



WHO: Health Licensing Office
Board of Cosmetology

WHEN: April 6, 2015 10 a.m.

WHERE: Health Licensing Office
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 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://www.oregon.gov/OHLA/COS/Pages/meetings.aspx> for current meeting information.

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.



REVISED

3:21 pm, Mar 23, 2015

Health Licensing Office
Board of Cosmetology



April 6, 2015 at 10 a.m.
700 Summer St. NE, Suite 320
Salem, Oregon

1. Call to Order

2. Items for Board Action

- ◆ Approval of Agenda
- ◆ Approval of Minutes – January 26, 2015
- ◆ Determine Additional Training Requirements for Retake Examinations
 - Applicant # 029497
 - Applicant # 100638
- ◆ Approve Administrative Rules Schedule – Civil Penalties and Sanctions

Working Lunch

3. Reports

- ◆ Director Report
- ◆ Licensing and Fiscal Statistical Reports
- ◆ Policy Report
 - 2015 Legislation
 - Qualification & Examination
 - HECC Advisory Committee Update
 - Examination Item Writing Committee Update
 - Multiple Language Examination Update
 - Examination Summary Report Discussion
- ◆ Regulatory Report

4. Public/Interest Parties Feedback

5. Executive Session – Pursuant to ORS 192-660(2) (f) for the purpose of considering information or Records exempt from public inspection. (Investigation files)

6. Regulatory Items for Board Action

7. Other Board Business

Agenda is subject to change.

For the most up to date information visit www.oregon.gov/OHLA

Approval of Minutes



January 26, 2015



Health Licensing Office
Board of Cosmetology



January 26, 2015
700 Summer Street NE, Suite 320
Salem, Oregon

MINUTES

MEMBERS PRESENT

Heidi Zuniga, Chair
Peggy McJunkin, Vice-chair
Mike Nurre
Lisa Brown
Roger Wert
Amber Starks

STAFF PRESENT

Holly Mercer, Director
Sylvie Donaldson, fiscal services and licensing manager
Bob Bothwell, regulatory operations manager
Samie Patnode, policy analyst
Amanda Perkins, Executive Support Specialist
Janet Bartel, Investigator
Jeremy Arguien, Investigator
Doreen Davis, Administrative Specialist
Michael Bui, Investigator
Tina Russell, Investigator

MEMBERS ABSENT

Frank Whatley

GUESTS PRESENT

Mary Nielsen	Jennifer Taylor	Cindy Long	Barbra Climaldi
Angie Sisk	Aneta Molenda	Mytien Kent	Charlotte Chem
Pamela Dreyer	Michele Strobel	Jonelle Lancaster	Heidi Brancato
Suzanne Weldon	Judith Culp	Kimberly Johnson	Matt O'Neil
Debora Masten	Cynthia Shaw	Kimber Jungwirth	Sunday Dunaway
Janet D Paquette	Ryan Covey	Kandise Betsher	Michelle Blackwell
Erienne Minnieweather	Rebecca Covey	Shalawye Sventh	

Call to Order

Holly Mercer, Director, called the meeting of the Board of Cosmetology (Board) to order at 10:03 a.m.
Roll was called.

Introductions

Board members, staff and audience members introduced themselves for new board members. Mike Nurre, who was recently appointed to the public member position provided an overview of his professional background including working as a respiratory therapist at Oregon Health Sciences University and eight years of service on the Respiratory Therapist and Polysomnographic Technologist Licensing Board. Amber Starks, who was recently appointed to one of the practitioner positions provided an overview of her professional including recently becoming certified in natural hair care.

Mercer noted the following amendments to the agenda:

- Move Public Comment below reports;
- Move Executive Session regarding legal advice and investigation files below Public Comment; and
- Determining additional training requirements for retake examinations last on the agenda.

MOTION:

Heidi Zuniga made a motion with a second by Peggy McJunkin to approve the agenda as amended. Motion passed unanimously.

Approval of Minutes:

Peggy McJunkin made a motion with a second by Heidi Zuniga to approve the minutes for August 18, 2014. Motion passed unanimously.

Approval of chair and vice chair:

Board members discussed the role of chairperson and vice chairperson and asked for nominations for 2015.

MOTION:

Mike Nurre made a motion with a second by Lisa Bonner Brown to elect Heidi Zuniga as chair person and Peggy McJunkin as vice chairperson.

2015 Meeting Dates:

Board members considered proposed meeting dates for 2015 as follows:

April 6, 2015, 2015 at 10 a.m.

August 17, 2015, 2015 at 10 a.m.

October 12, 2015 at 10 a.m.

MOTION:

Peggy McJunkin made a motion with a second by Amber Starks to approve 2015 meetings dates. Motion passed unanimously.

Rescind Facial Forward:

Samie Patnode, policy analyst stated that in 2006 the Health Licensing Office (HLO) and the Board developed the Facial Forward Campaign to communicate procedures within the esthetics scope of practice. Additionally, in 2008 HLO and the Board expanded the campaign to include information regarding laser and light based devices. Both campaigns were aimed at providing consumers and

certificate holder's guidance and information.

In 2011 HLO removed the campaign information from the website and discontinued providing the documentation as guidance to consumers and certificate holders. The campaign was stopped due to the lack of statutory authority to expand the scope of practice for esthetics. Despite the fact that both campaigns were removed from the HLO website the information is still readily available on the internet.

MOTION:

Peggy McJunkin made a motion with a second Lisa Bonner Brown to rescind the 2006 and 2008 Facial Forward Campaigns in their entirety. Motion passed unanimously.

Director Report:

- Update on transition to Oregon Health Authority (OHA)
- Update on staffing, and the recruitment for a communication coordinator position
- During legislative session Board members and HLO must remain neutral on all bills unless specific permission has been granted to support a bill.
- Several letters were received by HLO in support of House Bill 2642 regarding the nonablative lasers.

Licensing and Fiscal Statistical Reports

Sylvie Donaldson, fiscal services and licensing manager, presented an overview of statistics related to the Board. Statistics included licensing and examination, active license trends and license volumes.

Donaldson, reported that all independent contractors renewing online receive a discount of 10%.

The statement of cash flow for the period 07/01/2013 – 1/12/2015 was reviewed with an actual ending cash balance of \$1,557,571.90. The ending cash balance for the period of 07/01/2013 – 6/30/2015 is projected to be \$1,476,645.36.

Roger Wert arrived at 10:28 a.m.

Policy Report

Samie Patnode, policy analyst, updated the Board on the 2015 Legislative Session including How a Bill Becomes a Law and the following:

- HB 2642 which establishes a Board of Certified Laser Estheticians within the structure of the Health Licensing Office. The bill creates a certification for laser estheticians who perform advanced nonablative esthetic procedures including but not limited to vein reduction, tattoo removal and pigment lentigo reduction. The bill also prohibits estheticians certified by the Board of Cosmetology from performing advanced nonablative esthetic procedures without being a certified laser esthetician.
- HB 2587 adds natural nail care as a field of practice within the Board of Cosmetology's oversight and regulation. The bill generally defines natural nail care as manicuring and pedicuring for cosmetic purposes which includes cutting, polishing and cleansing of the nails of the hands and feet. The definition also allows for massaging the hands, arms below the elbow and feet or legs below the knees. The bill prohibits the application or removal of artificial nails. In regards to education the bill requires that the applicant complete all courses required by the State Board of Education; however the applicant would not be required to complete courses relating to the application,

sculpturing or removal of artificial nails of the hands and feet.

-Cosmetology is the highest authorization volume board which generally means the cosmetology revenue helps sustain other programs within HLO.

Nail Salon

Mercer stated that in late 2014 KATU Problem Solvers broadcasted an investigative report regarding nail salons in the Portland Metro Area. The broadcast exposed that inspection reports from 2012 to 2014 produced 301 safety and infection control violations. The broadcast also showed that follow-up inspections were not being done to ensure corrective action had been taken. As well there was no mechanism in place for consumers to check the last inspection report for their nail salon.

Following the broadcast and after working with HLO staff several issues were resolved including having inspection information available on the HLO website dating back to inspections done in 2013. HLO has also instituted a follow-up inspection system for safety and infection control violations. During the April 2015 meeting HLO will recommend the Board begin administrative rulemaking to increase civil penalties and ensure better ability to suspend and revoke authorizations for repeat offenders.

Bob, Bothwell, regulatory operations manager, provided a summary of the follow-up inspection matrix including what constitutes an automatic follow-up inspection, when repeat violations require a follow-up inspection and what types of violations (licensing, safety, infection control.) require a follow-up inspection.

Mercer, updated board members on the safety violation inspections available for anyone to look up on the Office's web site.

Education and Examination

Mercer updated the Board on the following education and examination related information:

- Board on the Collaborative Summit meeting with HLO, the Higher Education Coordinating Commission and school owners which was held on January 22, 2015. Discussion during the meeting focused on additional information which may be required other than the student transcripts to qualify the student to take the written examination.
- The possibility of having written examinations offered in multiple languages.
- Update on Oregon Youth Authority (OYA) onsite HLO proctored written examination, including the possibility of the barbering school within OYA becoming a private career school.
- HLO and Department of Correction have a contract in place allowing specific DOC employees to proctor examination.
- Update on the examination item writing, HLO is currently working with subject matter experts to update the examinations.
- Update on practical examination evaluation that are being conducted at the cosmetology schools, and feedback that is given.

Cerynthia Murphy, Qualification Analyst, updated the board on the NACCAS accreditation workshop attended.

Regulatory Report

Bob Bothwell, regulatory operations manager, reported on enforcement activity including:

2011-2013 Biennium

Between July 1, 2011 and June 30, 2013, 384 complaints were received. Of the 384 complaints 12 remain open. A summary of allegations received by type of complaint was provided as stated below.

Anonymous	Clients	Other
81	97	206

2013-2015 Biennium

Between July 1, 2013 and December 31, 2014, 315 complaints were received. Of the 315 complaints 87 remain open. A summary of allegations received by type of complainant was provided as stated below.

Anonymous	Clients	Other
64	94	157

Public Comment

- Mary Nielsen, stated her affiliation to the Board, and her support for HB 2642
- Pamela Dreyer, stated her affiliation to the Board, and her support for HB 2642
- Suzanne Weldon, stated her affiliation to the Board, and her support for HB 2642
- Janet Dpaquette MD, stated her affiliation to the Board, and her support for HB 2642
- Michele Strobel, stated her affiliation to the Board, and her support for HB 2642
- Judy Culp, stated her affiliation to the Board, and her support for HB 2642
- Ryan Covey, stated her affiliation to the Board, and her support for HB 2642
- Rebecca Covey, stated her affiliation to the Board, and her support for HB 2642
- Matt O'Neil, stated her affiliation to the Board, and her support for HB 2642
- Michelle Blackwell, stated her affiliation to the Board, and her support for HB 2642

Executive Session

- The Board of Cosmetology entered executive session pursuant to ORS 192-660(2)(f) at 11:48 a.m. on January 26, 2015, for the purpose of considering information or records exempt from public inspection. Records to be considered related to legal advice.
- Executive session concluded and the board reconvened regular session at 12:46 a.m. It was noted that no decisions were made and no votes were made in executive session.

Executive Session

- The Board of Cosmetology entered executive session pursuant to ORS 192-660(2)(f) at 12:46 p.m. on January 26, 2015, for the purpose of considering information or records exempt from public inspection. Records to be considered related to legal advice
- Executive session concluded and the board reconvened regular session at 3:03 p.m. It was noted

that no decisions were made and no votes were made in executive session

Determine additional training requirements for retake examination

Applicant number 105794

Sylvie Donaldson, fiscal services and licensing manager, reported that it is necessary for members of the Board to determine additional training requirements for applicant number 105794 prior to the individual taking the Oregon Laws and Rules Written Examination for the ninth attempt. Information related to the applicant's examination history was provided

Donaldson explained that due to applicant number 105794 failing the examination on the eight attempt with an average failure rate of 43%, the office recommended that the applicant complete 43% or 65 hours of the initial 150 hours of training in Oregon Laws and Rules in order to take the written examination for an ninth attempt. The office recommended that the training hours be reported via a certificate of additional training form signed by an authorized representative of licensed cosmetology career school and that the 43% (or 65 hours) of training in Oregon Laws and Rules be as follows:

- 5 hours related to chemicals
- 13 hours related to definitions
- 5 hours related to examination
- 5 hours related to facility operations
- 27 hours related to facility standards
- 7 hours related to licensing/ qualification
- 3 hours related to practice standards

Members inquired whether the board could recommend applicants to complete additional training at an alternate school, other than the school they previously attended.

MOTION:

Peggy McJunkin made a motion, with a second by Amber Starks to adopt the recommendations as outlined for applicant number 105794. Motion passed unanimously.

Applicant number 101200

It was explained that due to applicant number 101200 failing the examination on the eight attempt with an average failure rate of 39%, the office recommended that the applicant complete 39% or 59 hours of the initial 150 hours of training in Oregon Laws and Rules in order to take the written examination for an eight attempt. The office recommended that the training hours be reported via a certificate of additional training form signed by an authorized representative of licensed cosmetology career school and that the 39% (or 59 hours) of training in Oregon Laws and Rules be as follows:

- 6 hours related to chemicals
- 14 hours related to definitions
- 3 hours related to examinations
- 3 hours related to facility operations
- 24 hours related to facility standards
- 6 hours related to licensing/ qualification
- 3 hours related to practice standards

MOTION:

Roger Wert made a motion with a second by Peggy McJunkin to adopt the recommendations as outlined for applicant number 101200. Motion passed unanimously.

Applicant number 106733

It was explained that due to applicant number 106733 failing the examination on the eight attempt with an average failure rate of 47%, the office recommended that the applicant complete 47% or 71 hours of training in Oregon Laws and Rules in order to take the written examination for a ninth attempt. The office recommended that the training hours be reported via a certificate of additional training form signed by an authorized representative of license cosmetology career school and that the 47% (or 71 hours) of training in Oregon Laws and Rules be as follows:

- 7 hours related to chemicals
- 12 hours related to definitions
- 5 hours related to examinations
- 6 hours related to facility operations
- 30 hours related to facility standards
- 5 hours related to licensing\ qualifications
- 6 hours related to practice standards

MOTION:

Peggy McJunkin made a motion with a second by Mike Nurre to adopt the recommendations as outlined for applicant number 106733. Motion passed unanimously.

Applicant number 082185

It was explained that due to applicant number 082185 failing the examination on the eight attempt with an average failure rate of 54%, the office recommended that the applicant complete 54% or 81 hours of training in Oregon Laws and Rules in order to take the written examination for a ninth attempt. The Office recommended that the training hours be reported via a certificate of additional training form signed by an authorized representative of licensed cosmetology career school and that 54% (or 81 hours) of training in Oregon Laws and Rules be as follows:

- 7 hours related to chemicals
- 20 hours related to definitions
- 3 hours related to examinations
- 7 hours related to facility operations
- 29 hours related to facility operations
- 9 hours related to licensing/ qualifications
- 6 hours related to practice standards

MOTION:

Roger Wert made a motion with as second by Amber Starks to adopt the recommendations as outlined for applicant number 082185. Motion passed unanimously.

Other Board Business

Mercer, stated she would like research to be done concerning alternative options for individual retaking the examinations multiple times.

The meeting adjourned at approximately 3:21 p.m.

Minutes prepared by Maria Gutierrez, board specialist

Determine Additional Training for Retake Examinations

Issue Statement

Issue:

Determine additional training requirements for applicant #029497 prior to taking the Oregon Laws and Rules Written Examination for the ninth attempt.

Discussion:

To qualify for certification applicants must receive a passing score of at least 75 percent on the Oregon Laws and Rules Written Examination which contains 90 questions.

- Attempt History:
- First attempt on November 3, 2006, score of 19%; failure rate of 81%
 - Second attempt on January 30, 2007, score of 43%; failure rate of 57%.
 - Third attempt on May 9, 2007, score of 56%; failure rate of 44%.
 - Fourth attempt on May 9, 2007, score of 7%; failure rate of 93%.
 - Fifth attempt on May 15, 2007, score of 65%; failure rate of 35%.
 - Sixth attempt on May 23, 2007, score of 68%; failure rate of 32%.
 - Seventh attempt on May 30, 2013, score of 32%; failure rate of 68%.
 - Eighth attempt on April 25, 2014, score of 43%, failure rate of 57%.

The table below includes the total number of examination questions, the average number of questions the applicant answered correctly / incorrectly and the failure rate for each content area on the examination.

Examination Content Area	Total # of questions	# Correct	# Incorrect	Failure %
Chemicals	8	2	6	7
Definitions	21	8	13	14
Examinations	5	3	2	2
Facility Operations	6	2	4	4
Facility Standards	35	16	19	22
Licensing / Certification	9	7	2	2
Practice Standards	6	1	5	6
Total	90	39	51	57

Recommendation:

Due to failing the examination on the eighth attempt, with an average failure rate of 57%, the agency recommends applicant #029497 complete 57% or 85.5 hours of the initial 150 hours of training in Oregon Laws and Rules as follows.

- | | |
|------------------|---------------------------|
| 7% or 10.5 hours | Chemicals |
| 14% or 21 hours | Definitions |
| 2% or 3 hours | Examinations |
| 4% or 6 hours | Facility Operations |
| 22% or 33 hours | Facility Standards |
| 2% or 3 hours | Licensing / Certification |
| 6% or 9 hours | Practice Standards |

Training hours must be reported via a Certificate of Additional Training Form signed by an authorized representative of a licensed cosmetology career school.

Issue Statement

Issue:

Determine additional training requirements for applicant #100638 prior to taking the Nail Technology Written Examination for the eighth attempt.

Discussion:

To qualify for certification applicants must receive a passing score of at least 75 percent on the Nail Technology Written Examination which contains 100 questions.

Attempt history (* represents paper-pencil format):

- First attempt on June 28, 2012, score of 51; failure rate of *49%
- Second attempt on July 6, 2012, score of 49%; failure rate of *51%.
- Third attempt on July 19, 2012, score of 47%; failure rate of *53%.
- Fourth attempt on November 26, 2012, score of 54%; failure rate of *46%.
- Fifth attempt on December 12, 2012, score of 53%; failure rate of *47%.
- Sixth attempt on March 6, 2013, score of 69%; failure rate of 31%.
- Seventh attempt on January 20, 2015, score of 74%; failure rate of 26%.

The table below includes the total number of questions on the examination, and the average number of questions answered correctly / incorrectly and failure rate for each content area for the applicants last two examinations.

Examination Content Area	Total # of questions	# Correct	# Incorrect	Failure %
Chemicals	17	15	2	2
Standards	4	2	2	2
Diseases	15	10	5	5
Definitions	18	14	4	4
Equipment	23	18	5	5
General	23	13	10	10
Total	100	72	28	28

Recommendation:

Due to failing the examination on the seventh attempt, with an average failure rate of 28%, the office recommends applicant #100638 complete 28% or 98 hours of the initial 350 hours of training in Nail Technology as follows:

2% or 7 hours	Chemicals
2% or 7 hours	Standards
5% or 17.5 hours	Diseases
4% or 14 hours	Definitions
5% or 17.5 hours	Equipment
1% or 35 hours	General

Training hours must be reported via a Certificate of Additional Training Form signed by an authorized representative of a licensed cosmetology career school.

**Approve Administrative
Rules Schedule**

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**Civil Penalties &
Sanctions**



ISSUE STATEMENT

HEALTH LICENSING OFFICE
BOARD OF COSMETOLOGY

BACKGROUND:

In late 2014 KATU Problem Solvers broadcasted an investigative report regarding nail salons in the Portland Metro Area. The broadcast exposed that inspection reports from 2012 to 2014 produced 301 safety and infection control violations. The broadcast also showed that follow-up inspections were not being done to ensure corrective action had been taken. As well there was no mechanism in place for consumers to check the last inspection report for their nail salon.

Following the broadcast and after working with Health Licensing Office (HLO) staff several issues were resolved including having inspection information available on the HLO website dating back to inspections done in 2013. HLO has also instituted a follow-up inspection system for safety and infection control violations.

During the January 26, 2015 Board of Cosmetology meeting HLO inquired on whether or not the board wanted to move forward with administrative rulemaking to increase civil penalties and ensure better ability to suspend and revoke authorizations for repeat offenders.

ISSUE:

Review and approve administrative rule schedule which includes an extended public comment period from October 1 through November 30, 2015 to allow ample time for the public to provide input regarding the proposed administrative rules. A public administrative rule hearing is scheduled for October 28, 2015 at 9 am at HLO, Rhoades Conference Room. The board is expected to adopt permanent administrative rules at the January 2016 board meeting.

RECOMMENDATION:

Approve administrative rules schedule.



ADMINISTRATIVE RULE SCHEDULE

HEALTH LICENSING OFFICE BOARD OF COSMETOLOGY

Date	Action	Time
April 6, 2015	Approve rulemaking schedule	10 am
August 17, 2015	Board meeting approve proposed rules	10 am
October 1, 2015	Notice of proposed rules in Oregon Bulletin	
October 12, 2015	Board meeting	
October 28, 2015	Public rule hearing	10 am
November 30, 2015	Last day for public comment	5 pm
January 25, 2016 (tentative date)	Board meeting review public comment, hearing officer report and adopt permanent rules	10 am
February 1, 2016	Effective date of permanent rule	

Comments received prior to October 1, 2015 will not be considered by the Health Licensing Office or the Board of Cosmetology.

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.

Invited technical experts may be invited to participate in meetings regarding their knowledge and expertise in specific areas.

For current information regarding administrative rules or the rulemaking process visit the Web at http://www.oregon.gov/OHLA/COS/Pages/COSlaws_rules.aspx

Director Report

Licensing and Fiscal Statistical Reports

Board of Cosmetology

Licensing Division Statistics as of March 23, 2015
2013 - 2015 Biennium

Authorizations Issued

Quarter	Barber	Hair Design	Natural Hair Care	Esthetics	Nail Technology	Facility Licenses	Independent Contractor	Freelance	Total Authorizations
1st	22	276	-	253	206	159	244	63	1,223
2nd	16	273	-	269	212	140	225	76	1,211
3rd	22	278	15	271	200	186	263	106	1,341
4th	21	274	3	292	197	189	272	97	1,345
5th	23	253	4	247	185	151	231	83	1,177
6th	20	256	5	237	166	166	188	59	1,097
7th	22	254	13	285	225	170	262	79	1,310
8th	-	-	-	-	-	-	-	-	-
Total:	146	1,864	40	1,854	1,391	1,161	1,685	563	8,704

Renewals Processed

Quarter	Barber	Hair Design	Natural Hair Care	Esthetics	Nail Technology	Facility Licenses	Independent Contractor	Freelance	Total Renewals	% Renewed Online
1st	578	3,023	-	1,661	1,566	1,085	1,159	28	9,100	45.10%
2nd	341	2,075	-	1,298	1,332	910	936	37	6,929	47.76%
3rd	343	2,373	-	1,638	1,528	1,129	1,305	36	8,352	52.60%
4th	347	2,420	-	1,649	1,536	1,072	1,249	51	8,324	53.54%
5th	789	3,400	-	1,749	1,751	1,166	1,151	38	10,044	49.31%
6th	385	2,259	-	1,403	1,409	839	1,013	39	7,347	53.86%
7th	283	2,045	-	1,300	1,238	929	1,057	39	6,891	50.89%
8th	-	-	-	-	-	-	-	-	-	0.00%
Total:	3,066	17,595	-	10,698	10,360	7,130	7,870	268	56,987	49.66%

Board of Cosmetology

Examination Statistics as of March 23, 2015

2013 - 2015 Biennium

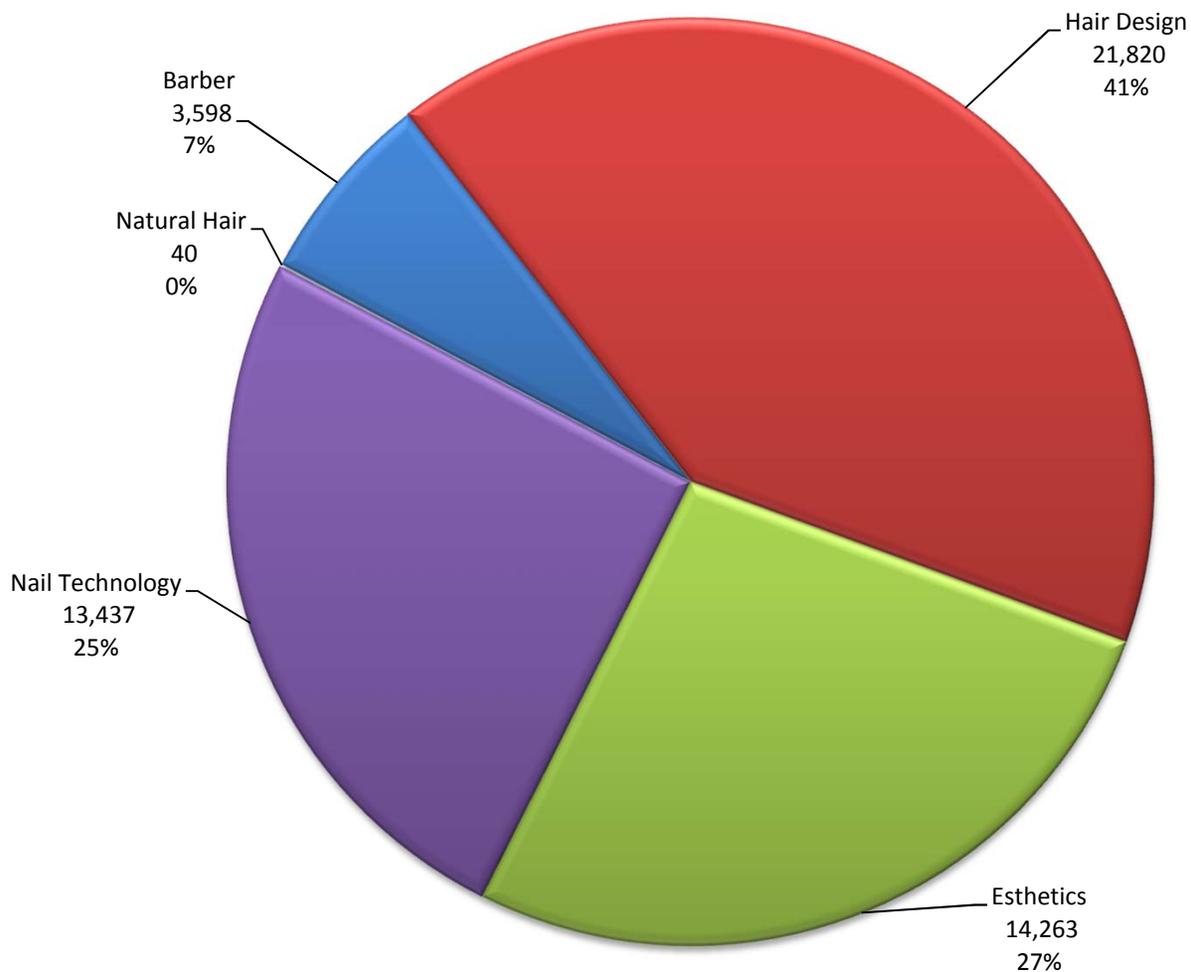
Examination Statistics

Quarter	OR Laws and Rules			Barber			Hair Design			Natural Hair Care			Esthetics			Nail Technology		
	Passed	Failed	% Passed	Passed	Failed	% Passed	Passed	Failed	% Passed	Passed	Failed	% Passed	Passed	Failed	% Passed	Passed	Failed	% Passed
1st	435	442	50%	24	26	48%	281	55	84%	-	-		255	36	88%	214	92	70%
2nd	461	329	58%	14	20	41%	280	52	84%	-	-		276	38	88%	215	77	74%
3rd	461	332	58%	25	25	50%	293	63	82%	15	1	94%	275	39	88%	204	100	67%
4th	513	243	68%	20	23	47%	270	66	80%	3	-	100%	299	39	88%	213	102	68%
5th	444	206	68%	26	29	47%	258	50	84%	5	-	100%	245	28	90%	192	92	68%
6th	404	196	67%	19	15	56%	263	53	83%	5	1	83%	233	26	90%	156	90	63%
7th	517	238	68%	21	29	42%	269	62	81%	12	-	100%	297	30	91%	219	104	68%
8th	-	-		-	-		-	-		-	-		-	-		-	-	
Total:	3,235	1,986	62%	149	167	47%	1,914	401	83%	40	2	95%	1,880	236	89%	1,413	657	68%

Board of Cosmetology

Cosmetology Practitioners as of March 23, 2015

2013 - 2015 Biennium



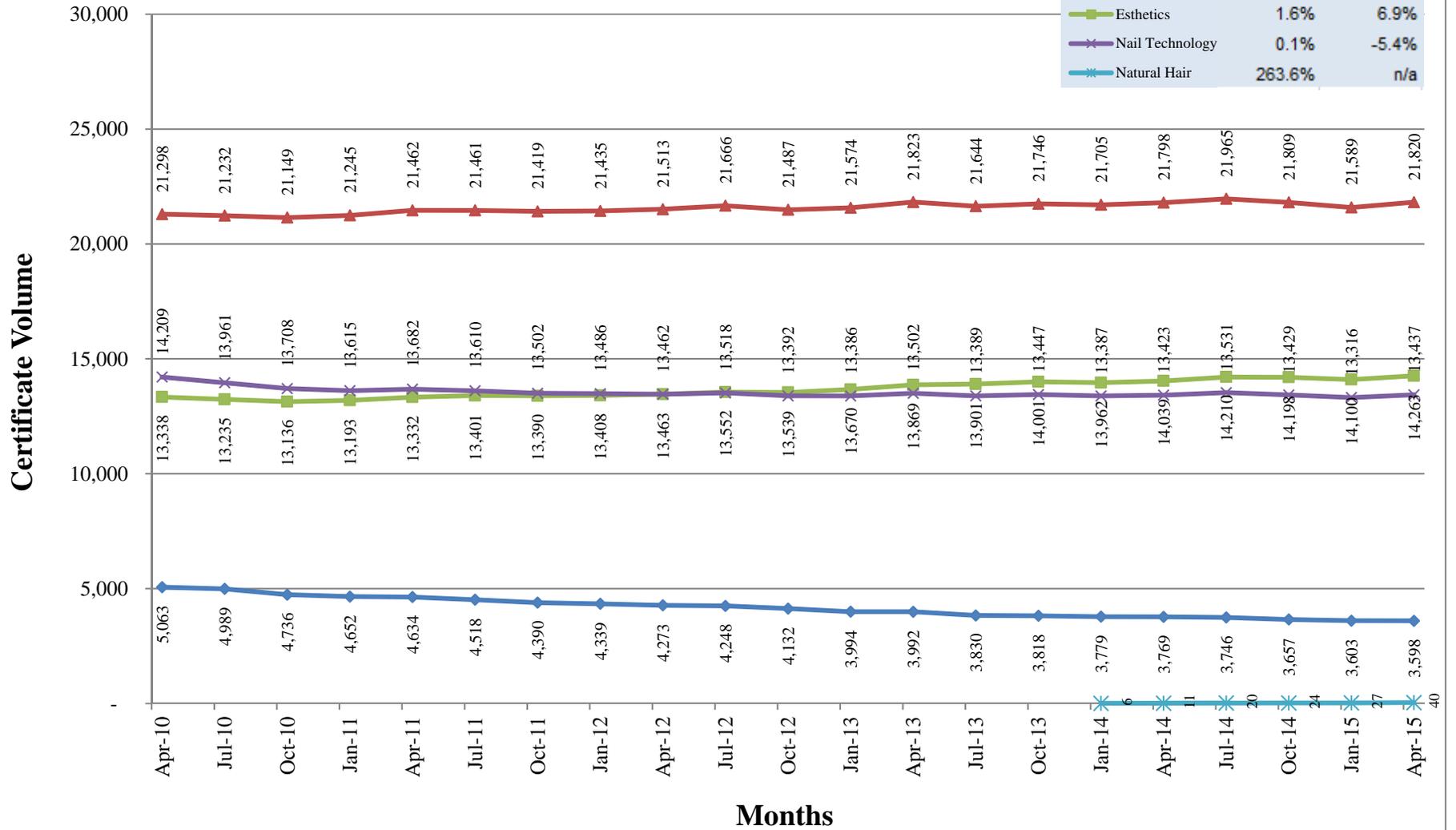
Total Volume: **53,158**

Board of Cosmetology

Practitioner Certificate Volume

April 2010 - March 2015

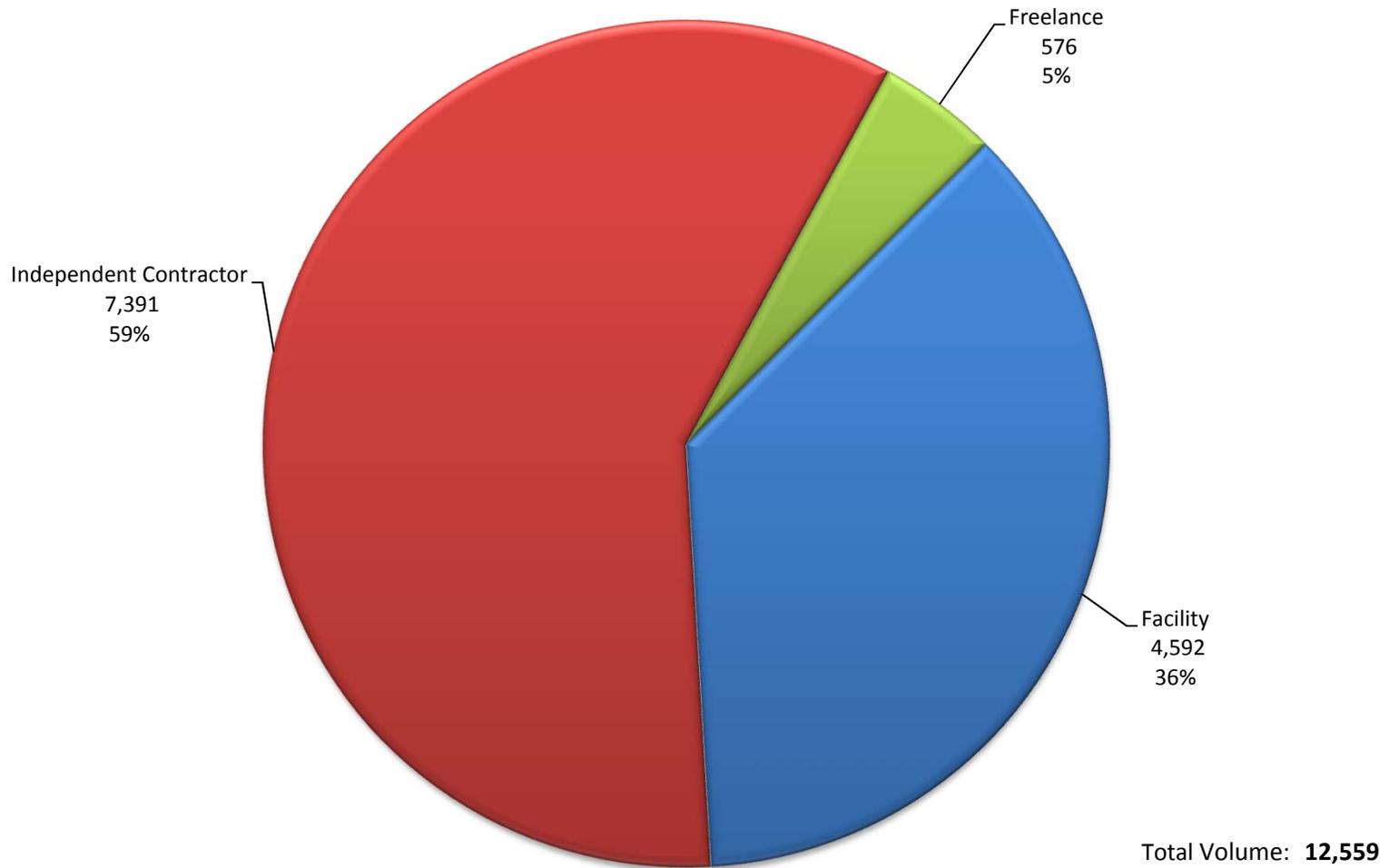
Growth Rates		
1-Year	5-Years	
Barber	-4.5%	-28.9%
Hair Design	0.1%	2.5%
Esthetics	1.6%	6.9%
Nail Technology	0.1%	-5.4%
Natural Hair	263.6%	n/a



Board of Cosmetology

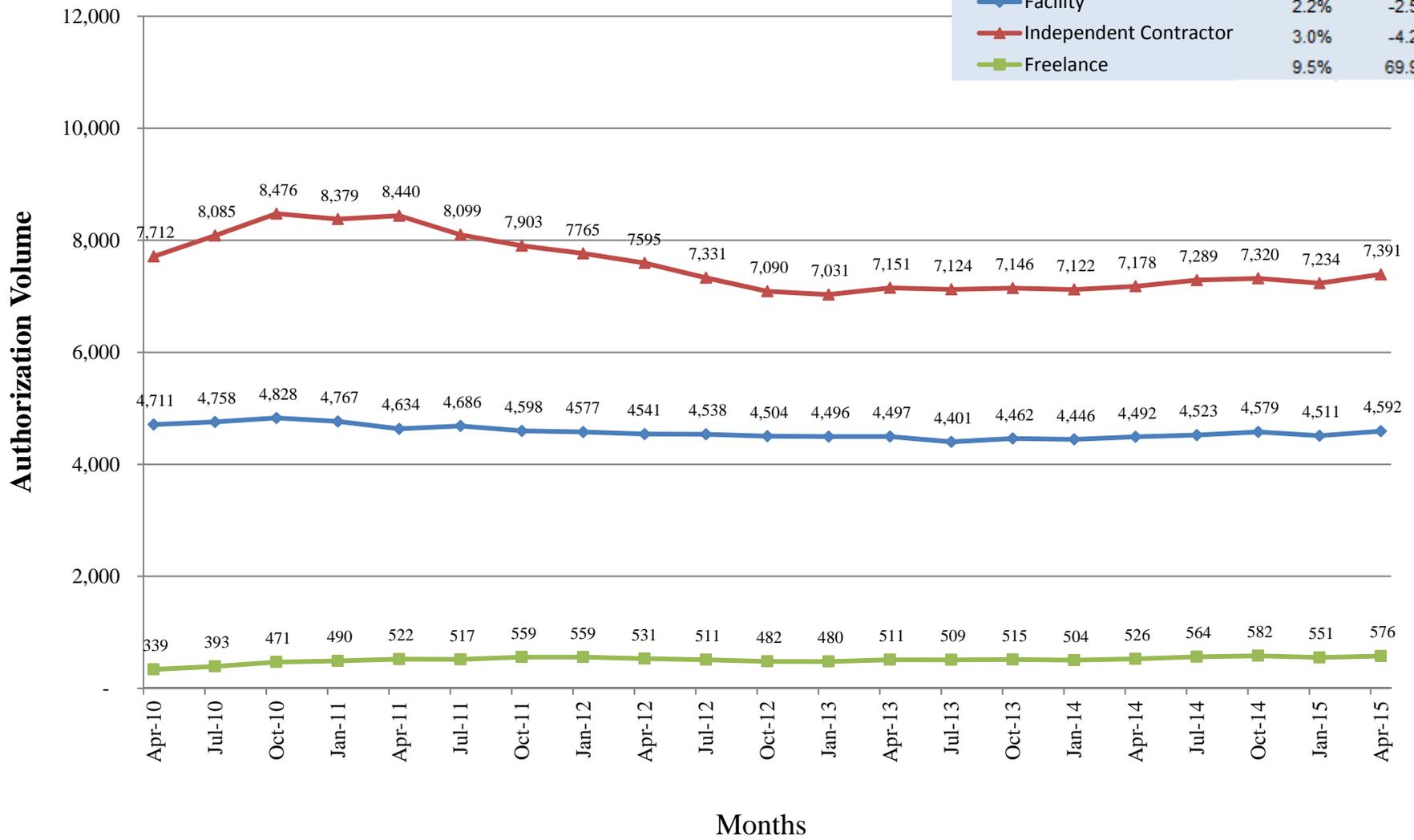
Business Authorizations as of March 23, 2015

2013 - 2015 Biennium



Board of Cosmetology

Business Authorization Volume April 2010 - March 2015



**HEALTH LICENSING OFFICE
Fund 7520 - COSMETOLOGY
STATEMENT OF CASH FLOW
FOR THE PERIOD 07/01/13 - 03/23/15**

CURRENT

13-15' Beginning Cash Balance	\$ 1,150,961.96
Revenues	\$ 5,456,541.79
Expenditures	\$ 4,875,717.23
Less: Accrued Expenditures	\$ -
Less: Total Expenditures	<u>\$ (4,875,717.23)</u>
Subtotal: Resources Available	\$ 1,731,786.52
Change in (Current Assets)/Liabilities	\$ -
Ending Cash Balance (Actual)	\$ 1,731,786.52

Indirect Charges are calculated using the following rates:

*Based on Licensee Volume as of May 20, 2013

Shared Assessment %	91.61%
Examination %	93.03%
Small Board Qualification %	0.00%
Inspection %	92.07%

**HEALTH LICENSING OFFICE
Fund 7520 - COSMETOLOGY
STATEMENT OF CASH FLOW
FOR THE PERIOD 07/01/13- 06/30/15**

PROJECTED

13-15' Beginning Cash Balance	\$ 1,150,961.96
Revenues	\$ 6,496,867.33
Expenditures	\$ 6,080,353.98
Less: Accrued Expenditures	\$ -
Less: Total Expenditures	<u>\$ (6,080,353.98)</u>
Subtotal: Resources Available	\$ 1,567,475.31
Change in (Current Assets)/Liabilities	\$ -
Ending Cash Balance (Projection)	\$ 1,567,475.31

Indirect Charges are calculated using the following rates:

*Based on Licensee Volume as of May 20, 2013

Shared Assessment %	91.61%
Examination %	93.03%
Small Board Qualification %	0.00%
Inspection %	92.07%

*Projections are based on Revenue and Expenditure history

Policy Report

2015 Legislation

HB 2642

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**Board of Certified Laser
Estheticians**

A-Engrossed
House Bill 2642

Ordered by the House April 2
Including House Amendments dated April 2

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

SUMMARY

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

Establishes Board of Certified [*Laser*] **Advanced** Estheticians within Health Licensing Office. Defines "advanced nonablative esthetics procedure." Requires esthetician to be certified with board to practice advanced nonablative esthetics procedures.

Becomes operative [*January*] **July 1, 2016**.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to nonablative procedures; creating new provisions; amending ORS 676.583 and 676.992; and
3 declaring an emergency.

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

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

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

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

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

19 (3) "Esthetician" means a person certified to practice esthetics under ORS 690.005 to
20 690.225.

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

23 **SECTION 2. (1) A person may not practice advanced nonablative esthetics procedures or**
24 **use a title, word or abbreviation, including the designation certified advanced esthetician,**
25 **that indicates that the person is authorized to practice advanced nonablative esthetics pro-**
26 **cedures unless the person is certified by the Board of Certified Advanced Estheticians under**

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

1 section 3 of this 2015 Act.

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

4 (3) This section does not apply to:

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

7 (b) A student enrolled in an advanced nonablative esthetics education program or train-
8 ing program or in an advanced nonablative esthetics program that combines education and
9 training.

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

13 (a) Is at least 18 years of age;

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

15 (c) Successfully completes:

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

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

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

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

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

26 (a) If the program is located in this state, licensed through the Higher Education Coor-
27 dinating Commission; or

28 (b) If the program is not located in this state, substantially equivalent to a program li-
29 censed through the Higher Education Coordinating Commission.

30 (3) The office shall issue a certificate to practice advanced nonablative esthetics proce-
31 dures to an applicant who:

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

33 (b) Is authorized and in good standing to practice advanced nonablative esthetics proce-
34 dures in a state where the requirements to practice nonablative esthetics procedures are
35 substantially similar to the requirements to practice advanced nonablative esthetics proce-
36 dures in this state; and

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

38 (4) The office shall issue a temporary certificate to perform advanced nonablative es-
39 thetics procedures to an applicant who:

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

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

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

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

1 (a) A renewal application;

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

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

5 (2) A temporary certificate issued under section 3 (4) of this 2015 Act expires as pre-
6 scribed by the office by rule.

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

9 (a) Nine members appointed by the Governor; and

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

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

13 (a) Five must be certified advanced estheticians;

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

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

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

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

24 (5) The voting members of the board shall select one of the voting members as chair-
25 person and another voting member as vice chairperson. The board shall establish the terms
26 of service for the chairperson and the vice chairperson and the duties and powers of the
27 chairperson and the vice chairperson.

28 (6) A majority of the voting members of the board constitutes a quorum for the trans-
29 action of business.

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

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

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

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

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

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

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

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

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

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

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

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

8 (c) Requiring a certified advanced esthetician to enter into an agreement with a health
9 care professional who has the authority to prescribe drugs listed in Schedule III, IV or V to
10 whom the certified advanced esthetician may refer a client of the certified advanced
11 esthetician.

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

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

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

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

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

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

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

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

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

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

37 **SECTION 10.** ORS 676.583 is amended to read:

38 676.583. Pursuant to ORS 676.586, the Health Licensing Office shall provide administrative and
39 regulatory oversight and centralized service for the following boards and councils:

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

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

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

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

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

- 1 (6) Environmental Health Registration Board, as provided in ORS chapter 700;
- 2 (7) Board of Body Art Practitioners, as provided in ORS 690.350 to 690.410;
- 3 (8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.170;
- 4 (9) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410;
- 5 (10) Nursing Home Administrators Board, as provided in ORS 678.710 to 678.820; *[and]*
- 6 (11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485[.]; **and**
- 7 **(12) Board of Certified Advanced Estheticians, as provided in sections 1 to 7 of this 2015**
- 8 **Act.**

9 **SECTION 11.** ORS 676.992 is amended to read:

10 676.992. (1) Except as provided in subsection (3) of this section, and in addition to any other
11 penalty or remedy provided by law, the Health Licensing Office may impose a civil penalty not to
12 exceed \$5,000 for each violation of the following statutes and any rule adopted *[thereunder]* **under**
13 **the following statutes:**

- 14 (a) ORS 688.701 to 688.734 (athletic training);
- 15 (b) ORS 690.005 to 690.225 (cosmetology);
- 16 (c) ORS 680.500 to 680.565 (denture technology);
- 17 (d) Subject to ORS 676.616 and 687.445, ORS 687.405 to 687.495 (direct entry midwifery);
- 18 (e) ORS 690.350 to 690.410 (tattooing, electrolysis, body piercing, earlobe piercing, dermal im-
19 planting and scarification);
- 20 (f) ORS 694.015 to 694.170 (dealing in hearing aids);
- 21 (g) ORS 688.800 to 688.840 (respiratory therapy and polysomnography);
- 22 (h) ORS chapter 700 (environmental sanitation);
- 23 (i) ORS 675.360 to 675.410 (sex offender treatment);
- 24 (j) ORS 678.710 to 678.820 (nursing home administrators);
- 25 (k) ORS 691.405 to 691.485 (dietitians);
- 26 (L) ORS 676.612 (prohibited acts); *[and]*
- 27 (m) ORS 676.800 (applied behavior analysis)[.]; **and**
- 28 **(n) Sections 1 to 7 of this 2015 Act (advanced nonablative esthetics procedure).**

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

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

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

- 37 (a) The immediacy and extent to which the violation threatens the public health or safety;
- 38 (b) Any prior violations of statutes, rules or orders;
- 39 (c) The history of the person incurring a penalty in taking all feasible steps to correct any vio-
40 lation; and
- 41 (d) Any other aggravating or mitigating factors.
- 42 (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

43 (6) The moneys received by the office from civil penalties under this section shall be deposited
44 in the Health Licensing Office Account and are continuously appropriated to the office for the ad-
45 ministration and enforcement of the laws the office is charged with administering and enforcing that

1 govern the person against whom the penalty was imposed.

2 **SECTION 12.** (1) Sections 1 to 9 of this 2015 Act and the amendments to ORS 676.583 and
3 **676.992 by sections 10 and 11 of this 2015 Act become operative on July 1, 2016.**

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

9 **SECTION 13.** This 2015 Act being necessary for the immediate preservation of the public
10 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
11 on its passage.

12

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2642 - 4

Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session
Legislative Fiscal Office*Only Impacts on Original or Engrossed
Versions are Considered Official*Prepared by: Kim To
Reviewed by: Linda Ames
Date: 3/30/2015**Measure Description:**

Establishes Board of Certified Advanced Estheticians within Health Licensing Office.

Government Unit(s) Affected:

Oregon Health Authority (OHA)

¹Summary of Expenditure Impact Health Licensing Office, Oregon Health Authority (OHA):

	2015-17 Biennium	2017-19 Biennium
Personal Services	\$196,161	\$392,322
Services and Supplies	190,133	380,266
Total Other Funds	\$386,294	\$772,588
Positions	2	3
FTE	1.28	2.56

²Summary of Revenue Impact Health Licensing Office, Oregon Health Authority (OHA):

	2015-17 Biennium	2017-19 Biennium
Fees	\$956,391	\$784,787
Total Other Funds	\$956,391	\$784,787

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

House Bill 2642 with the -4 amendment establishes the nine-member Board of Certified Advanced Estheticians within the Health Licensing Office (HLO) in the Oregon Health Authority (OHA). The bill authorizes the Health Licensing Office to certify the practice of advanced nonablative esthetics. Certification must be renewed biennially. The bill contains an emergency clause and is effective on passage. The Health Licensing Office is authorized to take action before the July 1, 2016 operative date. The bill allows HLO to begin certifying individuals as of July 1, 2016, and reduces the grandfathering period from two years to 18 months. The – 4 amendment clarifies the definition of “nonablative,” adds two physicians or physician assistants as members of the board, specifies that certificate holders are required to disclose existence of professional liability insurance as part of their client records, and stipulates that a certificate holder must enter into an agreement with a health care professional who has schedule III, IV or V prescriptive authority. The – 4 amendment does not change the fiscal determination.

¹ The Health Licensing Office estimates the fiscal impact of this bill to be \$386,294 Other Funds; 2 positions; and 1.28 FTE for the twelve months of the 2015-17 biennium. This amount includes startup costs as well as Personal Services, and related Services & Supplies for two Public Service Representative positions. Because HLO is at operational capacity, to implement this new board and handle the regulation of a new category of estheticians, HLO will need additional staffing to carry out the provisions of this bill.

² The bill allows the Board of Certified Advanced Estheticians to be self-funded via fees charged to applicants and certificate holders for applications, new and annual renewal certifications, examinations, and other activities. Based on the assumption provided by bill proponents that approximately 25% of the current Cosmetology Esthetician certificate holders (14,246 in February 2015) will seek to become a Certified Advanced Esthetician within the first year of operations, HLO estimates certifying 3,562 estimated Certified Advanced Estheticians by end of the 2015-17 biennium. Based on this volume, HLO anticipates establishing the following fees:

- (1) Application – New Certificate = \$100;
- (2) Certificate – New = \$200;
- (3) Certificate Renewal = \$200;
- (4) Examinations = \$35.

SB 699

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**Exempt Certification
Requirements**

HB 2587

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Natural Nail Care

Education & Examination

~

HECC Advisory Committee Update

Item Writing Update

Multi-Language Exam Update

Examination Summary Report Discussion

Regulatory Report

Health Licensing Office



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Web: www.oregon.gov/oha/hlo
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Board of Cosmetology

April 6, 2015

2011 – 2013 Biennium

Between July 1, 2011 and June 30, 2013, 384 complaints were received by the Office. Total open 2. Total closed 382.

ANONYMOUS	CLIENTS	OTHER
81	97	206

2013 – 2015 Biennium

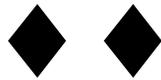
Between July 1, 2013 and February 28, 2015, 338 complaints were received by the Office. Total open 82. Total closed 256.

ANONYMOUS	CLIENTS	OTHER
71	95	172

Other: Licensees
General Public
Internal

Interested Parties Feedback

Executive Session



ORS 192.660(2)(f) for the purpose of considering
information or records exempt from public inspection.

Other Board Business