all Oregon's kids that have been uninsured for two months or more (with some exceptions). Household income must be 300 percent FPL or below to qualify for premium assistance. Details at: [www.oregonhealthykids.gov](http://www.oregonhealthykids.gov) or call 877-314-5678.

\*Oregon Health Plan (OHP) costs very little or nothing. OHP may help with some costs that FHIAP does not. Details at: [www.oregon.gov/OHA/healthplan/](http://www.oregon.gov/OHA/healthplan/) or call 800-359-9517.

# 2011 Federal Poverty Guidelines

*FHIAP subsidies are available through 200% FPL*

Family Size	Gross Yearly Income	Gross Monthly Income	Approximate Hourly Income
1	\$21,889	\$1,825	\$10.53
2	\$29,567	\$2,464	\$14.22
3	\$37,245	\$3,104	\$17.91
4	\$44,924	\$3,744	\$21.60
5	\$52,602	\$4,384	\$25.29
6	\$60,280	\$5,024	\$28.99
7	\$67,958	\$5,664	\$32.68
8	\$75,636	\$6,304	\$36.37
9	\$83,315	\$6,943	\$40.06
10	\$90,993	\$7,583	\$43.75
Over 10 add per child (approx.)	\$7,678	\$640	\$3.69

*Healthy Kids subsidies are available to 300% FPL*

Family Size	Gross Yearly Income	Gross Monthly Income	Approximate Hourly Income
1	\$32,784	\$2,732	\$15.76
2	\$44,280	\$3,690	\$21.29
3	\$55,776	\$4,648	\$26.82
4	\$67,284	\$5,607	\$32.35
5	\$78,780	\$6,565	\$37.88
6	\$90,276	\$7,523	\$43.40
7	\$101,772	\$8,481	\$48.93
8	\$113,268	\$9,439	\$54.46
9	\$124,776	\$10,398	\$59.99
10	\$136,272	\$11,356	\$65.52
Over 10 add per child (approx.)	\$11,508	\$959	\$5.53

*All amounts are approximate.  
Consult specific programs for exact income eligibility guidelines.*

### Barber and Hairdresser Grant Award History

The interest from a donation by the Board was sanctioned by the legislature and earmarked for the barber, hairdresser, facial technology and nail technology grant program. Grants are awarded based on need and are distributed from interest/investments on the original principal.

Year	Amount Disbursed	Number Of Students Paid
2004-05	\$22,200	37
2003-04	\$24,000	40
2002-03	\$19,800	33
2001-02	\$39,000	65
2000-01	\$50,100	84
1999-00	\$51,000	85
1998-99	\$49,200	82
1997-98	\$39,600	64
1996-97	\$50,400	84
1995-96	\$49,800	77
1994-95	\$39,900	36
1993-94	\$34,500	47
1992-93	\$37,200	49

## **690.025 Exemptions; rules.**

ORS 690.005 to 690.235 do not apply to:

(1) Persons who perform service without compensation in case of emergency or in domestic administration.

(2) Persons licensed by a health professional regulatory board listed in ORS 676.160 who are acting within the scope of their professional license.

(3) Persons identified by the agency or Board of Cosmetology by rule who are acting under the authority of a hospital or long term care facility licensed under ORS 441.025 or a residential facility licensed under ORS 443.415.

(4) Persons engaged in rendering emergency medical assistance as defined in ORS 30.800.

(5) Persons licensed by the State Board of Pharmacy, merchants or other individuals when demonstrating apparatus or supplies for purposes of sale.

(6) Commissioned medical and surgical officers and personnel of the United States Armed Services while operating on a military base and personnel of correctional institutions while operating on the premises of a correctional facility.

(7) Persons applying temporary makeup, combing hair or applying hair spray, without compensation specifically for the application or combing, for the sole purpose of preparing any individual for a professional photograph or theatrical performance.

(8) A student while engaged in training at the direction of and under the direct supervision of the faculty of a school licensed under ORS 345.010 to 345.450 to teach a field of practice.

(9) The agency may exempt practitioners providing services at charitable or fund raising events. In establishing an exemption, the agency shall consider and evaluate each written request on an individual basis. [1977 c.886 §2; 1983 c.151 §3; 1987 c.31 §4; 1993 c.45 §297; 1993 c.267 §3; 1995 c.343 §63; 1999 c.425 §3; 2005 c.117 §3; 2009 c.701 §32]

Monday  
June 27, 2011

Ms. Connie McArtor



Paul McArtor  
12500 SE River Rd., Apt. 29  
Portland, OR 97222-8065

RECEIVED-OHLE

JUN 29 2011

Oregon State Board of  
Barbers and Hairdressers  
700 Summer St Suite 320  
Selem, Oregon 97301

Dear Sir or Madam

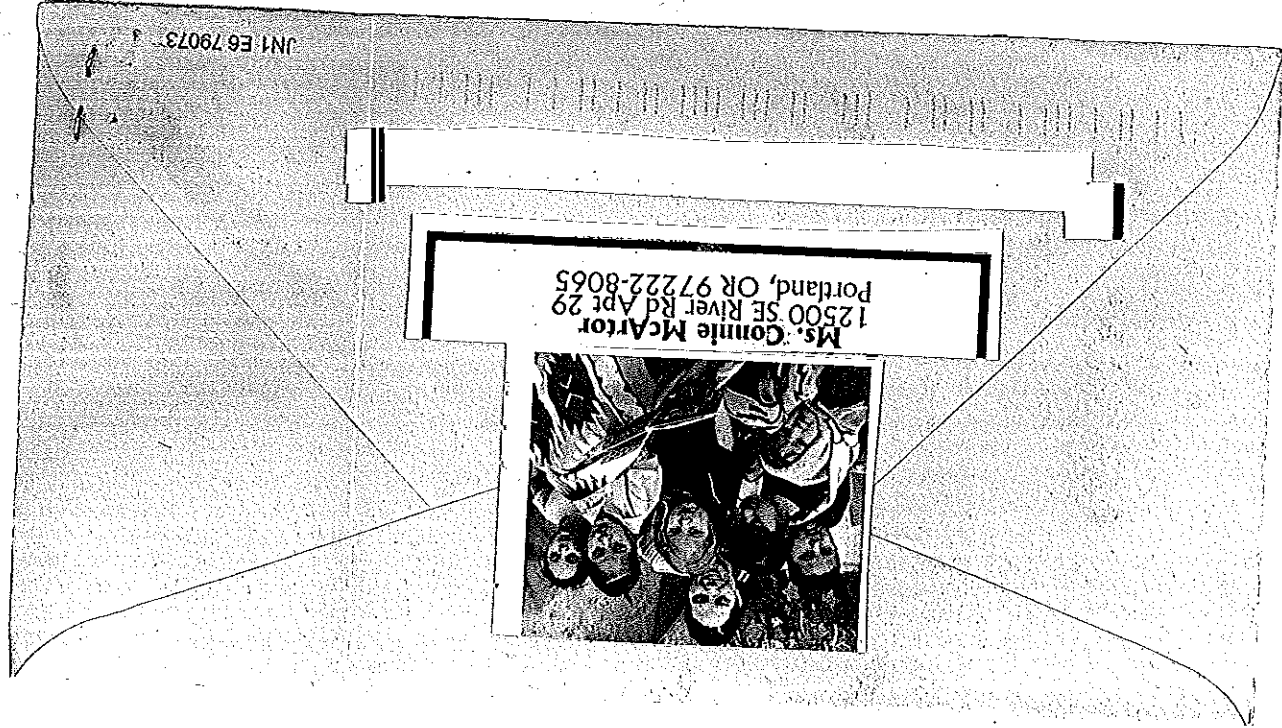
I would like to keep my  
Cosmetology license.

"#COS-PT-098523" which  
expired on June 30, 2009.

I know I owe licensing fees  
and fines. I am sorry and  
apologize to the Board of Barbers  
and Hairdressers, and will repay  
all monies due to the Board.  
... please read other side ->



1-800-822-6344 • www.stjude.org



Ms. Connie McArtor  
12500 SE River Rd Apt 29  
Portland, OR 97222-8065

JUN1 E6 79073

2)  
I have not worked professionally  
in cosmetology, since 2006.

My last employment was with  
"Smart style" in 2006.

In 2004, during the summer, my  
doctor found a small growth in my  
throat. Since then I was diagnosed  
with hypothyroidism, and lost  
many of my teeth, hair falling out,  
I had surgery this January. I am  
recovering and regaining my health.

1) I would like to propose and ask  
the Board to consider health insurance  
for cosmetology workers and their families.  
2) I would also like to ask the "Board"  
to consider a special scholarship award  
to honor my former teacher Ms. Coree Suck  
who believed in me.

3) That there would be a special  
award

"Excellence in Cosmetology"  
to honor my teacher Ms. George Powell,  
whose "door was always open."

4) For charitable events - such as  
Susan G. Komen, and benefit  
walks to aid cancer survivors and  
their families. As Salena work  
together as a team to promote  
worthy causes.

Sincerely,  
Thank you, Candi J. Melton.

## HARRIS Sinnamon M \* OHLA ASD

---

**From:** PATNODE Samie \* OHLA ASD  
**Sent:** Tuesday, June 07, 2011 9:33 AM  
**To:** heavenlyhands2011@hotmail.com  
**Cc:** HARRIS Sinnamon M \* OHLA ASD  
**Subject:** RE: braids

Dear Ms. Ford:

I received your inquiry to the Oregon Health Licensing Agency, below. I believe I understand your question and your issue.

The legal requirement of holding a license in barbering or hair design for the styling of hair is written in Oregon Law, and cannot be changed by the Health Licensing Agency or by the Board of Cosmetology.

There also is no method in Oregon law to “challenge” a licensing or other law, except through the courts on constitutional grounds. However, anyone may speak to a legislator about amending or abolishing current laws, including adding new exemptions to licensing laws including those governing cosmetology.

I have excerpted below the relevant statutes for you. If you wish to contact your legislator, please go to [www.leg.state.or.us/citizenguide](http://www.leg.state.or.us/citizenguide). There, you will be able to find contact information for your local Senator and Representative, as well as excellent overviews of the legislative process and how to participate.

Many law changes happen because one citizen started the idea going. I wish you well in your efforts.

Please feel free to contact me directly if you have any further questions.

Sincerely,

Samantha Patnode  
Policy Analyst  
(503)373-1917

ORS 690.005(1)

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

- (a) Shampooing, styling, cutting, singeing and conditioning of the hair of an individual.
- (b) Applying hair tonics, dressings and rinses.
- (c) Massaging of the scalp, face and neck and applying facial and scalp treatments with creams, lotions, oils and other cosmetic preparations, either by hand or mechanical appliances, but such appliances shall not be galvanic or faradic.
- (d) Shaving, trimming or cutting of the beard or mustache.

ORS 690.005(10)

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

- (a) Shaving, trimming or cutting of the beard or mustache.
- (b) Styling, permanent waving, relaxing, cutting, singeing, bleaching, coloring, shampooing, conditioning, applying hair products or similar work upon the hair of an individual.

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

---

**From:** Heavenly-Hands Salon-and-Beauty-Supply [<mailto:heavenlyhands2011@hotmail.com>]

**Sent:** Monday, June 06, 2011 4:20 PM

**To:** [ohla.info@state.or.us](mailto:ohla.info@state.or.us)

**Subject:** braids

Hi i am currently trying to find out what I need to do to challenge state board to get my license to braid hair only. Thank you, Renee Ford.

Thursday, June 2, 2011 - Eugene, OR

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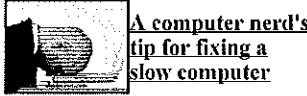
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**Shocking discovery for joint relief**



**Secrets auto insurers don't want you to know**



**A computer nerd's tip for fixing a slow computer**

# Program helps prevent foot infections

By Arriance LeBeau KVAL News

STORY



2

## Summary

Oregon Health Licensing Board is keeping clients safe from bacterial skin infection outbreaks that have harmed hundreds of customers of nail salons in other states.

Story Published: Jun 1, 2011 at 9:12 AM PDT



Eugene, Ore. --- Oregon Health Licensing Board is keeping clients safe from bacterial skin infection outbreaks that have harmed hundreds of customers of nail salons in other states.

Kraig Bohot said in 2007 the organization launched a public education campaign, Safe Salons, focusing on salon safety, health and infection

Comments (3)

control.

"We started it several years ago and the reason we launched it was because basically in follow up to a campaign that we started back in the early 2000's. And that was after an outbreak, a large outbreak of skin infections due to improperly cleaned and disinfected foot spas in Northern California," said Bohot.

Bohot said to keep the campaign going and help Oregon avoid such outbreaks, OHLA inspects nearly 5,000 nail salons in the State. Making sure they follow the rules and guidelines they've put in place to keep salons safe.

After washing their hands with soap, nail technicians are required to take the following steps between each client:

1. Clean and disinfect tools approved for reuse.
2. Dispose of tools not approved for reuse, such as single-use files and buffer blocks; and products such as powders and lotions.
3. Customers may keep their own nail files and bring them back for use at the next appointment. But salons can't keep a customer's nail files, buffer blocks, orangewood sticks, and sanding drums, wheels and bands.
4. Nail technicians are also required to obtain basic customer information such as your name and address in case of an infection outbreak.



## Should 4J consider the new joint proposal from Save Civic and the YMCA?

- Yes, all proposals should be considered
- Yes, the new joint proposal is the best choice
- No, Fred Meyer is the best choice
- No, it's too late

**Submit**

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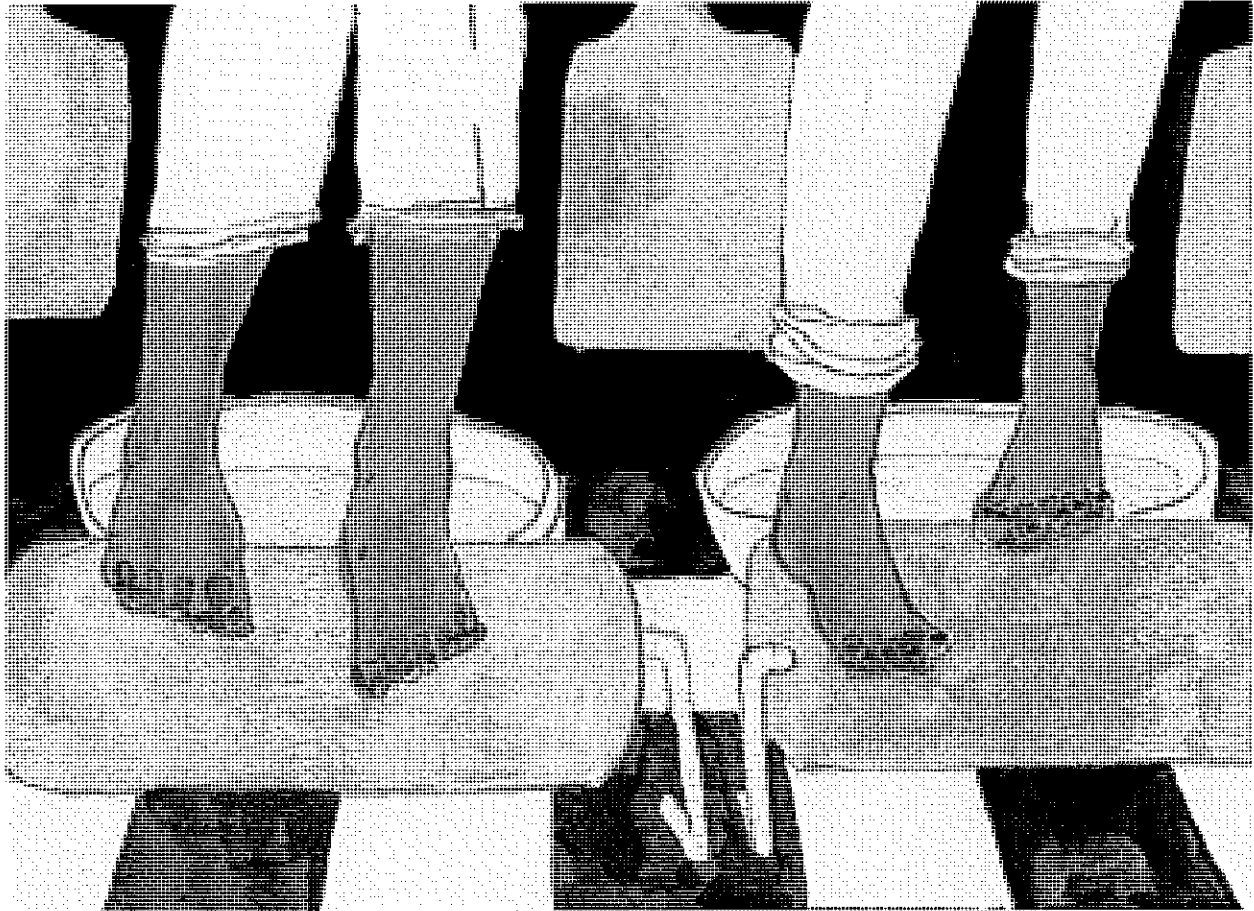
WILLAMETTE WEEK

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May 4th, 2011 BETH SLOVIC | News

## Dirt Under the Nails

A beauty trend Oregon tax collectors dislike.



*ILLUSTRATION: Aidan Koch*

It often seems that the only thing more common than coffee shops on Portland street corners are neighborhood nail salons.

It's a domain of manicures, pedicures and shellac, and it's populated by immigrants: Vietnamese nail technicians could account for about one-third of all new licensed nail techs in the state.

The Oregon Health Licensing Agency keeps track of the number of licensed nail technicians in the state, and it counts almost 14,000 in Oregon—with nearly half in Portland. Until 2009, the state agency offered licensing exams in Vietnamese. That year, when the special test was

dropped for fairness reasons, 30 percent of test takers took advantage of the Vietnamese-language exam.

An audit this year of one salon by Oregon's Department of Consumer and Business Services offers a rare glimpse into that working world. It also reveals a disturbing trend for cash-strapped Oregon.

The audit looked at the Nail Studio at Lloyd Center, next to the mall's Northeast Halsey Street parking garage. According to the audit, Dave Lam, the owner and a Vietnamese immigrant, employed seven technicians whom he called independent contractors. He charged each technician \$800 a month for her nail station, where customers could get \$15 manicures with polishes like "A Good Man-darin is Hard to Find" and "I'm Suzi and I'm a Chocoholic."

This arrangement, according to the audit, was a mischaracterization of employees.

By calling his workers independent contractors, an employer avoids expenses like unemployment and workers' compensation insurance. The practice of declaring a worker his or her own boss also costs Oregon an unquantifiable amount each year in unpaid or late payroll taxes.

"Because of today's troubling economic climate, [this practice] seems to be on the rise," says Derrick Gasparini, a spokesman for the Oregon Department of Revenue.

And Gasparini thinks that it is likely that many more nail salons are erroneously treating employees like independent contractors.

To legally qualify as an independent contractor, a nail technician has to be "free from direction and control" by an employer. But the audit suggests Lam not only handled customers' payments but determined how much technicians could charge. Compare that with an independent hairdresser who sets her own hours and prices, for example. She would probably qualify as an independent contractor.

Lam says he simply didn't know any better and that he ran into trouble because he adopted the practices of the previous owner when he bought the Lloyd Center salon about a year ago. He has since dropped the practice of charging his nail technicians for their workspace, he says. After getting slapped with a \$3,800 fine for not having workers' compensation insurance, Lam says he now complies with Oregon law.

"This is my first business," says Lam. "We had to learn the hard way."

It's not just the state's bottom line that's hurt when employers misclassify workers. Employees

miss out on benefits like unemployment payments if they lose their jobs and their bosses didn't pay unemployment insurance. And they're still on the hook for Social Security taxes, among others, if their employers fail to withhold them. "They can unwittingly be incurring tax debt for themselves that they will have to pay later," Gasperini says.

The Rev. Joseph Santos-Lyons, a coordinator for the Asian Pacific American Network of Oregon, says Vietnamese nail salon workers get little attention, though they are part of a fast-growing group of Oregonians. "Asian Pacific workers in general are really isolated," Santos-Lyons says. "In Portland, they're still pretty invisible."

A new coalition of health regulators and advocates for immigrants has emerged in Oregon to begin to address this. Another concern for nail salon technicians—and those who are immigrants and uneducated, in particular—springs from uncertainty about the possible health impact of the chemicals typically found in nail salons. P.K. Melethil, one of the organizers with the Oregon Collaborative for Healthy Nail Salons, says the group will begin to collect personal stories from workers this summer to get a better sense of what other barriers they may face. "This particular sector is in need of some support," Melethil says.

Article Link: [http://www.webmd.com/skin-beauty/news/20110505/chemicals-may-be-risky-to-nail-salon-workers?src=RSS\\_PUBLIC](http://www.webmd.com/skin-beauty/news/20110505/chemicals-may-be-risky-to-nail-salon-workers?src=RSS_PUBLIC)

## skin beauty

### Chemicals May Be Risky to Nail Salon Workers

**Study: Workers Are Exposed to Unsafe Levels of the Chemical Toluene**

By Matt McMillen  
WebMD Health News

Reviewed by Laura J. Martin, MD



May 5, 2011 -- Harmful chemicals may be endangering the health of Vietnamese nail salon workers, according to a new study.

Researchers at the Cancer Prevention Institute of California and Asian Health Services report finding unsafe levels of toluene, a solvent linked to neurological, reproductive, and endocrine damage, and other chemicals, including one that has been banned by the FDA since 1974.

The study is published in the *American Journal of Public Health*.

The research team recruited 80 workers, all of whom were Vietnamese women, at 20 different salons -- half of them in Oakland, Calif. -- to participate in the study. Each of them wore a monitor attached to a shirt or coat collar. Over the course of each shift, the monitor would measure concentrations of toluene, ethyl acetate, and isopropyl acetate.

#### High Levels of Risky Chemical

The researchers found that the average toluene levels were 0.15 parts per million, nearly twice the amount recommended by the California Environmental Protection Agency for indoor air, according to the study.

In addition to the samples taken from the workers' monitors, they also measured the ambient air in three of the salons being studied. They found notable levels of methyl methacrylate, which has been banned for decades.

Finally, the salon workers were given a questionnaire in which they were asked to identify any health symptoms they had experienced while working. The most frequent complaints common among salon workers included irritation of the eyes, nose, throat, and skin, shortness of breath, nausea, and coughing.

"This really explains why we have been hearing from salon workers about the health problems that they have," study researcher Thu Quach, PhD, MPH, says of the Vietnamese women who make up most of the salon workforce in California.

While Quach's study focused on workers in California, reports of adverse health effects among Vietnamese salon workers have been a concern in other parts of the country, including the Pacific Northwest, Houston, and Boston.

"It's definitely a national issue," says Julia Liou, MPH, manager of the California Healthy Nail Salon Collaborative, an organization founded in 2005 to address the health and safety concerns among California salon workers. "We're concerned about their cumulative, chronic, and long-term health problems."

Nail salon workers may be at heightened risk of health problems because they are exposed to the chemicals on a daily basis. However, Quach points out, the toxins are in the nail care products, which means that customers are exposed as well, albeit to a much lesser extent.

In addition to the acute symptoms that salon workers suffer, Quach is concerned about potential long-term health risks.

"I'm really very interested in following the long term health outcomes of these women."

**Slideshow: What Your Nails Say About Your Health**

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**THE WALL STREET JOURNAL.**

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HEALTH INDUSTRY | MAY 17, 2011

## Calls for FDA to Regulate Hair Straighteners

*After Health Warning and Legal Complaints, Salon Workers to Testify About Symptoms After Using Brazilian Blowout*

By ANJALI ATHAVALEY



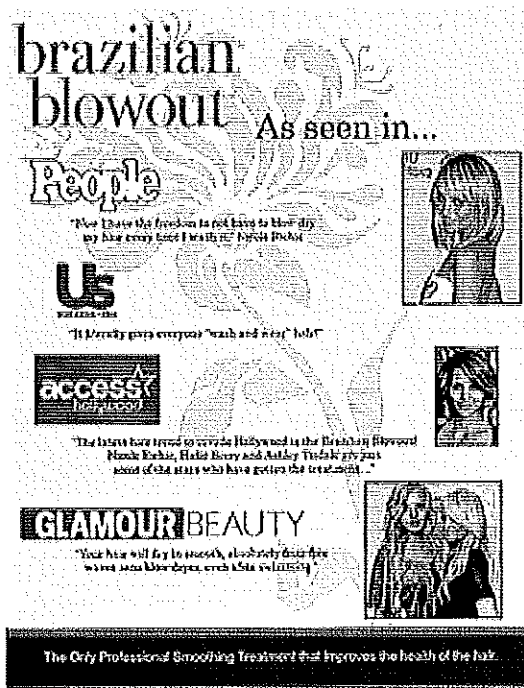
Associated Press

Some salon workers report difficulty breathing, headaches, stinging eyes and sore throats after working with chemical hair-straighteners, which involve flat-ironing hair to make it smooth.

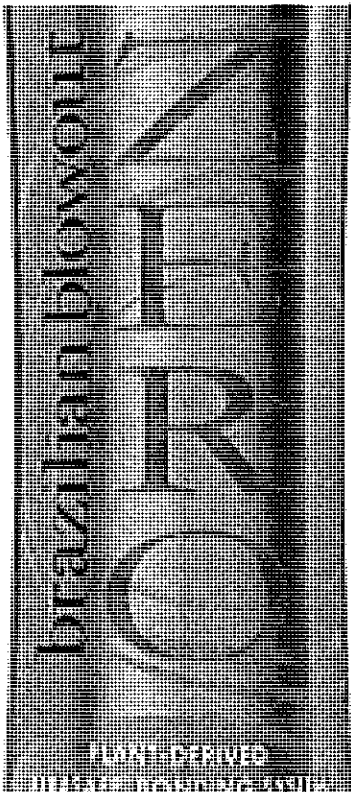
Members of Congress are asking the Food and Drug Administration to issue a voluntary recall of two hair-straightening treatments sold in salons under the brand name Brazilian Blowout, citing concerns about unacceptably high levels of formaldehyde, a suspected carcinogen.

Congressional representatives including Jan Schakowsky (D., Ill.) and Ed Markey (D., Mass.) earlier this month wrote to FDA Commissioner Margaret Hamburg calling for a voluntary recall of the Brazilian Blowout treatments. The letter cites a 2010 study by the Oregon Occupational Safety and Health Division that found formaldehyde—considered a probable human carcinogen by the Environmental Protection Agency—in the Brazilian Blowout Solution and Brazilian Blowout Acai Professional Smoothing Solution.

The Oregon OSHA study measured samples of the two products and found they contained average



Some tests have found formaldehyde levels of 8% or more in samples of Brazilian Blowout products.



Brazilian Blowout  
Brazilian Blowout Professional

formaldehyde levels of 8% for Brazilian Blowout Solution and 8.8% for Acai Professional Smoothing Solution, a product labeled "formaldehyde free." Oregon OSHA's threshold for disclosure of formaldehyde is 0.1%.

"These dangerous products are still available and used on a daily basis in salons across the United States," the representatives wrote to the FDA. The lawmakers want the FDA to test chemical hair straighteners and recall those with high levels of formaldehyde.

The Los Angeles marketer of Brazilian Blowout says its products are safe. Mike Brady, chief executive of Brazilian Blowout, says the line is "a perfectly safe product that gives people the hair of a lifetime and generates money for the economy." As for the letter to FDA, he says, "it's not based on any fact. It's just based on emotion."

The FDA encourages consumers to report complaints related to the products on its website. "We're still evaluating the data on these straighteners," says Stephanie Yao, an FDA spokeswoman.

Congressional representatives also want the FDA to require warning labels for products with formaldehyde. There are a number of hair-straightening salon treatments besides Brazilian Blowout on the market, some of which are called "keratin treatments" and "Brazilian treatments."

At a Congressional staff briefing Wednesday, salon workers and technicians are scheduled to describe adverse health symptoms following their use of Brazilian Blowout products. The Congressional Asian Pacific American Caucus and advocacy groups Campaign for Safe Cosmetics and National Healthy Nail Salon Alliance are hosting the briefing.

The Occupational Safety and Health Administration, along with several state occupational safety agencies, has been investigating complaints about formaldehyde exposure. In one salon using Brazilian Blowout Acai Professional Smoothing Solution, the agency's air tests found formaldehyde at levels exceeding permissible exposure limits. Last month OSHA issued a hazard alert to salon

Smoothing Solution

owners and workers about potential formaldehyde exposure resulting from hair-smoothing treatments.

Jennifer Goeres-Arce, a 37-year-old California hair stylist, says she purchased the Brazilian Blowout Acai Professional Smoothing Solution in September after clients at the salon where she worked at the time requested the treatment. Working with her sister, Gina Griffin, also a hair stylist, Ms. Goeres-Arce tested the treatment on herself, applying the product to the hair, blow-drying it and then applying a heated flat iron. "Within ten minutes, our eyes started to sting," Ms. Goeres-Arce says. "Our throats were getting sore. The worst part of everything was difficulty breathing and headache."

Ms. Goeres-Arce, who is now a stylist at Elements Salon in Escondido, provided evidence for California Attorney General Kamala D. Harris's updated complaint filed earlier this year. Ms. Goeres-Arce says she experienced symptoms for two months after using the product. "I went to the doctor and was put on an inhaler," she says.

Rep. Schakowsky and Rep. Markey were among the sponsors the Safe Cosmetics Act of 2010, which aims to give the FDA regulatory authority over cosmetics and personal care products and labeling. Rep. Schakowsky plans to re-introduce the bill this year.

Besides calls for more regulation, the company also faces private-party legal complaints and a suit filed by the state of California. In April, the California attorney general filed a motion seeking a preliminary injunction to stop GIB LLC, the entity doing business as Brazilian Blowout, from selling the treatment line. The cases are being heard in Los Angeles County Superior Court.

In an earlier interview, Mr. Brady said Brazilian Blowout products contain methylene glycol, produced when formaldehyde reacts with water, not formaldehyde per se.

Mr. Brady said the Oregon OSHA study measured formaldehyde not just in the products but also in the air in seven salons while Brazilian Blowout Acai Solution was in use and found levels below the permissible exposure limit.

Still, the company has released Brazilian Blowout Zero, a treatment it says is free of formaldehyde and methylene glycol. "Adversity is a fact of life," its website says. "It can't be controlled. What we can control is how we react to it. We reacted."

**Write to** Anjali Athavaley at [anjali.athavaley@wsj.com](mailto:anjali.athavaley@wsj.com)

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# **Executive Session**

