



WHO: Health Licensing Office
Rules Advisory Committee for
Board of Certified Advanced Estheticians

WHEN: March 21, 2016 at 10 a.m.

WHERE: Chemeketa Center for Business and Industry
626 High St. NE
Salem, Oregon 97301

What is the purpose of the meeting?

The purpose of the meeting is to assist (HLO) in drafting and reviewing temporary administrative rules in order to begin certifying advanced estheticians. A working lunch may be served for board members and designated staff in attendance. A copy of the agenda is printed with this notice.

May the public attend the meeting?

Members of the public and interested parties are invited to attend all board/council meetings. All audience members are asked to sign in on the attendance roster before the meeting. Public and interested parties' feedback will be heard during that part of the meeting.

May the public attend a teleconference meeting?

Members of the public and interested parties may attend a teleconference board meeting **in person** at the Health Licensing Office at 700 Summer St. NE, Suite 320, Salem, OR. All audience members are asked to sign in on the attendance roster before the meeting. Public and interested parties' feedback will be heard during that part of the meeting.

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.



Health Licensing Office
Rules Advisory Committee
Board of Certified Advanced Estheticians



March 21, 2016 at 10 a.m.
626 High St. NE
Salem, Oregon 973014

1. **Welcome & Introductions**
2. **Review of Agenda Item**
3. **Overview of Administrative Rule Process & Schedule**

Working Lunch

4. **Review Draft Temporary Rules**
 - Grandfathering requirements
 - Temporary certification
5. **Statement of Need and Justification**
6. **Rules Advisory Committee Recommendations**
7. **Future Meeting Dates**
8. **Public/Interested Parties Feedback**

Agenda is subject to change.

For the most up to date information visit <http://www.oregon.gov/OHA/hlo/Pages/index.aspx>

Rulemaking Review



Rules Advisory Committee

BOARD OF CERTIFIED ADVANCED ESTHETICIANS

SAMIE PATNODE • MARCH 21, 2016

What is a rule?

1. A directive, standard, regulation or statement
2. Of general applicability
3. That implements, interprets or prescribes law or policy, or
4. That describes the procedure or practice requirements of any agency

ORS 183.310(9)

Where are rules found?

- **Oregon Administrative Rules (OAR)**-the official compilation of rules & regulations having the force of law in Oregon can be found at http://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx
- The rules are compiled & issued annually by the **Secretary of State's Archives Division**
- Monthly updates, including notice of *intended* rule action, are available in the **Oregon Bulletin** <http://arcweb.sos.state.or.us/pages/rules/bulletin/past.html>

When is a rule required?

- Statutory mandate
- To interpret broad statutory authority
- To amend, suspend, or repeal existing rule

Tip: Statute generally mandates what while a rule mandates how (implementation)

When is a rule NOT required?

- When the requirements of the legislation are clear enough to administer without rulemaking.
- When the agency merely interprets an existing rule

Rule Advisory Committee Purpose

- To involve the public in the development of public policy
- To represent the interests of persons likely to be affected by the rule
- To meet DHS and OHA requirements

*A RAC's role is **advisory** only.*

Permanent Rulemaking Process

- Agency notifies **rules coordinator** of rulemaking content and timeline
- Agency seeks public input prior to rulemaking
 - Appoints **Rules Advisory Committee** (RAC)
- Agency provides notices to legislators, “interested parties,” and public
- Agency attempts to limit fiscal impact on entities, including small businesses

Permanent Rulemaking Process

- Agency conducts public hearing and provides opportunity for oral testimony and comments on proposed rules (rulemaking record)
- Agency considers all input and finalizes rules
- Agency submits final rules to Secretary of State

Statement of Need & Fiscal Impact

- Justification narrative
- Estimates the financial impact on interested persons or entities, primarily agencies and small businesses

RAC Considerations

- Read and understand the enabling statute (ask questions!)
- Stay focused
- Stay in our “lane” – understand a RAC’s authority is limited by the statute
- Too much specificity can box us all in
- Too little specificity leads to confusion and inability to meet goals of legislation



ADMINISTRATIVE RULE SCHEDULE

HEALTH LICENSING OFFICE

BOARD OF CERTIFIED ADVANCED ESTHETICIANS

Date	Action	Time
Temporary Administrative Rules – Grandfathering Requirements		
March 21, 2016	Rules Advisory Committee review and provide input on temporary administrative rules to become effective on June 1, 2016.	10 am
April 4, 2016 or April 11-13, 2016 TBA	If necessary the Rules Advisory Committee continue to review and provide input on temporary administrative rules to become effective on June 1, 2016.	10 am
June 1, 2016	Effective date of temporary administrative rule	
July 1, 2016	Begin issuing certification for advanced estheticians	
December 23, 2016	Temporary Administrative Rules expire (180 days)	
Permanent Administrative Rules – Certification Requirements and Scope of Practice		
July 11, 2016	New board member orientation and board meeting to approve administrative rulemaking schedule & provide input regarding Rules Advisory Committee membership	10 am
July 15-August 1, 2016	Determine Rules Advisory Committee membership	
August 15-16, 2016 Back to back meetings	Rules Advisory Committee meeting including fiscal impact	10 am
August 15-16, 2016 Back to back meetings	Rules Advisory Committee meeting	10 am
August 22, 2016	Board of Cosmetology meeting	10 am
September 5-7, 2016	Board meeting approve proposed administrative rules	10 am
October 1, 2016	Notice of proposed administrative rules in Oregon Bulletin	
October 10-20, 2016	Public rule hearing	10 am
October 24, 2016	Board of Cosmetology meeting	
October 28, 2016	Last day for public comment	5 pm
November 14-18, 2016	Board meeting review public comment, hearing officer report and adopt permanent administrative rules. Approve 2017 rulemaking schedule.	10 am
December 1, 2016	Permanent Administrative Rules effective	

Permanent Administrative Rules – Education and Training		
January 19, 2017	Board Meeting provide input on Rules Advisory Committee	
February 1-15, 2016	Determine Rules Advisory Committee membership	
February 17, 2017 March 7, 2017 March 21, 2017	Rules Advisory Committee meeting including fiscal impact	10 am
February 17, 2017 March 7, 2017 March 21, 2017	Rules Advisory Committee meeting	10 am
April 4-6, 2017	Board meeting approve proposed administrative rules	10 am
May 1, 2017	Notice of proposed rules in Oregon Bulletin	
May 24, 2017	Public rule hearing	10 am
May 29, 2017	Last day for public comment	5 pm
June 13-15, 2017	Board meeting review public comment, hearing officer report and adopt permanent rules	10 am
July 1, 2017	Permanent Administrative Rules filed. Note some rules will become effective on July 1, 2017 and others will become effective January 1, 2018	

The Health Licensing Office (HLO) will begin a series of ongoing rulemaking to implement the requirements of [HB 2642](#) from the 2015 Legislative Session. The initial temporary rules will be adopted by HLO not the Board of Certified Advanced Estheticians due to statutory language preventing the Board from meeting before July 1,

The initial rulemaking will be filed as temporary rules which are effective for 180 days. HLO will draft the temporary rule and utilize the Rules Advisory Committee to provide input and recommendations before the temporary rule becomes effective. The temporary rule will provide requirements including application and supervision to obtain a certification in advanced esthetics on July 1, 2016. These requirements are broadly described under Section 8 of HB 2642, the rule will expand on the law and provide clearer guidance for certification process as it relates to grandfathering and certification provisions.

The second phase of rulemaking will be for the Board to adopt permanent rules, including temporary rules which will expire on December 23, 2016. This phase will also include specifying scope of practice for basic and advanced esthetics. For

example an individual certified in esthetics through Board of Cosmetology may perform temporary hair removal or reduction by waxing, tweezing or threading but are prohibited from performing temporary hair removal or reduction by use of a laser. The use of a laser would be limited to certified advanced estheticians or to individuals specified in ORS 676.635.

The third phase of rulemaking will be to establish advanced nonablative esthetics training and education requirements for implementation on January 1, 2018 when the grandfathering provisions expire. The training and education may require curriculum/course of study, practical application, supervision (direct/indirect) and timeline to obtain the training and education.

Please send all public comment or questions to:
Samie Patnode, Policy Analyst
700 Summer St NE, Suite 320, Salem, OR 97301-1287
samie.patnode@state.or.us . Work: (503) 373-1917

All meetings are held at the Health Licensing Office, Rhoades Conference Room, 700 Summer St, Suite 320, Salem, OR 97301, unless otherwise specified. Members of the public are invited and encouraged to attend all board and committee meetings. However, audience members will not be allowed to participate. For current information regarding administrative rules or the rulemaking process visit the Web at <http://www.oregon.gov/OHLA/CAE/pages/index.aspx>.

**HEALTH LICENSING OFFICE
BOARD OF CERTIFIED ADVANCED ESTHETICIANS
RULES ADVISORY COMMITTEE**

BACKGROUND AND DISCUSSION:

During the 2015 Legislative Session, House Bill 2642 was enacted, which created the Board of Certified Advanced Estheticians (Board) in Oregon. The purpose of the Board is to oversee and regulate the practice of advanced nonablative esthetics, including the use of lasers and other devices registered with the U.S. Food and Drug Administration. According to the bill, the Board does not have the authority to begin meeting or making decisions until July 1, 2016.

According to the bill certificates must start being issued on July 1, 2016. In order to fulfill these requirement the bill provides the Health Licensing Office (HLO) the authority to enact administrative rules related to the application process for obtaining a certificate in advanced esthetics. HLO also has ability to interpret the requirements within the grandfathering provisions listed in section 8 of the bill, including administrative rules for supervision and guidelines on what is required to keep the certificate.

In order to establish requirements by July 1, 2016 HLO is filing temporary administrative rules which will be effective for 180 days. HLO is seeking guidance from a Rules Advisory Committee (RAC) made up of professionals and stakeholders within the advanced nonablative esthetics field.

ISSUE:

Review and consider draft temporary administrative rules and provide feedback on requirements for grandfathering provisions and temporary certification.

Temporary administrative rules will become effective on June 1, 2016 and expire on December 23, 2016.

The Board is scheduled to meet on July 11, 2016 to begin the permanent administrative rulemaking process.

COMMITTEE GUIDANCE

Provide guidance to HLO regarding temporary administrative rules.

Approve additional RAC meeting dates if necessary:

- April 4, 2016 10 am
- April 11, 2016 10 am
- April 12, 2016 10 am
- April 13, 2016 10 am

DIVISION 005
BOARD OF CERTIFIED ADVANCED ESTHETICIANS
GENERAL ADMINISTRATION

819-005-0000

Definitions

(1) “Applicant” means a natural person applying to be certified as a “certified advanced esthetician” as that term is defined in Oregon Laws 2015, Chapter 722, section 1(2).

(2) “Office” means Health Licensing Office.

DRAFT

DIVISION 010
BOARD OF CERTIFIED ADVANCED ESTHETICIANS
CERTIFICATION REQUIREMENTS

819-010-0000

Certified Advanced Esthetician Grandfathering Requirements

(1) Pursuant to Oregon Laws 2015, Chapter 722, Sections 14 a person performing nonablative esthetics must be a certified advanced esthetician on or after July 1, 2016.

(2) The office must issue a certificate to practice advanced nonablative esthetics to an applicant who meets requirements listed in Oregon Law 2015, Chapter 722, Section 8 until January 1, 2018.

(3) A certification in advanced esthetics is valid for one year and becomes inactive on the last day of the month one year from the date of issuance.

(4) An applicant may be grandfathered into certification by meeting the requirements of this rule until January 1, 2018 instead of meeting the requirements in Oregon Laws 2013, Chapter 722, Section 3(1)(c). An applicant applying for certification through the grandfathering process must:

(a) Comply with the requirements of OAR 331 division 30;

(b) Submit a completed application form prescribed by the Office, containing the information listed in OAR 331-030-0000 and payment of the required fees;

(c) Be at least 18 years of age. Applicant must provide to HLO official documentation confirming date of birth, such as a copy of the applicant's birth certificate, driver's license, or passport;

(d) Hold an esthetician certificate under ORS 690.046-690.047 and be in good standing with the Board of Cosmetology.

(f) Submit documentation to Office of qualification under one of the following pathways:

(A) License Pathway One – 500 Hours Supervised Experience. Submit adequate proof of being employed for not less than 500 hours as a laser operator under the supervision of a **health care provider** whose scope of practice includes the practice of advanced nonablative esthetics procedures; OR

Commented [PS1]: Name qualified health care provider. Acupuncture, dentist, nurse practitioner, physician assistant or doctor.

(B) License Pathway Two – Education and Training. Submit adequate proof of having completed 40 hours of education related to laser theory and fundamentals and of having completed 24 hours of practical experience performing each of the following modalities:

- (i) Skin rejuvenation;
- (ii) Photo rejuvenation;
- (iii) Body contouring;
- (iv) Dyschromia reduction;
- (v) Cellulite reduction;
- (vi) Hair removal or reduction; and
- (vii) Nonablative tattoo removal.

819-010-0010

Advanced Esthetician Temporary Certification

(1) An advanced esthetician temporary certification authorizes the holder to temporarily practice advanced nonablative esthetics (under supervision by an approved supervisor).

(2) **Direct** supervision means the supervisor is *immediately accessible and physically present* when a temporary certification holder is providing services on a client and provides direction and control over the temporary certification holder's work.

(2) **Indirect** supervision means the supervisor is physically present onsite when a temporary certificate holder is providing services on a client, but may not be immediately accessible, and who provides reasonable supervision over the work of the temporary certification holder, and is available for questions and assistance when needed.

(3) An advanced esthetician temporary certification holder must notify the Office within 10 calendar days of changes in employment status and changes in supervisor.

(4) An advanced esthetician temporary certification is valid for six months and may not be renewed.

819-010-0020

Application Requirements for Advanced Esthetician Temporary Certification

An applicant for an advanced esthetician temporary certificate must:

Commented [PS2]: Temporary certification generally means there is some form of supervision required. This can be defined in many ways – direct, indirect etc. However ORS 676.640 does not require supervision.

Students are exempt from certification if they are completing the 208 hours they may not need the temporary certification – unless they want to continue practicing outside a “school or training” setting.

Commented [PS3]: Is this enough time to obtain the 208 hours of education and training?

Commented [PS4]: Is education or training necessary for the temporary certificate.

- (1) Comply with the requirements of OAR chapter 331 division 30;
- (2) Submit a completed application form prescribed by the Office, containing the information listed in OAR 331-030-0000 and payment of the required fees;
- (3) Be at least 18 years of age. Applicant must provide to HLO official documentation confirming date of birth, such as a copy of the applicant's birth certificate, driver's license, or passport;
- (4) Submit information identifying the applicant's approved supervisor pursuant to a form prescribed by the Office;
- (5) Hold an esthetician certificate under ORS 690.046-690.047 and be in good standing with the Board of Cosmetology.

819-010-0030

Supervision of a Temporary Certificate Holder

(1) To be approved as a supervisor of an advanced esthetician temporary certificate holder, an individual must:

- (a) Hold a valid certification in advanced esthetics;
- (b) Have no current or pending disciplinary action with the Office or another regulatory body; and
- (c) Submit proof of having been practicing advanced nonablative esthetics for at least three years prior to requesting approval as a supervisor; and
- (d) Submit a completed request for approval on a form prescribed by the Office;

Commented [PS5]: Should supervisors only oversee modalities they have experience in?

Commented [PS6]: Another possibility basic esthetician with 3 or 5 years of experience.

(2) A supervisor is prohibited from supervising until all required documentation has been completed, submitted and approved by the Office.

Commented [PS7]: Does HLO want to include a requirement that the supervisor can only provide the type of supervision that HLO authorizes? And, is the authorization specific to the student or the supervisor (i.e. a supervisor is approved to provide direct supervision to all or this depends on who is the certificate holder)

(3) A supervisor may supervise up to four temporary certification holders.

(4) An approved supervisor directly supervising must be *immediately accessible and physically present* with the certificate holder while services are performed.

(4) An approved supervisor indirectly supervising must be physically present and onsite while the certificate holder is performing services on a client, but is not required to be immediately accessible while the temporary certificate holder provides services.

(5) An approved supervisor must notify the Office in writing within 10 calendar days if a temporary certificate holder is no longer being supervised, and must provide the number

of hours of education and training the temporary certificate holder completed on a form prescribed by the Office.

(7) An approved supervisor must exercise management, guidance, and control over the activities of the temporary certificate holder and must exercise reasonable professional judgment when supervising. An approved supervisor is responsible for all matters related to the temporary certificate holder's advanced nonablative esthetics services.

(8) A temporary certificate holder's education and training must be documented by the handwritten signature of the approved supervisor, the supervisor's certificate number, and date of the supervisor's review.

(9) The Office may withdraw an approved supervisor's approval if the supervisor provides incomplete or inadequate education, or training during supervision, provides incompetent or negligent education or training, as those terms are defined in OAR 331-020-0070, fails to exercise management, guidance, and control over the activities of the temporary certificate holder, fails to exercise reasonable professional judgment when supervising, or falsifies documentation.

DRAFT

Enrolled
House Bill 2642

Sponsored by Representatives HOYLE, DOHERTY, HUFFMAN (Presession filed.)

CHAPTER

AN ACT

Relating to nonablative procedures; creating new provisions; amending ORS 676.583 and 676.992; and declaring an emergency.

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

SECTION 1. As used in sections 1 to 7 of this 2015 Act:

(1) “Advanced nonablative esthetics procedure” means a procedure that uses a laser or other device registered with the United States Food and Drug Administration for nonablative procedures performed on the skin or hair, including, but not limited to, procedures performed in conjunction with one of the following modalities:

- (a) Skin rejuvenation;
- (b) Photo rejuvenation;
- (c) Body contouring;
- (d) Dyschromia reduction;
- (e) Cellulite reduction;
- (f) Hair removal or reduction; and
- (g) Nonablative tattoo removal.

(2) “Certified advanced esthetician” means a person certified to practice advanced nonablative esthetics procedures under sections 1 to 7 of this 2015 Act.

(3) “Esthetician” means a person certified to practice esthetics under ORS 690.005 to 690.225.

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

SECTION 2. (1) A person may not practice advanced nonablative esthetics procedures or use a title, word or abbreviation, including the designation certified advanced esthetician, that indicates that the person is authorized to practice advanced nonablative esthetics procedures unless the person is certified by the Board of Certified Advanced Estheticians under section 3 of this 2015 Act.

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

(3) This section does not apply to:

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

(b) A student enrolled in an advanced nonablative esthetics education program or training program or in an advanced nonablative esthetics program that combines education and training.

SECTION 3. (1) Except as provided in subsection (3) of this section, the Health Licensing Office shall issue a certificate to practice advanced nonablative esthetics procedures to an applicant who:

- (a) Is at least 18 years of age;
- (b) Is an esthetician in good standing with the Board of Cosmetology;
- (c) Successfully completes:

(A) Subject to subsection (2) of this section, an advanced nonablative esthetics education program or training program, or an advanced nonablative esthetics program that combines education and training, that is approved by the Board of Certified Advanced Estheticians; or

(B) A nationally recognized program that is approved by the Board of Certified Advanced Estheticians and through which individuals are certified to use lasers or other devices for purposes related to practicing advanced nonablative esthetics procedures;

(d) Passes an examination adopted by the Board of Certified Advanced Estheticians by rule; and

(e) Pays the applicable fees established under ORS 676.592.

(2) An education program described in subsection (1)(c)(A) of this section must be:

(a) If the program is located in this state, licensed through the Higher Education Coordinating Commission; or

(b) If the program is not located in this state, substantially equivalent to a program licensed through the Higher Education Coordinating Commission.

(3) The office shall issue a certificate to practice advanced nonablative esthetics procedures to an applicant who:

(a) Is an esthetician in good standing with the Board of Cosmetology;

(b) Is authorized and in good standing to practice advanced nonablative esthetics procedures in a state where the requirements to practice nonablative esthetics procedures are substantially similar to the requirements to practice advanced nonablative esthetics procedures in this state; and

(c) Pays the applicable fee established under ORS 676.592.

(4) The office shall issue a temporary certificate to perform advanced nonablative esthetics procedures to an applicant who:

(a) Is an esthetician in good standing with the Board of Cosmetology;

(b) Meets any qualifications prescribed by the office by rule; and

(c) Pays the applicable fee established under ORS 676.592.

SECTION 4. (1) A certificate issued under section 3 (1) or (3) of this 2015 Act must be renewed annually. To renew a certificate under this section, a certified advanced esthetician must submit to the Health Licensing Office:

(a) A renewal application;

(b) Proof that the certified advanced esthetician has completed any continuing education requirements established by the Board of Certified Advanced Estheticians by rule; and

(c) The applicable renewal fee established under ORS 676.592.

(2) A temporary certificate issued under section 3 (4) of this 2015 Act expires as prescribed by the office by rule.

SECTION 5. (1) There is established the Board of Certified Advanced Estheticians within the Health Licensing Office, consisting of:

(a) Nine members appointed by the Governor; and

(b) The section manager of the Radiation Protection Services Section of the Oregon Health Authority, or the section manager's designee.

(2) Of the nine members appointed by the Governor:

(a) Five must be certified advanced estheticians;

(b) Two must be physicians or physician assistants licensed under ORS chapter 677 or nurse practitioners licensed under ORS 678.375 to 678.390; and

(c) Two must be public members who are residents of this state.

(3) The board member described in subsection (1)(b) of this section is a nonvoting ex officio member of the board.

(4) The term of office of each appointed member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(5) The voting members of the board shall select one of the voting members as chairperson and another voting member as vice chairperson. The board shall establish the terms of service for the chairperson and the vice chairperson and the duties and powers of the chairperson and the vice chairperson.

(6) A majority of the voting members of the board constitutes a quorum for the transaction of business.

(7) Official action by the board requires the approval of a majority of the voting members of the board.

(8) The board shall meet at a place, day and hour determined by the board. The board also may meet at other times and places specified by the call of the chairperson or of a majority of the voting members of the board.

SECTION 6. (1) In addition to the powers granted to the Board of Certified Advanced Estheticians by sections 1 to 7 of this 2015 Act, the board shall have the power to:

(a) Adopt rules and take actions necessary to carry out the duties of the board under sections 1 to 7 of this 2015 Act.

(b) Adopt rules establishing sanitation and safety requirements for advanced nonablative esthetics procedures.

(c) Adopt rules establishing a professional code of conduct for certified advanced estheticians.

(d) Adopt any other rule necessary to regulate certified advanced estheticians.

(e) Provide advice to the Health Licensing Office on issues related to advanced nonablative esthetics procedures.

(f) Compile information related to advanced nonablative esthetics procedures and direct the office to disseminate the information to certified advanced estheticians.

(2) In adopting rules under subsection (1)(b) of this section, the board shall adopt rules:

(a) Requiring a certified advanced esthetician to conduct all advanced nonablative esthetics procedures in a facility for which a license has been issued under ORS 690.055;

(b) Requiring a certified advanced esthetician to maintain client disclosure forms that include, at a minimum, disclosure of the existence of professional liability insurance; and

(c) Requiring a certified advanced esthetician to enter into an agreement with:

(A) A physician licensed under ORS chapter 677 or a nurse practitioner licensed under ORS 678.375 to 678.390; or

(B) A licensed health care professional who works at the same location as the certified advanced esthetician and who has the authority to prescribe drugs listed in Schedule III, IV or V.

(3) The purpose of an agreement described in subsection (2)(c) of this section is to provide a certified advanced esthetician with a licensed health care professional to whom the certified advanced esthetician may refer a client of the certified advanced esthetician.

SECTION 7. In the manner provided by ORS chapter 183 for contested cases, and after consultation with the Board of Certified Advanced Estheticians, the Health Licensing Office may impose a form of discipline described in ORS 676.612 against any person certified under section 3 of this 2015 Act for a violation of the provisions of sections 1 to 7 of this 2015 Act or of a rule adopted under sections 1 to 7 of this 2015 Act, or for commission of a prohibited act listed in ORS 676.612.

SECTION 8. Notwithstanding the requirements listed in section 3 (1)(c) of this 2015 Act, the Health Licensing Office shall, until January 1, 2018, issue a certificate to practice advanced nonablative esthetics procedures to an applicant who, in lieu of those requirements:

(1) Provides proof to the office of having been employed for not less than 500 hours as a laser operator under the supervision of a health care professional whose scope of practice includes the practice of advanced nonablative esthetics procedures; or

(2) Provides proof to the office of having completed 40 hours of education related to laser theory and fundamentals and of having completed 24 hours of practical experience performing each modality listed in section 1 (1) of this 2015 Act.

SECTION 9. (1) Notwithstanding the term of office specified by section 5 of this 2015 Act, of the members first appointed to the Board of Certified Advanced Estheticians:

(a) Two shall serve for terms ending December 31, 2016.

(b) Two shall serve for terms ending December 31, 2017.

(c) Two shall serve for terms ending December 31, 2018.

(d) Three shall serve for terms ending December 31, 2019.

(2) Notwithstanding the requirements for board membership specified by section 5 (2)(a) of this 2015 Act, the members first appointed to the board under section 5 (2)(a) of this 2015 Act may be estheticians who have at least three years' experience practicing advanced nonablative esthetics procedures.

SECTION 10. ORS 676.583 is amended to read:

676.583. Pursuant to ORS 676.586, the Health Licensing Office shall provide administrative and regulatory oversight and centralized service for the following boards and councils:

(1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;

(2) Board of Cosmetology, as provided in ORS 690.005 to 690.225;

(3) State Board of Denture Technology, as provided in ORS 680.500 to 680.565;

(4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;

(5) Respiratory Therapist and Polysomnographic Technologist Licensing Board, as provided in ORS 688.800 to 688.840;

(6) Environmental Health Registration Board, as provided in ORS chapter 700;

(7) Board of Body Art Practitioners, as provided in ORS 690.350 to 690.410;

(8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.170;

(9) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410;

(10) Nursing Home Administrators Board, as provided in ORS 678.710 to 678.820; [and]

(11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485[.]; and

(12) Board of Certified Advanced Estheticians, as provided in sections 1 to 7 of this 2015 Act.

SECTION 11. ORS 676.992 is amended to read:

676.992. (1) Except as provided in subsection (3) of this section, and in addition to any other penalty or remedy provided by law, the Health Licensing Office may impose a civil penalty not to exceed \$5,000 for each violation of the following statutes and any rule adopted [*thereunder*] **under the following statutes:**

(a) ORS 688.701 to 688.734 (athletic training);

(b) ORS 690.005 to 690.225 (cosmetology);

(c) ORS 680.500 to 680.565 (denture technology);

(d) Subject to ORS 676.616 and 687.445, ORS 687.405 to 687.495 (direct entry midwifery);

(e) ORS 690.350 to 690.410 (tattooing, electrolysis, body piercing, earlobe piercing, dermal implanting and scarification);

(f) ORS 694.015 to 694.170 (dealing in hearing aids);

(g) ORS 688.800 to 688.840 (respiratory therapy and polysomnography);

(h) ORS chapter 700 (environmental sanitation);

(i) ORS 675.360 to 675.410 (sex offender treatment);

(j) ORS 678.710 to 678.820 (nursing home administrators);

- (k) ORS 691.405 to 691.485 (dietitians);
- (L) ORS 676.612 (prohibited acts); [*and*]
- (m) ORS 676.800 (applied behavior analysis)[.]; **and**

(n) Sections 1 to 7 of this 2015 Act (advanced nonablative esthetics procedure).

(2) The office may take any other disciplinary action that it finds proper, including but not limited to assessment of costs of disciplinary proceedings, not to exceed \$5,000, for violation of any statute listed in subsection (1) of this section or any rule adopted under any statute listed in subsection (1) of this section.

(3) Subsection (1) of this section does not limit the amount of the civil penalty resulting from a violation of ORS 694.042.

(4) In imposing a civil penalty [*pursuant to*] **under** this section, the office shall consider the following factors:

- (a) The immediacy and extent to which the violation threatens the public health or safety;
- (b) Any prior violations of statutes, rules or orders;
- (c) The history of the person incurring a penalty in taking all feasible steps to correct any violation; and
- (d) Any other aggravating or mitigating factors.

(5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(6) The moneys received by the office from civil penalties under this section shall be deposited in the Health Licensing Office Account and are continuously appropriated to the office for the administration and enforcement of the laws the office is charged with administering and enforcing that govern the person against whom the penalty was imposed.

SECTION 12. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2, chapter _____, Oregon Laws 2015 (Enrolled Senate Bill 5526), for the biennium beginning July 1, 2015, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, tobacco tax receipts, provider taxes, Medicare receipts and federal funds for indirect cost recovery, Supplemental Security Income recoveries, Women, Infants and Children Program food rebates, the Coordinated School Health Program, the Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program, homeland security and emergency preparedness and response services, but excluding lottery funds and federal funds not described in section 2, chapter _____, Oregon Laws 2015 (Enrolled Senate Bill 5526), collected or received by the Oregon Health Authority, is increased by \$386,294 for the purpose of carrying out the provisions of this 2015 Act.

SECTION 13. Notwithstanding any other law limiting expenditures, the amount of \$118,249 is established for the biennium beginning July 1, 2015, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the Higher Education Coordinating Commission, for the purpose of carrying out the provisions of this 2015 Act.

SECTION 14. (1) Sections 1 to 9 of this 2015 Act and the amendments to ORS 676.583 and 676.992 by sections 10 and 11 of this 2015 Act become operative on July 1, 2016.

(2) The Health Licensing Office may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the office to exercise, on or after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the office by sections 1 to 9 of this 2015 Act and the amendments to ORS 676.583 and 676.992 by sections 10 and 11 of this 2015 Act.

SECTION 15. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

Passed by House June 30, 2015

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate July 2, 2015

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2015

Approved:

.....M,....., 2015

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

.....
Jeanne P. Atkins, Secretary of State



Health Licensing Office

Rules Advisory Committee for the Board of Advanced Estheticians

March 21, 2016

****PLEASE PRINT****

Name (First, Last)	Representing	Request to Comment (yes/no)
Pantina Mendota	Aesthetics Institute	yes
Kathy Tolman	Self	no
Sילה דיסן	case	
Elfhg Austin	Radiance Portland	yes
CHRISTY KNAPP	TRACHESSA/SELF	yes
Jennifer Simmons	West Lin Skin + Laser	yes
Mary Nelson	Spectrum Advanced Aesthetics	yes
Taylor Harbick	Spectrum Advanced Aesthetics	yes
Cerin Lyalsh	Spectrum Advanced Aesthetics	yes
Kim Gond	Spectrum Advanced Aesthetics	yes
Debra Masten	Self	yes
MARI PARIS	MOUVE Aesthetics	-
Mendy Sney	Zempasthetic	-
Sander Regen	Sante Dermigie	yes