Call to Order

HEALTH LICENSING OFFICE

Tina Kotek, Governor

Oregon Health Authority

1430 Tandem Ave. NE Suite 180
Salem OR 97301-2192
Phone: (503)378-8667
Fax: (503)585-9114
www.oregon.gov/oha/ph/hlo

WHO: **Health Licensing Office**
Board of Cosmetology

WHERE: **Oregon Gardens & Resort**, Orchid Ballroom
895 W Main Street, Silverton, Oregon 97381

WHEN: **Tuesday, June 13, 2023, from 9:00 a.m. to 2:30 p.m.**

What is the purpose of the meeting? The purpose of the meeting is to reconcile current rules with proposed definitions related to devices and skin depth for estheticians, conduct regular board business, and provide a forum for community engagement and feedback on future rule changes. A copy of the agenda is provided with this notice. Go to the Health Licensing Office (HLO) webpage for current meeting information.

May the public attend open sessions in person? Yes, members of the public and the media are invited to attend all board/council and community engagement meetings. Public and interested parties' feedback will be heard if available and stated on the agenda.

May the public attend by telephone conference (call-in) or by video conference? Yes, options to attend the meetings by conference call and/or video conferencing will be available through MS Teams. Email your full name to April Fleming at april.fleming@oha.oregon.gov, and let her know if you would like to make a public comment.

Option 1: **MS Teams by video conference (audio and video):**
- Click here to join the meeting
-When prompted enter the meeting ID: 232 819 662 007 then the passcode: ygVEQh

Option 2: **MS Teams Teleconference (audio only)**
-Dial (971) 277-2343 and enter the conference ID: 911 882 661#.

Option 3: **Phone Teleconference Line (audio only)**
-Dial (503) 934-3605 and enter PIN 747147, followed by the # key

HLO asks that individuals attending through MS Teams keep your phone muted and cameras off during the entire meeting until you are given an opportunity to comment during the Public and Interested Parties Feedback period or the community engagement forum.

What if the board/council enters executive session? Prior to entering executive session, the board/council chairperson will announce the nature of and the authority for holding an executive session. Board members, designated participants such as staff, and representatives of the news media shall be allowed to attend the executive session. All other audience members are not allowed to attend the executive session. 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.

Representatives of the news media who are interested in attending an executive session are asked to contact April Fleming at april.fleming@oha.oregon.gov to make arrangements.

Who do I contact if I have questions or need special accommodations? If you have any questions about accommodations or need any assistance to participate, please contact April Fleming at april.fleming@oha.oregon.gov, or by calling (503) 509-5127; or Derek Fultz at derek.j.fultz@oha.oregon.gov or by calling (503) 373-1915. All relay calls are accepted.

Items for Board Action

Approval of Agenda

Health Licensing Office

Board of Cosmetology

Oregon Gardens & Resort
895 W Main Street, Silverton, Oregon 97381
June 13, 2023, from 9:00 a.m. to 2:30 p.m.

Board Meeting

1. **9:00 a.m. Call to Order** HLO Meeting Information

2. **Items for Board Action -** Approval of agenda

3. **Meeting Logistics -** Facilitation of Meeting

4. **9:10 a.m. Executive Session:** Pursuant to ORS 192.660(2)(f), ORS 192.355(9)(a) and ORS 40.225 for the purpose of considering information exempt from public disclosure. (legal advice) (approximate time)

5. **Administrative Rules Discussion**
   - Administrative Rules Schedule
   - Proposed Administrative Rules which Reconcile
     -Definitions related to Devices & Skin Depth for Estheticians
     -Definitions of Esthetic & Advanced Esthetics Device & Natural Physiological Affect
   - Fiscal Impact and Racial Equity Statement

12:00 p.m. 15 Minute Break to get lunch / Board and staff will continue meeting having a Working Lunch

6. **Items for Board Action**
   - Recommend Rules Advisory Committee Membership including Persons & Communities Likely to be Affected by the Rule Changes – Reconcile Rules
   - Determine Additional Requirements for Retake Examination:
     -Applicant: 102317-HD 6th attempt
     -Applicant: 129956-HD 7th attempt
     -Applicant: 132271-BA 7th attempt
     -Applicant: 147087-NT 6th attempt

7. **Reports**
   - Director Report - Board Member Recruitment
   - Licensing and Fiscal Statistical Reports
   - Regulatory Report
   - Policy - 2023 Legislative Update: SB 217 (2021)

8. **Public/Interest Parties Feedback: three (3) minutes per person commenting**

9. **Other Board Business**

Adjourn Board Meeting

15-minute break

Health Licensing Office Lead Community Engagement Forum on Future Administrative Rules

Field of Practice Curriculum
Application Requirements – Reciprocity, Non-credentialed
Examination Requirements – Practical, Written, Freelance Authorization
Retake Examination Requirements: Study Reviews, Additional Education
Safety and Infection Control
Practice Clarification Review

	How to Attend Meeting (If not attending in person follow one of the options below)		
Ways to Attend:	**Join By:**	**Meeting or Conference ID:**	**Passcode:**
MS Teams Video (audio/video)	Click here to join the meeting	Meeting ID: 232 819 662 007	ygVEQh
MS Teams Audio (audio only)	Dial (971) 277-2343	Conference ID: 911 882 661 #	
Telephone Conference (audio)	Dial (503) 934-3605	Conference PIN: 747147 #	

Meeting Logistics

Executive Session

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Pursuant to ORS 192.660(2)(f), ORS 192.355(9)(a) and ORS 40.225 for the purpose of considering information exempt from public disclosure. (legal advice)

Administrative Rule Discussion

Resources

Advanced Esthetics Statutes & Rules

Cosmetology (Esthetics) Statutes & Rules

Limited Waiver on Enforcement Outreach – April 10, 2020

Limited Waiver & Ongoing Legislation Outreach – January 7, 2021

HB 2970 Outreach – September 24, 2021

HB 2970 Rulemaking Update – June 1, 2022

HB 2970 Rulemaking Update – March 1, 2023

January 30, 2023, Joint RAC meeting materials

1st video recording of the January 30, 2023, Joint RAC

2nd video recording of the January 30, 2023, Joint RAC

3rd video recording of the January 30, 2023, Joint RAC

Cancellation of February 27, 2023, Joint Rules Advisory Committee

March 27, 2023, Joint RAC meeting materials

1st video recording of the March 27, 2023, Joint RAC

2nd video recording of the March 27, 2023, Joint RAC

April 26, 2023, Joint RAC meeting materials

1st video recording of the April 26, 2023, Joint RAC

2nd video recording of the April 26, 2023, Joint RAC

Rule Schedule

ADMINISTRATIVE RULE SCHEDULE

HEALTH LICENSING OFFICE

Cosmetology & Advanced Esthetics

Date	Action	Time
October 26, 2022	Board Certified Advanced Estheticians (CAE) meeting – approve rule schedule & provide Rules Advisory Committee (RAC) membership recommendations	9 am
November 14, 2022	Board of Cosmetology (COS) meeting – approve rule schedule & provide RAC membership recommendations	10 am
January 23, 2023	COS board meeting	10 am
January 30, 2023	Esthetics & Advanced Esthetics RAC	9 am
February 22, 2023	CAE board meeting	9 am
February 27, 2023	Esthetics & Advanced Esthetics RAC - CANCELLED	9 am
March 27, 2023	Esthetics & Advanced Esthetics RAC	9 am
April 26, 2023	Esthetic & Advanced Esthetics RAC	9 am
June 12, 2023	CAE & COS combined meeting – approve proposed rules related to changes from HB 2970 (2021), definition of esthetics and advanced esthetics device and natural physiological effect for esthetics	9 am
June 13, 2023	COS Board meeting – provide RAC membership recommendations for rules to be aligned due to changes from HB 2970 (2021), definition of esthetics and advanced esthetics device and natural physiological effect for esthetics	
July 10, 2023	CAE Board meeting – provide RAC membership recommendations for rules to be reconciled due to changes from HB 2970 (2021), definition of esthetics and advanced esthetics device and natural physiological effect for esthetics	
August 1, 2023	Notify legislators 49-days before the effective date of rule	
August 1, 2023	First day for public comment Notice of proposed rules in Oregon Bulletin	
August 16, 2023	COS & CAE combined public rule hearing: comments regarding esthetics and advanced esthetics during the entire public rule hearing	9 am to 12 pm Lunch 1 pm to 4 pm
October 23, 2023[1]	COS & CAE combined meeting – consider public comment and hearings officer report -adopt permanent rules	9 am
October 24, 2023	COS & CAE combined meeting – consider public comment and hearings officer report -adopt permanent rules	9 am
January 1, 2024	Permanent rules filed and effective	

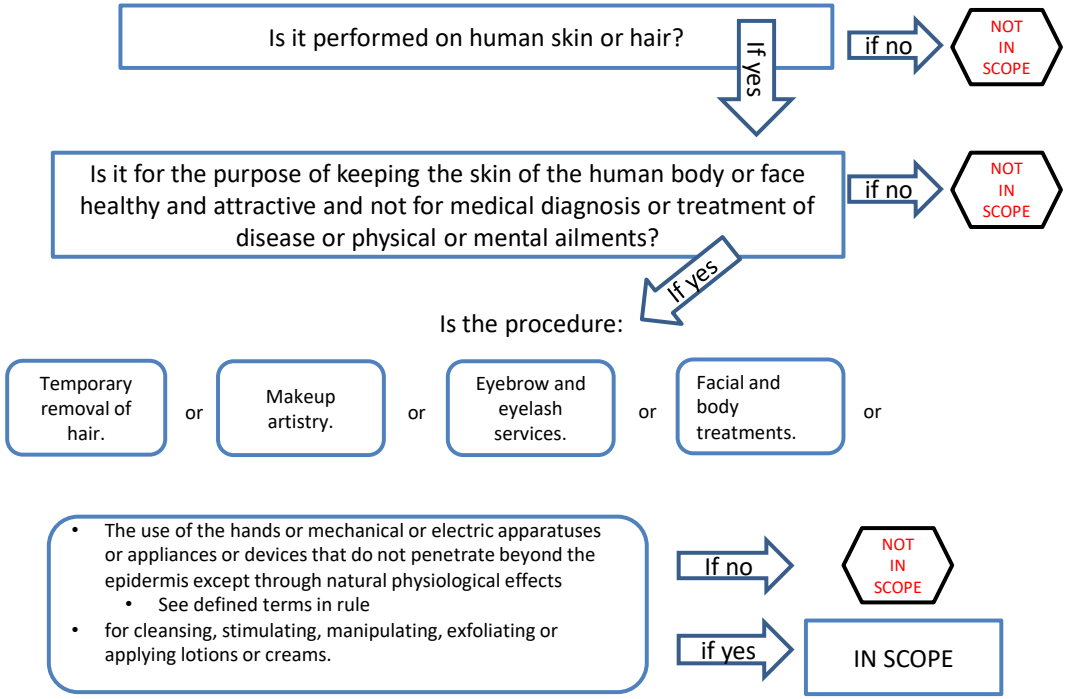
Please send all public comment or questions to:
Samie Patnode, Policy Analyst
1430 Tandem Ave NE, Suite 180, Salem OR 97301
Phone – desk: (503)373-1917 (preferred), cell: (503)509-5592 or email: Samie.patnode@oha.oregon.gov

Administrative rule schedules are subject to change. 06/4/2023

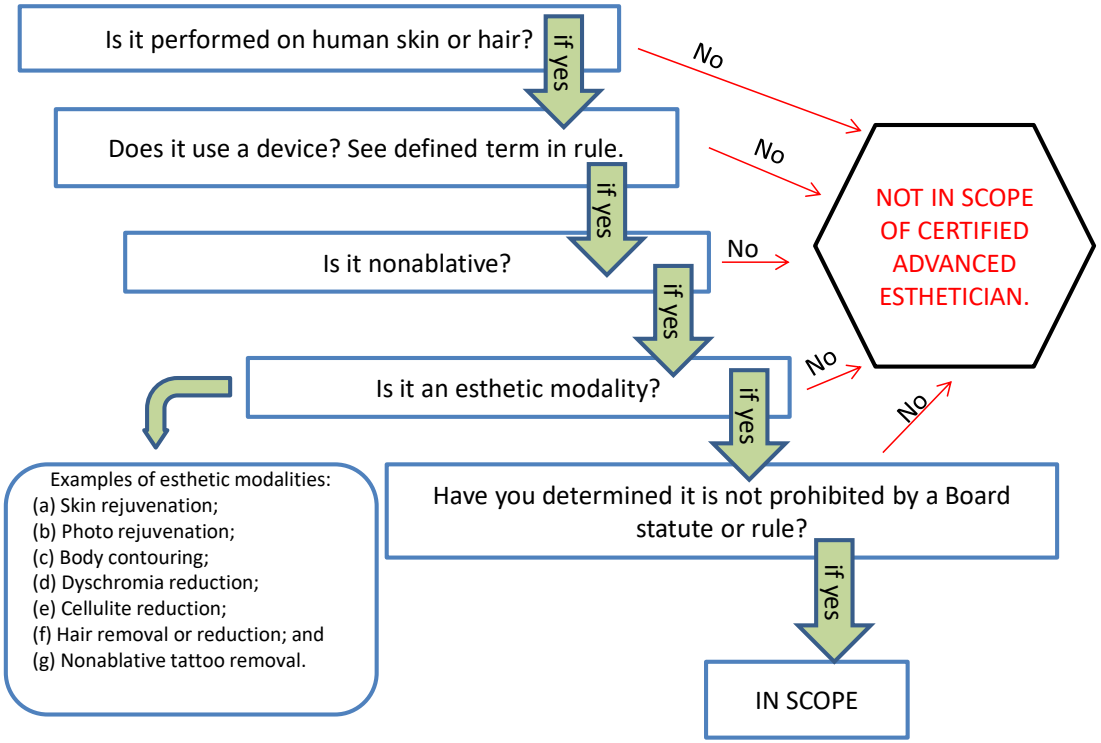
[1] A rules schedule to reconcile COS and CAE rules due to changes from HB 2970 (2021), definition of esthetics and advanced esthetics device and natural physiological effect for esthetics will be provided to each board at the October 23 or 24, 2023, meeting.

Scope of Practice Flow Charts

Is the procedure within scope of a certified esthetician?



Is the procedure within scope of a certified advanced esthetician?



Esthetics

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Administrative Rules Alignment

New Definitions

RULES TO RECONCILE

ESTHETICS

817-005-0005

Definitions

The following definitions apply to OAR Chapter 817, Divisions 5 through 120.

(1) "Adequate ventilation" means ventilation by natural or mechanical methods that removes or exhausts fumes, vapors, or dust to prevent hazardous conditions from occurring in accordance with OAR Chapter 437, Division 2, or to allow the free flow of air in a room in proportion to the size and capacity of the room.

(2) "Affidavit of Licensure" means an original document or other approved means of verifying licensure history, including information disclosing all unresolved or outstanding penalties and disciplinary actions. Refer to OAR 331-030-0040.

(3) "Article" means those items that complement services provided in the practice of barbering, hair design, esthetics or nail technology, including, but not limited to, neck-strips, towels or linens, and cloth or plastic capes.

(4) "Authorization" has the definition set forth in ORS 676.562 and means a certificate, license, permit or registration issued by the Health Licensing Office that allows a person to practice one of the occupations or professions or maintain a facility subject to the authority of the boards and councils listed in ORS 676.565.

(5) "Barbering" has the definition set forth in ORS 690.005.

(6) “Board” means the Board of Cosmetology.

(7) "Chemical service" means the use of any product that restructures or removes hair or changes the shape or appearance of skin, hair or nails.

(8) "Common area" means an area of a facility that is used by all authorization holders performing services, including, but not limited to, reception areas, dispensing areas, sinks, shampoo bowls, hair dryers, hair dryer areas and employee lounges.

(9) “Dermaplaning” means the use of a blade with a handle to remove dead skin cells and vellus hairs from the face.

(10) "Disinfect" means using a process to destroy harmful organisms, including bacteria, viruses, germs, and fungi.

(11) "Dispensing area" means an area with nonporous surfaces and a sink with hot and cold running water where service preparations are conducted, including, but not limited to, mixing of chemicals, cleaning of tools and equipment, disposing of residues, and rinsing parts of the body exposed to chemicals.
(12) “Educational institution” means an Oregon high school licensed under ORS 335, Oregon career school licensed under ORS 345 or an Oregon community college licensed under ORS 341.
(13) "EPA" means United States Environmental Protection Agency.
(14) "Equipment" means those items needed to operate a facility, including, but not limited to, waiting chairs, barber or styling chairs, shampoo chairs, cabinets, sinks, shampoo bowls, stationary dryers, pedicure bowls or whirlpool foot spas, paraffin wax containers, and nail technology tables.
(15) "Esthetics" has the definition set forth in ORS 690.005.
(16) "Facility" has the definition set forth in ORS 690.005.
(17) “FDA” means United States Food and Drug Administration.
(18) "Field of practice" has the definition set forth in ORS 690.005.
(19) "Fire-retardant container" means an airtight metal container for disposing of chemical waste or storing linens with chemical residue.
(20) "Freelance authorization" has the definition set forth in ORS 690.005.
(21) "Hair design" has the definition set forth in ORS 690.005.
(22) “HECC” means Higher Education Coordinating Commission.
(23) “High-level disinfectant" means a chemical agent, that has demonstrated tuberculocidal activity and is registered with the EPA.
(24) "Independent contractor" has the definition set forth in ORS 690.005.
(25) "Low-level disinfectant" means a chemical agent that has demonstrated bactericidal, germicidal, fungicidal, and limited virucidal activity and is registered with the EPA.
(26) "Materials and supplies" means those items which complement the use of tools and implements, including but not limited to hair tints, bleaches, permanent wave solutions, hair oils, shampoos, wax, rinses, disinfectants, and chemicals.
(27) "Nail technology" has the definition set forth in ORS 690.005

(28) “Natural hair care” has the definition set forth in ORS 690.005.
(29) “Natural person” means a living, individual, human being.
(30) "Office" means Health Licensing Office.
(31) "Official transcript" means a document authorized by the appropriate office in the HECC and certified by an educational institution indicating applicant identity information, each field of practice enrolled under, specific hour requirements for each field of practice if applicable, final practical examination scores for each field of practice, enrollment information and a signature from an authorized representative on file with the Office. Original documents must be submitted directly to the Office from the educational institution by United States Postal Service mail, email or fax.
(32) "Practitioner" has the definition set forth in ORS 690.005.
(33) "Premises" means the entire area of a facility, licensed by the Office as a facility defined under ORS 690.005.
(34) "Sharp edged or pointed, non-electrical tools and implements" means those items that may come in contact with blood-borne pathogens and other potentially hazardous materials including, but not limited to, dermaplaning blade with handle, lancets, razors, cuticle nippers, cuticle pushers, nail clippers, tweezers, comedone extractors, shears, and metal nail files. mechanical or electrical apparatus, appliances, device
(35) "Soiled" means an article that has been used and has not been cleaned or disinfected for use on the next client.
(36) “Superficial peel” means a chemical peel that does not extend beyond the stratum basale (basal layer). This does not include enzymes and other solutions that act only on the stratum corneum.
(37) "Tools and implements" means all portable articles and instruments, which the authorization holder uses when performing services on clients, including, but not limited to combs, brushes, shears, clippers and yoyettes.
(38) “Very superficial peel” means a chemical peel that does not extend beyond the stratum spinosum. This does not include enzymes and other solutions that act only on the stratum corneum.

(39) "Work area" means an area where services are performed, and preparations are conducted including, but not limited to shampoo area, work stations and dispensing area.

817-010-0007

Compliance with All Applicable Regulations

Authorization holders must observe the Department of Human Services, Oregon Health Authority, and all other applicable city, county, state and federal regulations and requirements.

817-010-0065

Requirements and Standards

(1) Any product or manual, mechanical or electrical appliance or apparatus used in a field of practice must meet all product registration requirements imposed by any federal, state, county, city or other regulating authority.

(2) The following applies to any service, product, chemical, materials and supplies, tools and implements, including sharp edged or pointed non-electrical tools and implements, or manual, mechanical or electric apparatuses or appliances that an authorization holder uses in a field of practice:

(a) An item listed in (2) is subject to Office inspection.

(b) The authorization holder must maintain and make available to the Office upon request all manufacturer operation and usage documentation for an item listed in (2).

(c) The authorization holder is responsible for using an item listed in (2) in a manner that is consistent with the manufacturer's intended use.

(d) The authorization holder must obtain education or training before providing services or using items listed in (2).

(3) The following requirements pertain to the education or training listed in section (2)(d) of this rule:

(a) The education or training listed in section (2)(d) of this rule may be obtained through schools, institutions, vendors, manufacturers, formal seminars, online courses, practitioners certified in a field of practice, a licensed health-care provider or self-study.

(b) Based on how the education or training was obtained, the authorization holder must maintain the following records of education or training listed in section (2)(d) of this rule:
(A) For self-study: A completed self-study form. The self-study form is prescribed by the Office.
(B) Schools, institutions, vendors, manufacturers, formal seminars, or online courses:
(i) Name of education or training sponsor or provider;
(ii) Documentation from the education or training sponsor that expressly shows that the education or training is related to an item in section (2) of this rule;
(iii) Documentation of attendance and course completion including, but not limited to, certificate, transcript, sponsor statement, affidavit attesting to attendance, or diploma.
(C) Certified practitioner or licensed health care provider:
(i) Documentation of the content and hours; and
(ii) Proof of the certified practitioner's or licensed health-care provider's education or training.
(c) The authorization holder must maintain records of education or training for as long as the authorization holder provides services.
(d) If an authorization holder has not provided services or used items listed in (2)(d) of this rule within two-years then the authorization holder must obtain additional education or training.

817-010-0067

Requirements, Standards and Prohibitions - Esthetics

(1) ORS 676.635 prohibits the practice of advanced nonablative procedures by anyone who is not authorized to practice advanced nonablative procedures by the Board of Certified Advanced Estheticians, except for licensed health-care professionals acting within their scope of practice and students enrolled in an advanced nonablative esthetics education or training program.
(2) The practice of advanced nonablative esthetics is defined in ORS 676.630, and is a procedure that uses a laser or other device registered with the FDA for nonablative procedures performed on hair or skin.

(3) ORS 676.630 refers to devices registered with the United States Food and Drug Administration (FDA) when describing the scope of advanced nonablative esthetics. “Device” is defined under the federal law that governs the FDA. For purposes of this rule, HLO deferred to guidance on the FDA’s website, including the FDA Federal Food, Drug and Cosmetic Act, ch. II, s. 201(h) and https://www.fda.gov/downloads/medicaldevices/deviceregulationandguidance/guidancedocuments/ucm575923.pdf. As described by the FDA, a device is a product intended to cure, mitigate, treat or prevent disease or affect the structure or function of the body. The FDA considers claims that indicate penetration or some effect beyond the stratum corneum into living layers of skin by such products to be evidence of a firm’s intent to affect the structure or function of the body. The FDA does not consider a chemical product to be a device. Section (4) of this rule sets forth the meaning of “device” in accordance with the federal law and the FDA’s interpretation of that law.

(4) A device is a product intended to cure, mitigate, treat or prevent disease or affect the structure or function of the body. Claims that indicate product penetration or some effect beyond the stratum corneum into living layers of skin is evidence of a firm’s intent to affect the structure or function of the body.

(a) Chemical products are not devices.

(b) Non-chemical products that do not penetrate into living skin (e.g., epidermal and dermal layers of the skin) and claim only to do the following are not devices:

(i) Facilitate exfoliation of the skin (i.e. disruption of the stratum corneum);

(ii) Improvement of appearance of the skin;

(iii) Give skin a smoother look and feel; or

(iv) Give skin a luminous look.

(5) An individual certified in esthetics is prohibited from using devices as defined in subsection (4) in this rule.

(6) A person who does not hold a valid practitioner certificate from the Board is prohibited from providing esthetic services using any type of device defined under this rule unless otherwise authorized to do so by statute.

(7) An individual certified in esthetics is responsible for determining if any services provided to clients would be prohibited by law.

(8) Services provided by an individual certified in esthetics that are prohibited, unsafe, dangerous or causes harm may result in a violation of incompetence, negligence or unprofessional conduct pursuant to ORS 676.612(2)(j) and under Office rules.

817-010-0069

Disinfecting Electrical Tools and Implements

(1) All electrical tools and implements, with the exception of clipper blades, must be disinfected before each use. To disinfect electrical tools and implements:

(a) Remove all hair and all foreign material;

(b) Disinfect with a low-level disinfectant used according to the manufacturer's instructions.

(2) Electrical clipper blades must be disinfected before each use. The method is as follows:

(a) Remove all hair and all foreign material;

(b) Completely saturate clipper blade with a high-level disinfectant solution, spray, or foam used according to the manufacturer's instructions.

(3) Electrical clipper blades may be sterilized, using one of the approved methods listed in OAR 817-010-0065(5)(b) or (c).

817-015-0055

Chemical Peels

(1) An esthetician is prohibited from performing chemical peels that extend beyond the stratum basale.

(2) Except as needed to acquire the education or training, an esthetician is only permitted to perform very superficial peels when the five hours of required education or training is completed.

(3) The training or education described in subsection (2) of this rule must be obtained through schools, institutions, vendors, manufacturers, formal seminars, online courses, an esthetician experienced in chemical peels, a licensed health-care provider experienced in chemical peels or through self-study.

(4) Proof of self-study must be documented on a form prescribed by the Office.

(5) Proof of all training or education obtained from schools, institutions, vendors, manufacturers, formal seminars, online courses must include the following:
(a) Name of continuing education sponsor or provider;
(b) Course agenda and outline – including the date of the training and breakdown of hours for each agenda item, lunch and breaks; and a detailed summary of each topic discussed and the learning objective or training goal of each agenda item;
(c) Documentation of attendance and course completion including, but not limited to, certificate, transcript, sponsor statement, affidavit attesting to attendance or diploma.
(6) The training or education obtained from an esthetician or licensed health care provider with experience providing chemical peel services must include:
(a) Verification of the content and hours; and
(b) Proof of education or training received by the esthetician or licensed health-care provider providing the education or training.
(7) Records of the required education or training must be kept for as long as the esthetician provides very superficial or superficial peels and must be provided to Office upon request.
(8) An esthetician who is performing chemical peels must:
(a) Fully comply with the required education or training.
(b) Use chemicals in a manner intended by the manufacturer and in accordance with manufacturer's recommendations, guidelines and protocols.
(c) Only use chemicals that the licensed esthetician has been fully educated or trained in the use of and is fully informed of the ingredients in any products used.
(d) Only use chemicals that are suitable for the client after an analysis of the client's skin condition, medical history (including pregnancy if applicable), skin type, currently used medication and skin-care products.
(e) Chemicals must be stored and maintained in accordance with Division 60 of these

817-015-0065

Client Records

(1) A practitioner providing esthetic services is responsible for collecting and maintaining copies of client records. If client records are maintained by the facility, the

facility license holder must provide the practitioner who is providing the service, with copies of those client records upon request. The record must include:
(a) Client information including the client's name, address, telephone number, type of service, date of birth, and date of service;
(b) The name of the practitioner and practitioner certificate number who is providing the service, and special instructions or notations pertinent to providing esthetic services including, but not limited to, bleeding disorders, allergies or sensitivities to chemicals or products or complications during service(s); and
(c) Medical advice, if obtained.
(2) Client records must be kept at the facility for a minimum of three years and must be made available upon request from the Office.
(3) Client records must be typed or printed in a legible format and may be stored electronically. Client records that are not readable by the Office will be treated as incomplete.
(4) If a practitioner is acting in a dual capacity and providing services outside their scope of practice, the capacity under which the person is working must be clearly documented in the client’s record.
(5) If providing chemical peels or dermaplaning, the esthetician must also document:
(a) Location of procedure on the body;
(b) Special instructions or notations relating to the client's medical or skin conditions;
(c) Complete list of the client’s sensitivities to medicines or topical solutions;
(d) Description of complications during procedure(s);
(e) Any referral to a health-care professional; and
(f) If providing chemical peels, the chemical used on the client, including the brand name or manufacturer, type of chemical peel, process of applying very superficial or superficial peel including number of layers of chemical peel solution, the length of time the chemical is left on the client’s skin, pre- and post-treatment care.
(6) For the purpose of procedures listed in subsection (5) of this rule upon initial visit the practitioner must obtain signature from the client that they have received and understand the following information and consent to the nonablative esthetic procedure:
(a) Explanation of procedure;

(b) Risk(s) of the procedure;
(c) Description of potential complications or side effects;
(d) Adverse outcomes;
(e) Contraindications;
(f) Alternatives; and
(g) Aftercare instructions.
(7) Following initial visit referenced in subsection (6) of this rule and if for the same procedure a practitioner may have the client initial, that the client has received information listed in subsection (6) of this rule and document any refusal to initial the client record.
(8) Information listed in subsection (5), (6) and (7) of this rule may be combined with other documentation used by the practitioner.
(9) A practitioner is prohibited from providing services to a client who refuses to provide the personal information required in subsection (1)(a) of this rule unless the client signs a waiver form documenting the client's refusal to provide the required information. The signed waiver form must be retained on file in the manner required in subsection (2) of this rule.
(10) For the purpose of this rule, practitioner means an individual certified in esthetics.

817-090-0105

Schedule of Penalties for Client Health and Safety Violations

The Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the Office pursuant to ORS 676.992. For the 4th and subsequent offenses, the provisions of ORS 676.992 apply.
(1) Failing to use a neck strip or a towel to prevent contact between the skin of a client's neck and a hair cloth or cape is a violation of OAR 817-010-0040(1):
(a) 1st offense: $300;
(b) 2nd offense: $500;
(c) 3rd offense: $1000.

(2) Failing to use a disposable cover on the head of a client who is trying on a hairpiece or to clean and label used hair goods as "used" prior to resale is a violation of OAR 817-010-0085:

(a) 1st offense: $300;

(b) 2nd offense: $500;

(c) 3rd offense: $1000.

(3) Performing services without washing one's hands immediately before and after serving each client is a violation of OAR 817-015-0030(1):

(a) 1st offense: $300;

(b) 2nd offense: $500;

(c) 3rd offense: $1000.

(4) Failing to maintain client records for each client receiving esthetics services on the premises of the facility, or allow an enforcement officer access to review client records upon request is a violation of OAR 817-015-0065 or 817-015-0070:

(a) 1st offense: $300;

(b) 2nd offense: $500;

(c) 3rd offense: $1000.

(5) Failing to maintain required documentation of any manual, electrical and mechanical appliances and apparatuses or device, or to provide required documentation upon request is a violation of OAR 817-010-0065:

(a) 1st offense: $300;

(b) 2nd offense: $500;

(c) 3rd offense: $1000.

817-090-0110

Schedule of Penalties for Safe Working Conditions Violations

The Office has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of safety and infection control laws and rules. This schedule applies, except at the discretion of the Office pursuant to ORS 676.992. For the 4th and subsequent offenses, the provisions of ORS 676.992 apply.

(1) Failing to meet the requirements of the Oregon Indoor Clean Air Act is a violation of OAR 817-010-0007 and may result in an emergency suspension of the facility license until the violation is corrected.

(2) Having frayed electrical wiring or overloading the electrical circuits in a facility is a violation of ORS 690.055(1)(c), and OAR 817-010-0007 and may result in an emergency suspension of the facility license until the violation is corrected.

(3) Having pets or other animals in facilities, other than service animals recognized by the American with Disabilities Actor fish in an aquarium is a violation of OAR 817-010-0095.

(a) 1st offense: $300;

(b) 2nd offense: $500;

(c) 3rd offense: $1000.

(4) Failing to wear eye goggles, shields or mask in performing services on a client where the likelihood of splattering is present is a violation of OAR 817-015-0030(1)(c):

(a) 1st offense: $300;

(b) 2nd offense: $500;

(c) 3rd offense: $1000.

(5) Failing to have a restroom available that is "reasonably accessible" for facility employees is a violation of OAR 817-010-0021(1):

(a) 1st offense: $300;

(b) 2nd offense: $500;

(c) 3rd offense: $1000.

Draft Definition
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Esthetics Device

For June 12, 2023, COS-CAE Joint Board Meeting

OAR 817-XX-XXXX

Esthetics Definition of Device

Pursuant to ORS 690.005(12) the Board and the Board of Certified Advanced Estheticians developed this definition of “Device” (esthetics device). This rule sets forth the specific characteristics of an esthetic device.

(1) An esthetician is limited to performing services with mechanical or electric apparatuses, appliances or devices that do not penetrate beyond the epidermis except through natural physiological effects as defined in OAR 817-XX-XXX.

(2) An esthetician may use mechanical or electrical apparatuses, appliances or devices that include but are not limited to the following:

(a) Galvanic current;

(b High-frequency

(c) Microcurrents;

(c) Light-emitting diode therapy;

(d) Microdermabrasion; and

(e) Esthetics device.

(3) An esthetic device must:

(a) Be either mechanical or electrical.

(b) Be capable of, and used for, performing the following skin care or facial care services pursuant to ORS 690.005(5):

(A) Cleansing;

(B) Stimulating;

(C) Manipulating; or

(D) Exfoliating;

(E) Applying lotions or creams.

(c) Have the same risk and safety qualifications as galvanic current, high-frequency, microcurrents, light-emitting diode therapy and microdermabrasion.

(4) An esthetic device is not a:

(a) Laser;

(b) Intense pulse light;

(c) Other advanced esthetic device as specified in OAR 819-XXX-XXXX(3)(c);

(d) Needle-free device for injection of dermal fillers or fillers.

(5) An esthetician may not perform skin care or facial care practices or use a mechanical or electrical apparatuses, appliance or device for medical diagnosis or treatment of disease or physical or mental ailments.

(6) It is the responsibility of the esthetician to be trained and educated on mechanical or electrical apparatuses, appliances and devices used and procedures used in the practice of esthetics pursuant to OAR 817-010-0065.

(7) An individual certified in esthetics is responsible for determining if any services provided or mechanical or electrical apparatuses, appliances or devices used on clients would be prohibited by law.

(8) Services provided and mechanical or electrical apparatuses, appliances or devices used by estheticians that are prohibited, unsafe, dangerous or cause harm may result in a violation of incompetence, negligence or unprofessional conduct pursuant to ORS 676.612(2)(j) and under Office or Board rules.

Draft Definition
~
Advanced Esthetics Device

For June 12, 2023, COS-CAE Joint Board Meeting

OAR 819-XX-XXXX

Advanced Esthetics Definition of Device

Pursuant to ORS 676.630(3) the Board and the Board of Cosmetology developed the definition of “Device” (advanced esthetics device) in this rule. This rule sets forth the specific characteristics of an advanced esthetic device.

(1) An advanced esthetician is limited to using advanced esthetics devices as follows:

(a) Limited to performing services that are “nonablative” as defined in ORS 676.630(4) and OAR 819-005-0005.

(b) Limited to services performed on the hair and skin.

(2) An advanced esthetician may perform advanced nonablative esthetic procedures that go beyond the epidermis using advanced esthetics devices listed in subsection (3) of this rule.

(3) An advanced esthetics device is a:

(a) Laser;

(b) Intense Pulse Light; or

(c) A piece of equipment or a mechanism that meets all of the following:

(i) Shares the same risk and safety qualities as lasers and intense pulse light device.

(ii) Is capable of performing nonablative procedures on the skin or hair.

(iii) Is capable of performing procedures that are in conjunction with a modality.

(iv) Is registered with the United States FDA.

(4) An advanced esthetic device may not be of greater risk or greater inherent risk as a laser or intense pulse light.
(5) It is the responsibility of the advanced esthetician to be trained and educated on devices and procedures used in the practice of advanced nonablative esthetics pursuant to OAR 819-XXX-XXXX.
(6) An individual certified to practice advanced nonablative esthetics procedures is responsible for determining if any services provided or devices used on clients would be prohibited by law.
(7) Services provided and devices used by certified advanced estheticians that are prohibited, unsafe, dangerous or cause harm may result in a violation of incompetence, negligence, or unprofessional conduct pursuant to ORS 676.612(2)(j) and under Office or Board rules.

Draft Definitions

~

“Natural physiological effect”

&

“Epidermis”

For June 12, 2023, COS-CAE Joint Board Meeting

OAR 817-XX-XXXX

Esthetics - Natural Physiological Effects

(1) Per ORS 690.005(5)(a) and (12)(a), an esthetician may use a "mechanical or electrical apparatus, appliance or device" that does not penetrate beyond the epidermis except through natural physiological effects for the following skin care or facial care practices performed on the human body or face for the purpose of keeping the skin of the human body or face healthy and attractive: cleansing, stimulating, manipulating, exfoliating or applying lotions or creams.

(2) "Natural physiological effects" means something naturally produced by, or that follows immediately from and in accordance with, a person's normal biological functioning.

(3) "Epidermis" means the outermost layer of the skin. The epidermis does not include any layers of the skin below the epidermis, including, but not limited to the dermis and muscle.

(4) An esthetician may not use a "mechanical or electrical apparatus, appliance or device" beyond the epidermis. An esthetician is presumed to be using a "mechanical or electrical apparatus, appliance or device" below the epidermis when:

(a) The esthetician exfoliates the skin below the epidermal layer.

(b) The esthetician destroys, damages, or removes dermis or muscle.

(5) An esthetician using a "mechanical or electrical apparatus, appliance or device" can only use it within the epidermis. Only the client's body's own natural physiological effects from the esthetician's use of the "mechanical or electrical apparatus, appliance or device" within the client's epidermal

skin layer, can go deeper than the epidermis. For example, an esthetician can use microcurrent to stimulate the skin within the epidermis. Any increased cellular metabolism, activity, or exchange below the epidermis from stimulating the epidermal skin would be the natural physiological effects from use of the esthetics device.

Fiscal Impact
&
Racial Equity

FISCAL IMPACT & RACIAL EQUITY

HEALTH LICENSING OFFICE

1. Are any state agencies likely to be economically affected by the rule change? If yes, which ones?

_____

_____

_____

2. Are any units of local government likely to be economically affected by this rule change? If yes which ones?

_____

_____

_____

3. Are any members of the public likely to be economically affected by the rule change? If yes, which ones?

_____

_____

4. Can you provide an estimate of the economic impact on state agencies, units of local government and members of the public? If yes, what is the estimate for each? ***An estimate does not have to be an exact number but does need to let economically affected persons know that they may be impacted.***

_____

_____

_____

5. Have you included a cost of compliance on small businesses[1] affected, including:

a. An estimate of the number of small businesses subject to the proposed rule.

_____

_____

b. An identification of the types of businesses and industries subject to the rule.

[1] A "small business" for this purpose has 50 or fewer employees. ORS 182.310(10).

c. A description of expected reporting, recordkeeping, and administrative activities required to comply with the rule.

d. An estimate of the cost of professional services required to comply with the rule.

e. An identification of the equipment, supplies, and labor and increased administration required to comply with the rule.

f. A description of how small businesses were involved in developing the rule. This will be the advisory committee. If you consult with any other promoters, etc., be sure to mention that.

6. If you cannot provide an estimate of the economic impact on state agencies, units of local government or members of the public, does the statement of fiscal impact, explain why an estimate is not possible. ***A bare "we don't know" is not sufficient*, *there must also be a description of why an estimate is not possible.***

7. Is the fiscal impact statement sufficient to notify those who might be economically affected to evaluate their position? ***Err on the side of assuming an economic impact if there is any doubt.***

8. Are there ways to reduce the economic impact on small businesses?

a. Consolidating compliance and reporting requirements?

_____

_____

b. Objective criteria for standards?

_____

c. Exempting small business from parts of the rule?

_____

_____

d. Other less intrusive or less costly alternatives?

_____

_____

The Office requests your assistance in answering the following questions to aid the Office in completing the racial equity statement.

9. Identify what persons and racial groups are impacted by the rule.

a. Who is subject to the rule?

_____

_____

b. What issues does the rule address?

_____

_____

c. Who will be affected by the rule?

_____

_____

d. Which racial groups will be affected by the rule?

_____

_____

e. Which racial groups are likely to be most concerned by the issues addressed in the rule?

_____

_____

f. Which racial groups are likely to be most affected by the issues addressed in the rule?

_____

_____

10. If current committee members do not represent the racial groups likely to be affected by the, who can HLO contact that represent the racial groups likely to be affected by the rule?

_____

_____

11. What other resources are available for HLO to find data that would help determine racial equity impacts specific to this rule?

_____

_____

12. How might the rule impact racial groups?

- Please help identify any unintended adverse consequences that this rule might have on racial equity.

_____

_____

Items for Board Action

Recommend Rules Advisory Committee Membership

~

Communities & Persons

ADMINISTRATIVE RULES

HEALTH LICENSING OFFICE
BOARD OF COSMETOLOGY

ADMINISTRATIVE RULEMAKING DISCUSSION

Reconcile current cosmetology rules to align with HB 2970 (2021), definition of esthetics and advanced esthetics device, natural physiological effect, and epidermis.

RULES ADVISORY COMMITTEE MEMBERSHIP RECOMMENDATIONS

Based on the requirements of HB 2993 (2021) before determining the make-up of the Rules Advisory Committee (RAC) the Board must consider and identify persons and communities likely to be affected by the rule change. "Communities" is a new requirement. To help identify "communities", consider the following questions:

- Who will this rule affect?
- Who are our regular rule stakeholders?
- Consider additional groups unified by a common characteristic:
  - Black communities
  - Indigenous communities
  - People of Color communities
  - Veteran communities
  - Low-income person communities
- Consider whether there are additional communities unified by a common characteristic:
  - Social characteristic
  - Historical characteristic
  - Economic characteristic
  - Political characteristic
  - Employment or business characteristic
  - Geographical characteristic (State, county, city, urban, rural, etc.)

Traditionally the following member types have been identified as RAC members. Using the information provided above determine the member groups for the RAC that meet the requirement of HB 2993 (2021) and the traditional RAC membership. Generally, RACs are made up of up to10 individuals to maintain order.

- 4 estheticians
- 2 educators
- 1 small business owner
- 1 public member
- 2 health care

Member Type - Profession

RECOMMENDATIONS

Approve the administrative rulemaking schedule and make recommendations for membership on the RAC.

Board's Prior Membership Recommendations for Device Rules:

Communities or persons likely to be affected by the rule changes	Contact Information
LGBTQQIP2SAA+ • Transgender – hair removal	Basic Rights Oregon Q Center Pride Northwest The EQUI Institute Equality Federation Brave Space, LLC Black and Beyond the Binary Collective
Small business • Medi spas • Cosmetology facility owners	American Med Spa Association Health Licensing Office PH, Health Care Regulation & Quality Improvement – Ambulatory Surgery Centers
Educators – esthetics, advanced esthetics Prospective Students of esthetics and advanced esthetics	Higher Education Coordinating Commission, Private Career Schools • Esthetics • Advanced Esthetics Oregon Estheticians for Fair Licensing
Health care professional • Dermatologists • Plastic surgeon • Nurse practitioners • Registered nurses • Medical assistants	Oregon Medical Board Oregon Medical Association Oregon Dermatology Society Northwest Society of Plastic Surgeons Oregon State Board of Nursing Oregon Nursing Association Nurse Practitioners of Oregon Medical Assistant Certification Program
Cosmetology facilities and independent contractors	Health Licensing Office
Estheticians and advanced estheticians	Health Licensing Office
Indigenous people	Oregon Health Authority, Tribal Affairs – Danna Drum Health Licensing Office – sort by ethnicity

People of color	Coalition Communities of Color Black Southern Oregon Alliance League of Oregon Cities, Local Government People of Color Caucus OHA, PH Office of Equity & Inclusion Health Licensing Office – sort by ethnicity
Radiation Protection	OHA, PH, Oregon Radiation Protection Services – Representative
Rural communities	Health Licensing Office – sort by zip code
Consumer (veteran, senior)	OHA, PH – Press Release, interested parties who receive OHA Press Releases OHA staff email list

Subject Matter Experts	Company or Representative
Key Opinion Leaders (KOL) are generally educators and trainers for specific devices Advanced esthetics board designated Covey & Canaday as contacts for HLO staff	Allergan Aesthetics Merz Aesthetics
American Society for Laser Medicine and Surgery	
American Board of Laser Surgery	Educators, examination experts
Associated Skin Care Professionals	
Allied Beauty Experts	
National Coalition of Estheticians Association	
Professional liability insurance (web search)	HISCOX biBERK NACAMS

Determine Additional Requirements for Retake Examinations

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Applicant: 102317-HD 6th attempt
Applicant: 129956-HD 7th attempt
Applicant: 132271-BA 7th attempt
Applicant: 147087-NT 6th attempt

Applicant: 102317-HD
6th attempt

Issue Reported:

To qualify for certification applicants must receive a passing score of at least 75% on the Written Examination. The Health Licensing Office is presenting the Board of Cosmetology with the following applicant to determine additional training requirements.

Applicant #: 102317
Graduation Date: REC from Washington / 2011
Currently Licensed in: Hair and Barbering
Hair Design
6th Attempt

Exam Date	Language	Passage %	Additional Training Date	Type/Date/Amt of Additional Training (Prac, School, Study Review)
7/20/2018	Spanish	50		
6/17/2022	Spanish	37		
8/5/2022	Spanish	61		
9/14/2022	Spanish	58	9/14/2022	Study Review/ 1hr
2/10/2023	English	47		
3/3/2023	Spanish	48		
				WA Exp 4/28/2023

Recommendation:

Due to failing the examination on March 3, 2023 with a score of 48% on the Sixth (6th) attempt, the Health Licensing Office is recommending that the applicant completes an additional Study Review and/or additional hours at a licensed career school in Hair Design, prior to their next attempt.

Applicant: 129956-HD
7th attempt

Issue Reported:

To qualify for certification applicants must receive a passing score of at least 75% on the Written Examination. The Health Licensing Office is presenting the Board of Cosmetology with the following applicant to determine additional training requirements.

Applicant #: 129956
Graduation Date: November 2018
Currently Licensed in: None
Hair Design
7th Attempt

Exam Date	Language	Passage %	Additional Training Date	Type/Date/Amt of Additional Training (Prac, School, Study Review)
12/5/2018	Spanish	53 %	09/13/2018	Prac
6/6/2019	Spanish	62 %		
6/20/2019	Spanish	60 %		
8/17/2020	Spanish	58 %	07/22/2020	Study Review/1 hr
9/1/2020	Spanish	62 %		
9/11/2020	Spanish	63 %	08/09/2021	Prac
03/01/2023	Spanish	71 %		

Recommendation:

Due to failing the examination on 03/01/2023, with a score of 71% on the 7th (seventh) attempt, the Health Licensing Office is recommending that the applicant completes an additional Study Review and/or additional hours at a licensed career school in Hair design, prior to their next attempt.

Applicant: 132271-BA
7th attempt

Issue Reported:

To qualify for certification applicants must receive a passing score of at least 75% on the Written Examination. The Health Licensing Office is presenting the Board of Cosmetology with the following applicant to determine additional training requirements.

Applicant #: 132271
Graduation Date: 4/2019 – Non-Credentialed
Currently Licensed in: N/A
Barbering
7th Attempt

Exam Date	Language	Passage %	Additional Training Date	Type/Date/Amt of Additional Training (Prac, School, Study Review)
7/9/2019	Spanish	52		
10/26/2020	Spanish	57		
12/28/2020	Spanish	58		
3/16/2021	Spanish	71	3/16/2021	Study Review/1 hr
5/19/2021	Spanish	59		
8/22/2022	Spanish	68	5/9/2022	Prac
2/6/2023	Spanish	69	2/6/2023	Study Review/1 hr

Recommendation:

Due to failing the examination on February 6, 2023 with a score of 69 % on the 7th attempt, the Health Licensing Office is recommending that the applicant completes an additional Study Review and/or additional hours at a licensed career school in Barbering, prior to their next attempt.

Applicant: 147087-NT
6th attempt

Issue Reported:

To qualify for certification applicants must receive a passing score of at least 75% on the Written Examination. The Health Licensing Office is presenting the Board of Cosmetology with the following applicant to determine additional training requirements.

Applicant #: 147087
Graduation Date: September 2021
Currently Licensed in: None
Nail Technology
6th Attempt

Exam Date	Language	Passage %	Additional Training Date	Type/Date/Amt of Additional Training (Prac, School, Study Review)
12/28/20021	English	37 %	7/2/2021	Practical
1/18/2021	English	55 %		
1/26/2021	English	57 %	9/27/2022	Study Review/1 hr
9/27/2022	English	53 %		
12/22/2022	English	52 %		
3/13/2022	English	49 %		

Recommendation:

Due to failing the examination on 3/13/2023, with a score of 49% on the 6th (Sixth) attempt, the Health Licensing Office is recommending that the applicant completes an additional Study Review and/or additional hours at a licensed career school in Nail Technology, prior to their next attempt.

Reports

Directors Report

BOARD OF COSMETOLOGY - BOARD MEMBER STATUS

BOARD/COUNCIL	MEMBER TYPE	MEMBER NAME	TERM # CONSIDERED	TERM EXPIRATION	REAPPOINTMENT STATUS	LICENSE STATUS
COS	Practitioner	VACANT				
COS	Practitioner	Paramo, Tracy	1st Full	10/16/2023	Can Reappoint	Esthetics- 2/29/2024 Nail- 2/29/2024
COS	Practitioner	Nguyen, Hien	1st Full	12/31/2022	Can Reappoint	Esthetics- 7/31/2024 Nail- 5/31/2023
COS	Practitioner	Ferren, Jamie	1st Full	11/09/2026	Can Reappoint	Nail- 12/31/2023
COS	Practitioner	Wescott, Chelsea	1st Full	6/29/2026	Can Reappoint	Hair- 9/30/2024
COS	Practitioner	Van, Beatrice	1st Full	1/25/2028	Can Reappoint	Esthetics-3-31-2024 Nail- 9/30/2024
COS	Public Member	Foulkes, Harold	2nd Full	4/24/2027	Cannot Reappoint	N/A

*Beatrice Van has been appointed for 1 partial and 1 full term (still considered 1st term).

Fiscal & Licensing Statistical Report

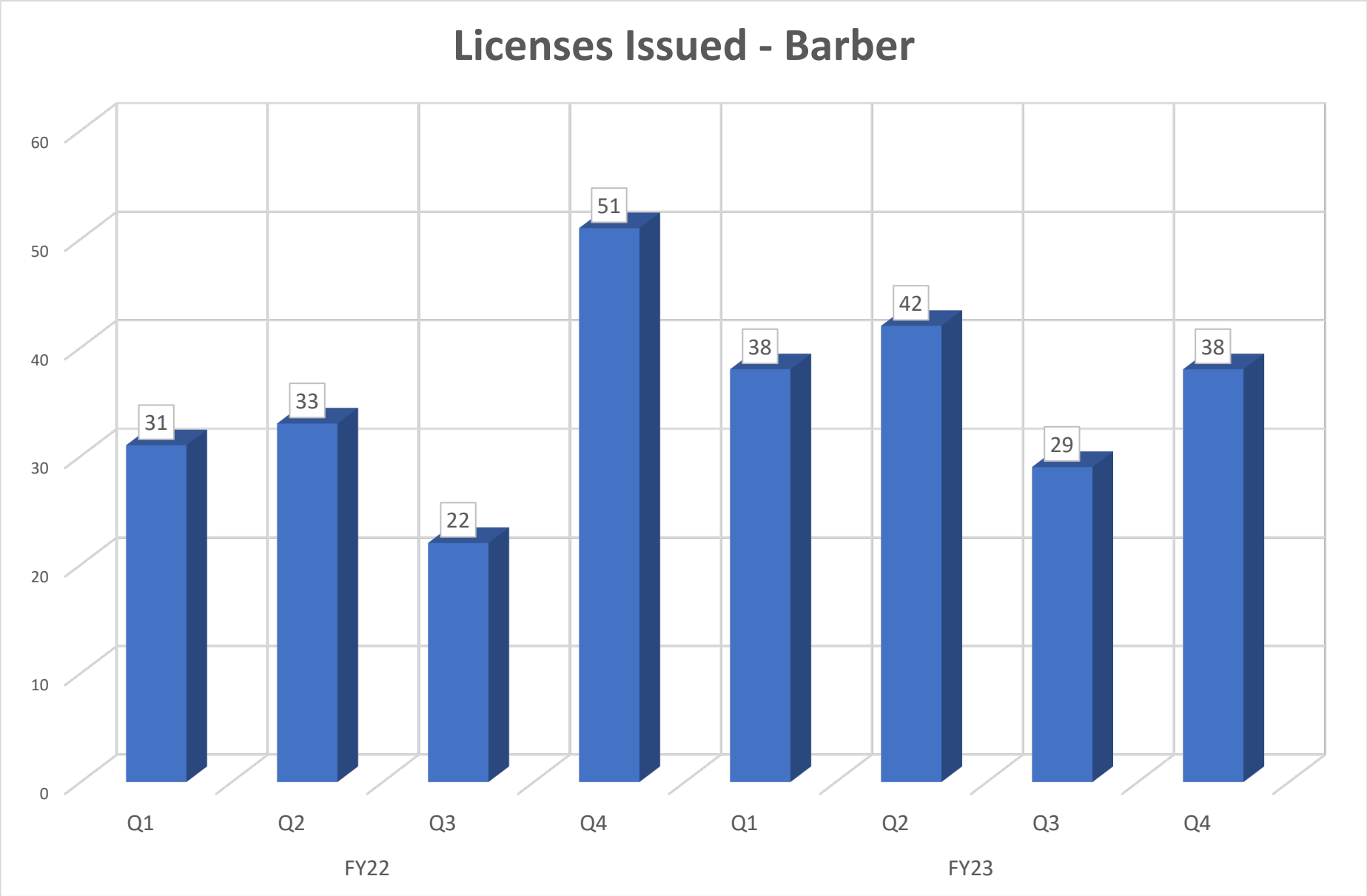
Oregon Health Authority

Health Licensing Office

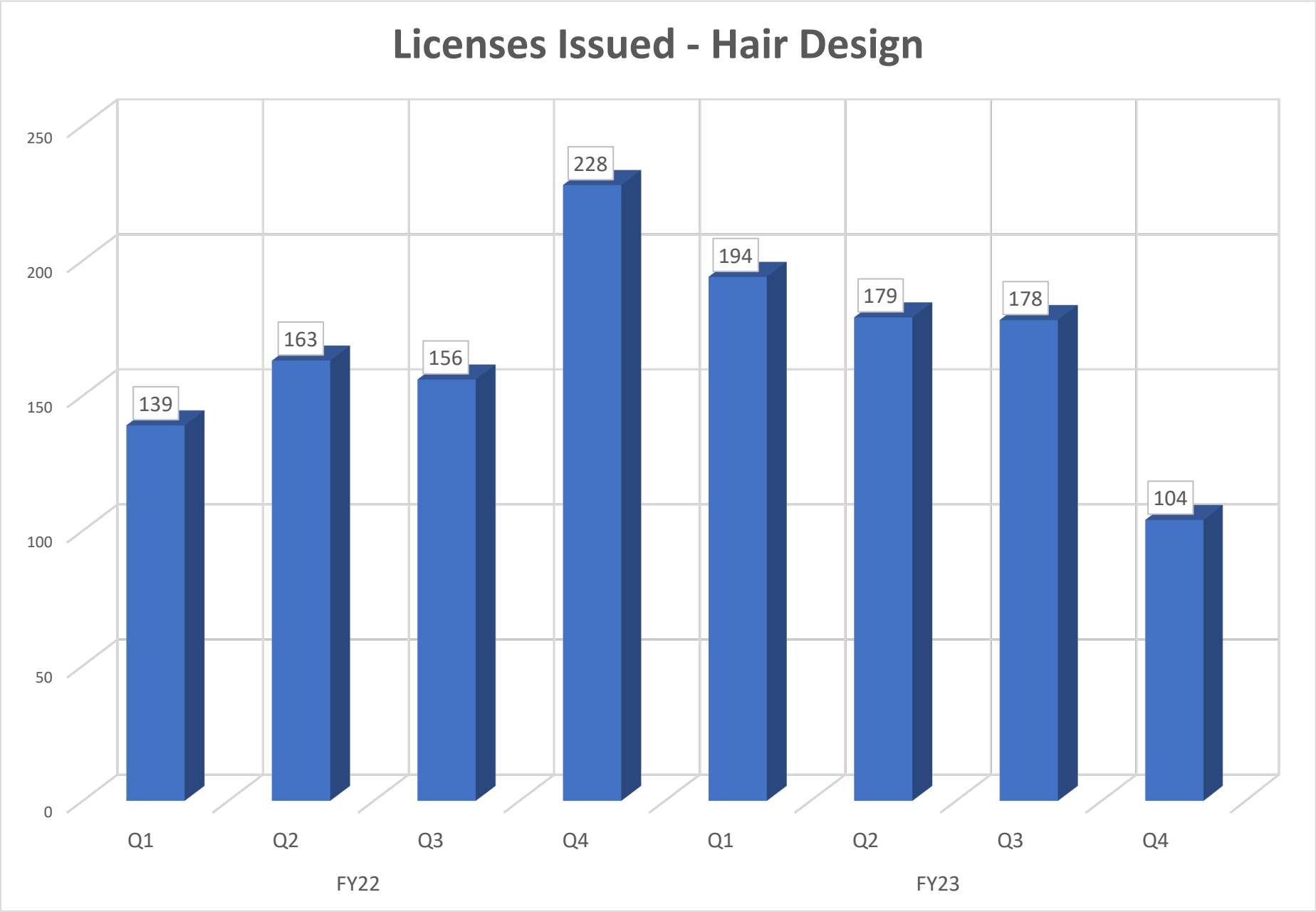
Protecting the health, safety and rights of Oregon consumers

Board of Cosmetology

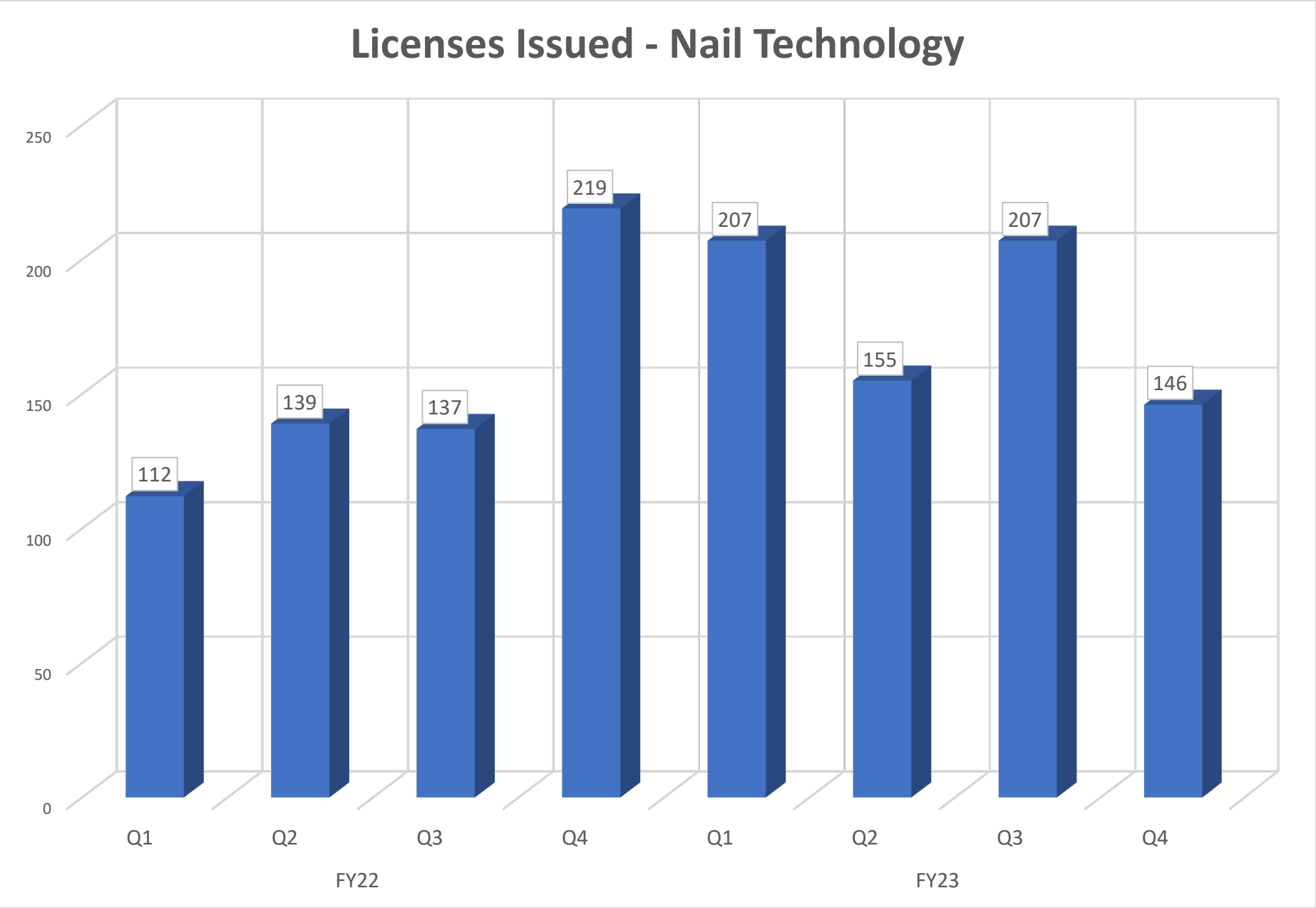
Board Report



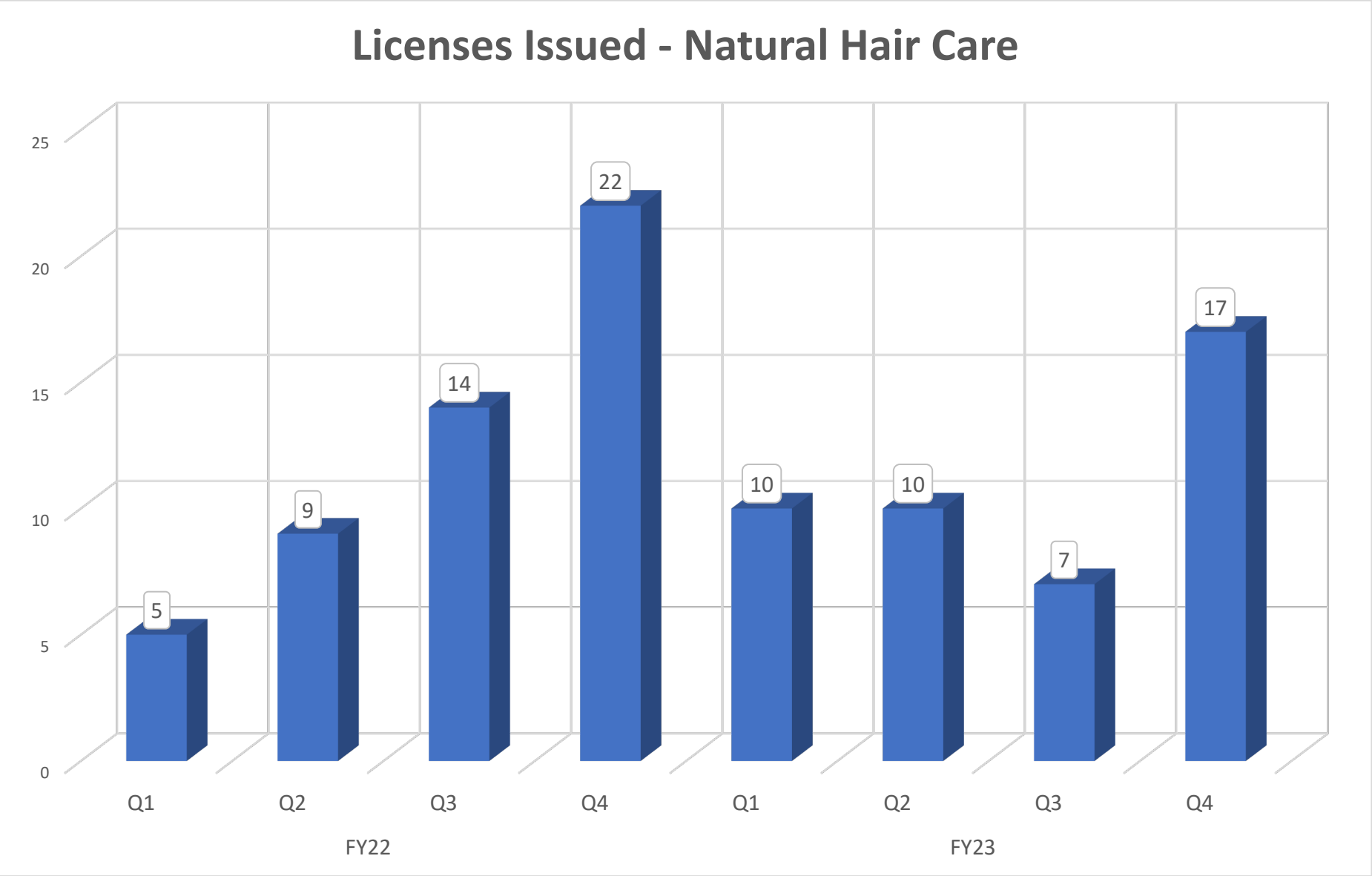
TOTAL ISSUED	FY22	137	FY23	147	TOTAL	284
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			



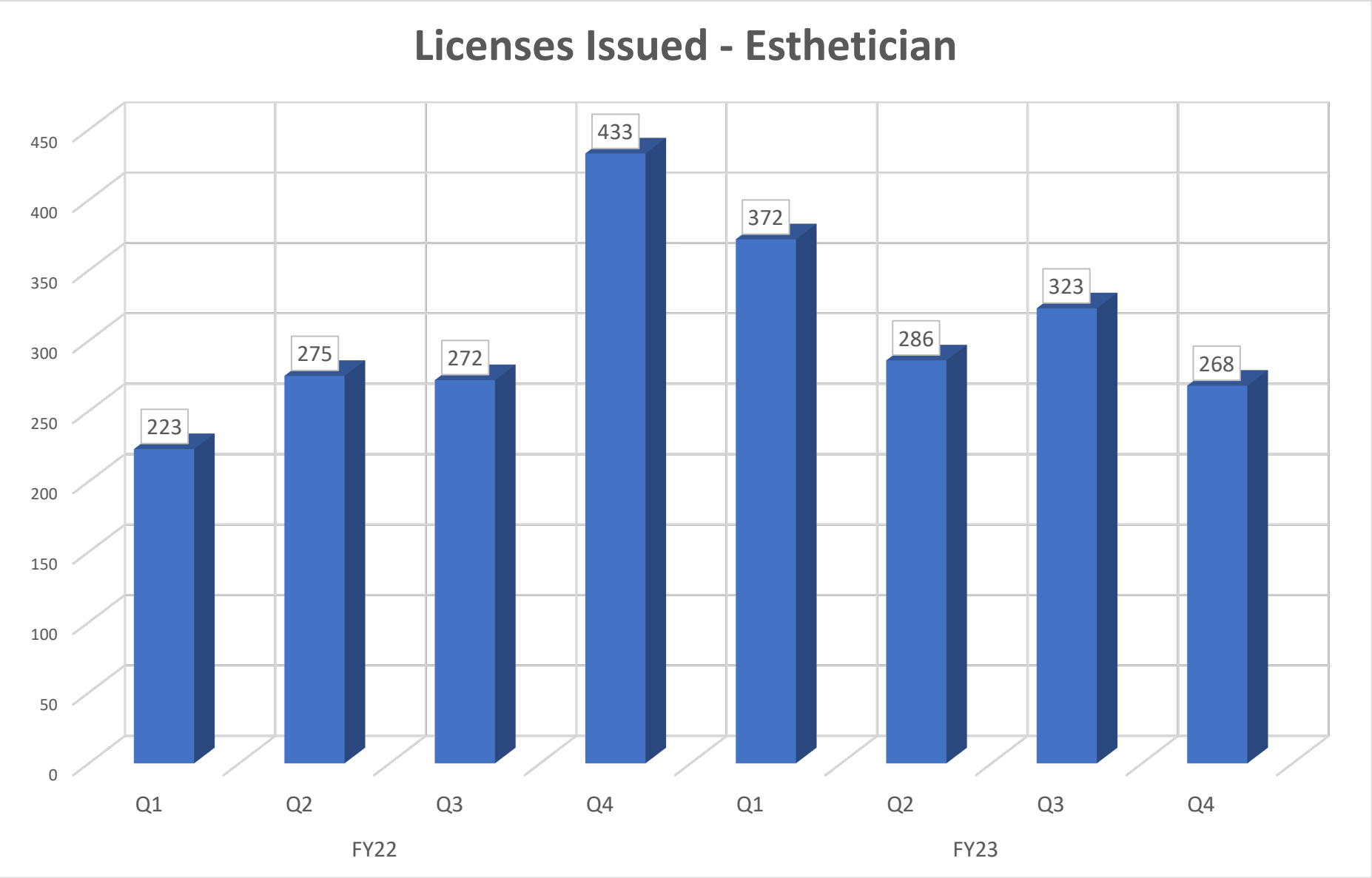
TOTAL ISSUED	FY22	686	FY23	655	TOTAL	1341
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			



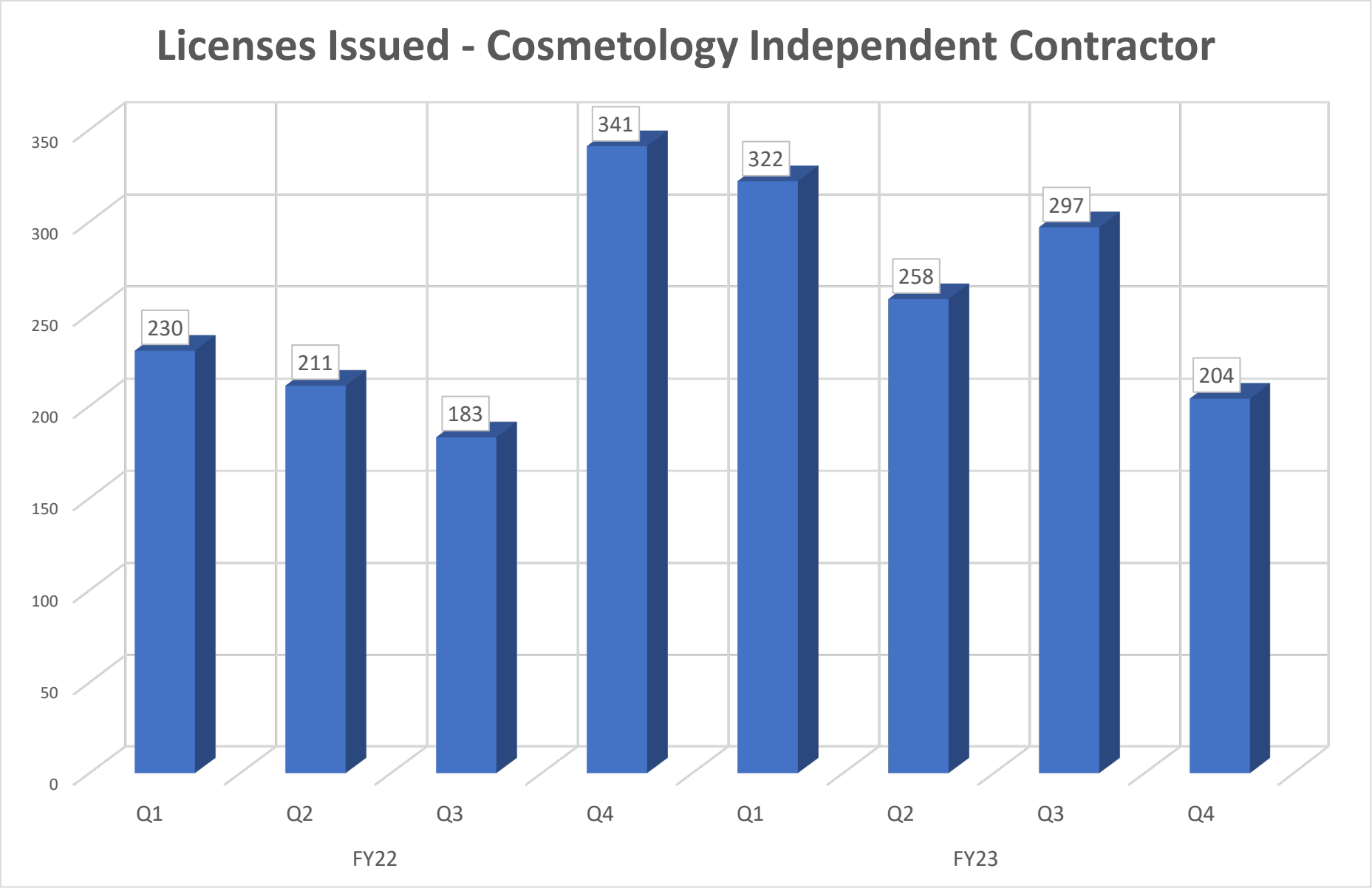
TOTAL ISSUED	FY22	607	FY23	715	TOTAL	1322
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			



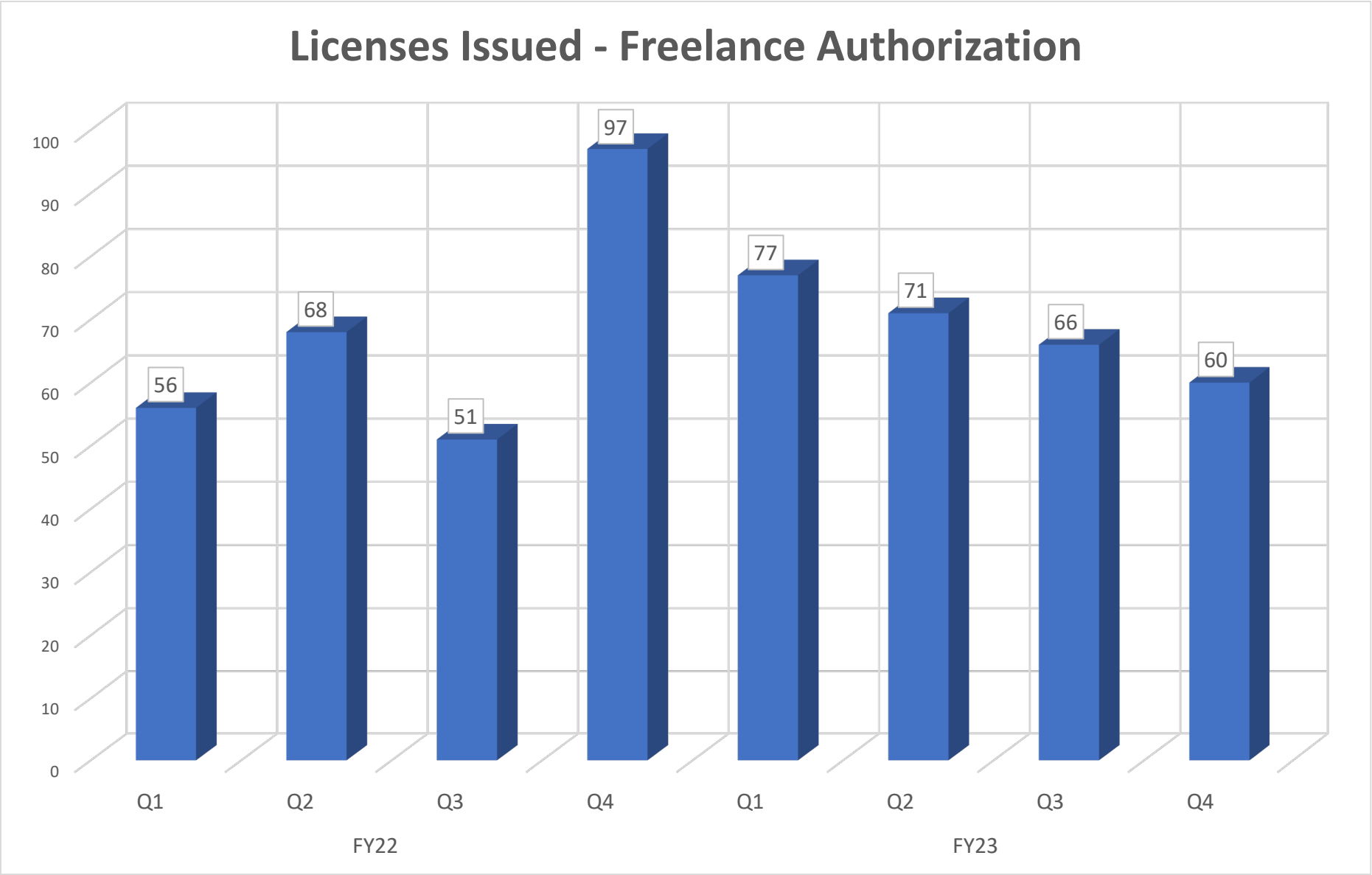
TOTAL ISSUED	FY22	50	FY23	44	TOTAL	94
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			



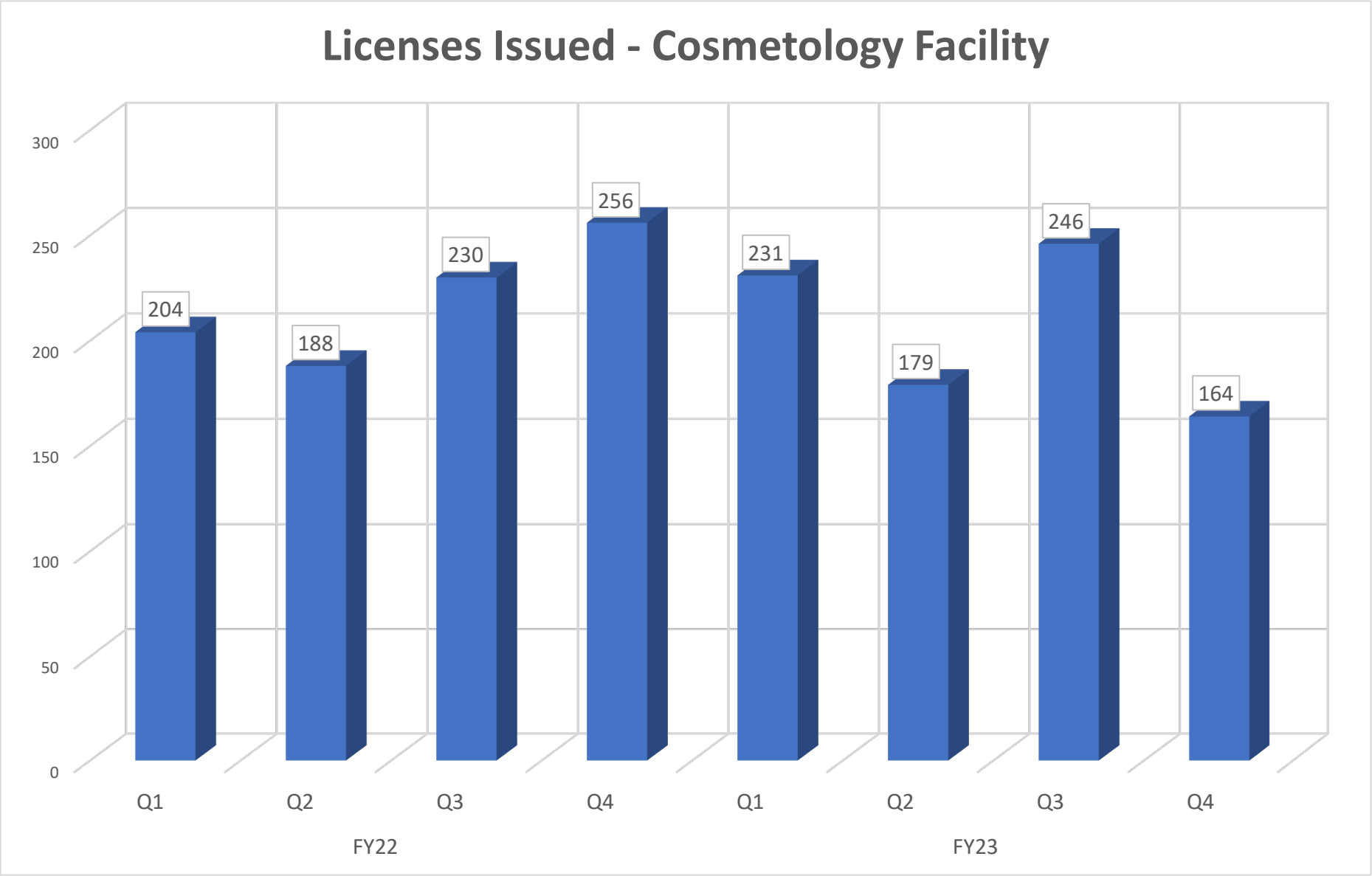
TOTAL ISSUED	FY22	1203	FY23	1249	TOTAL	2452
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			



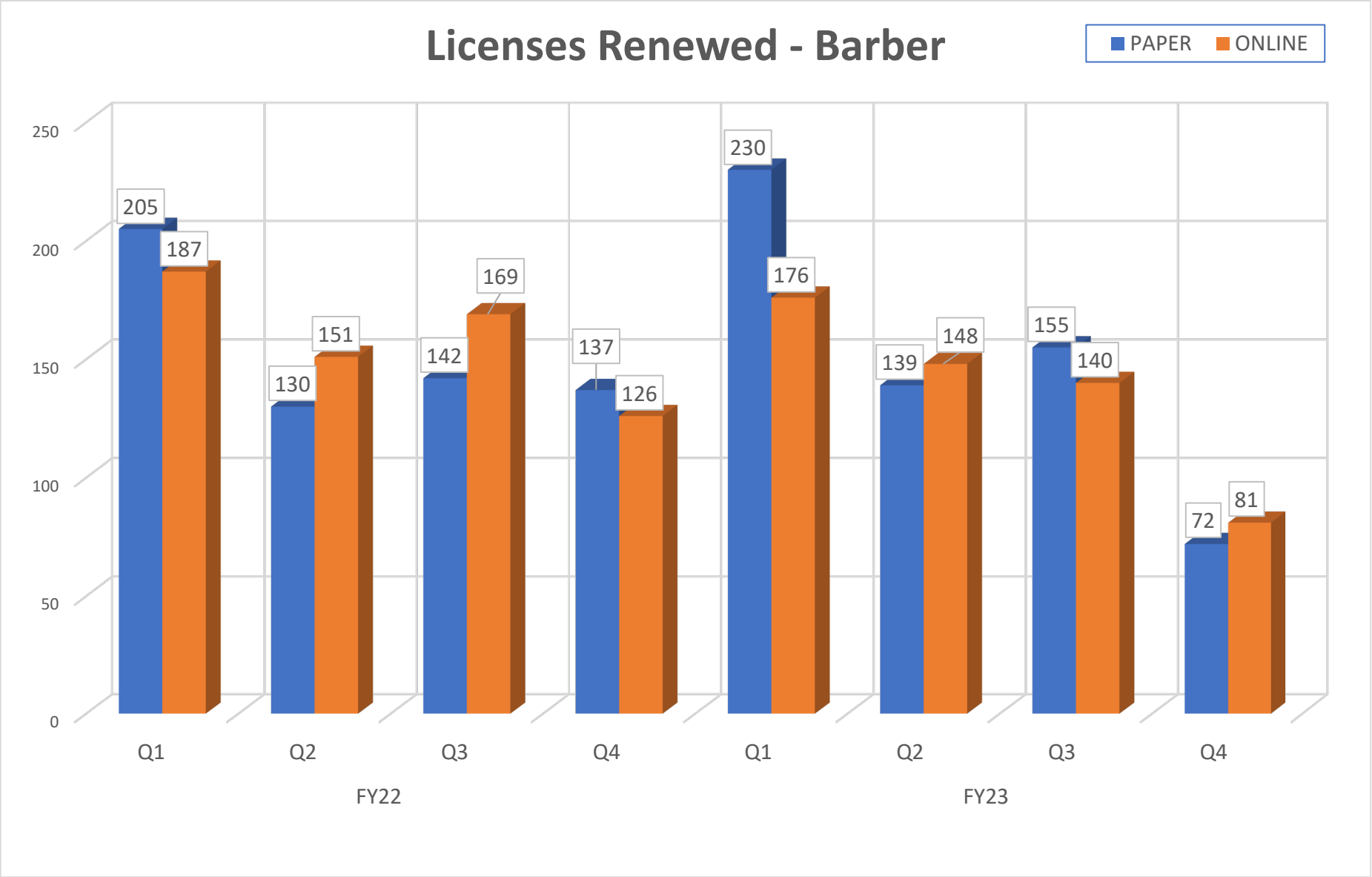
TOTAL ISSUED	FY22	965	FY23	1081	TOTAL	2046
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			



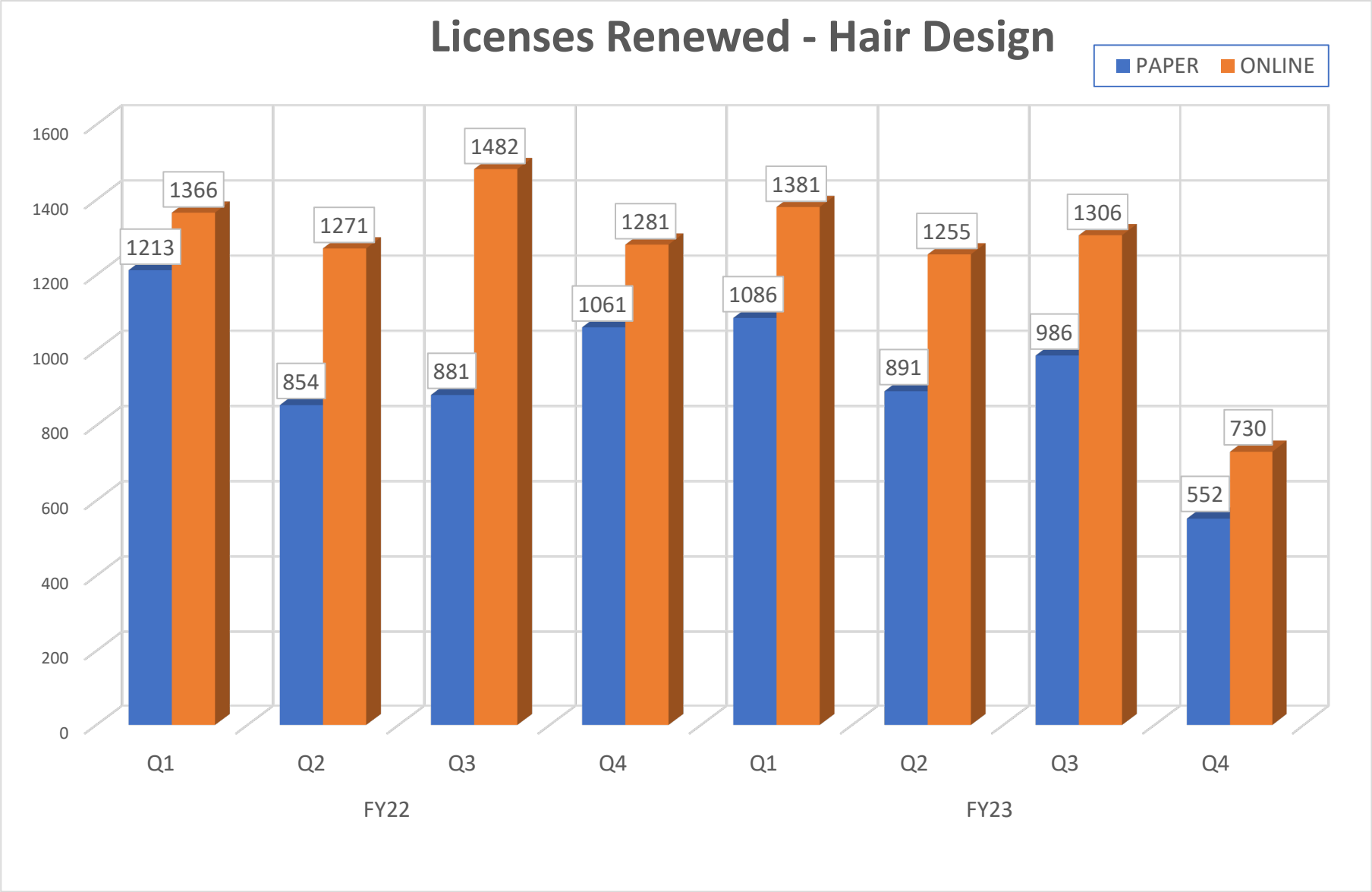
TOTAL ISSUED	FY22	272	FY23	274	TOTAL	546
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			



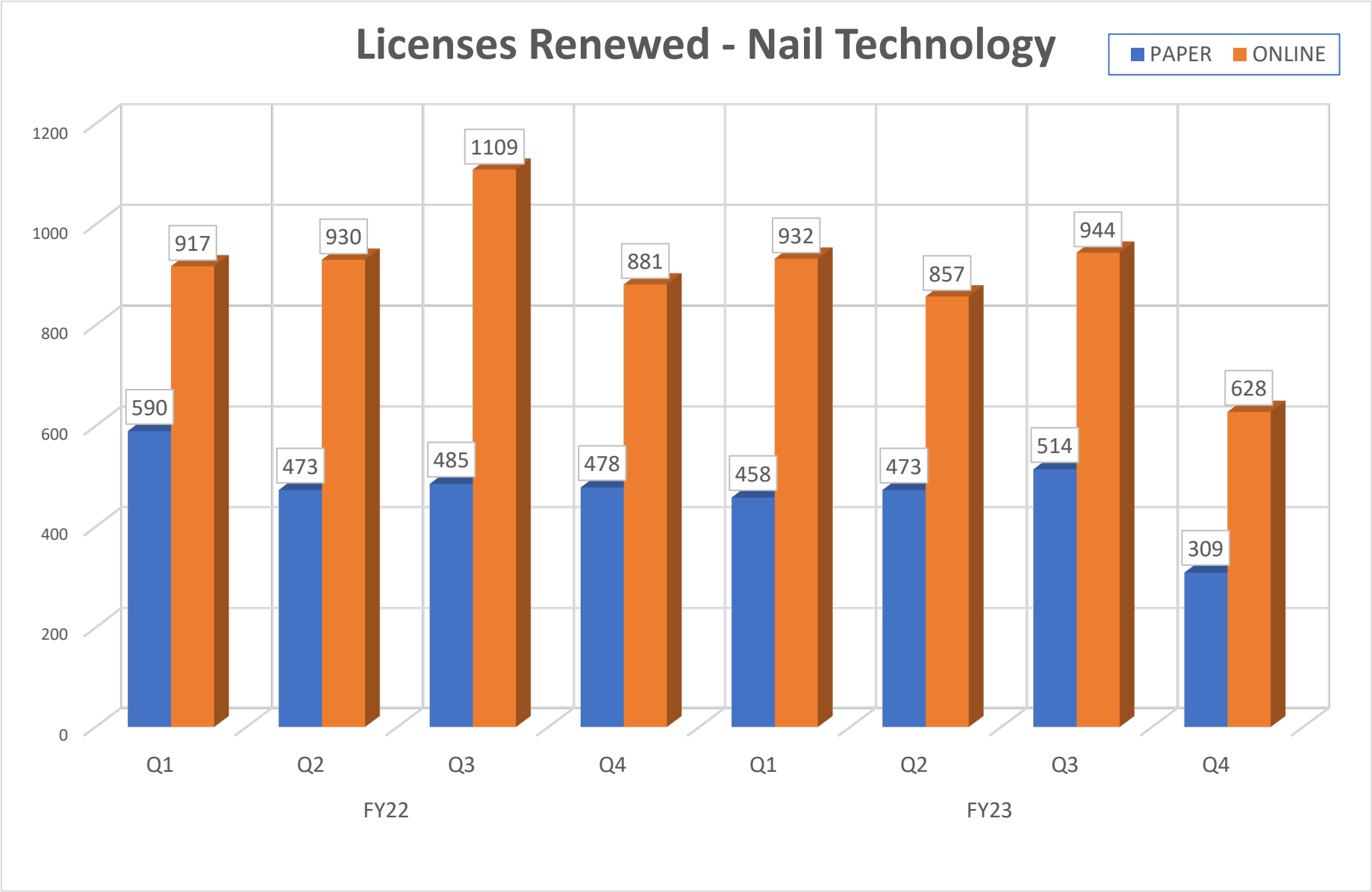
TOTAL ISSUED	FY22	878	FY23	820	TOTAL	1698
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			



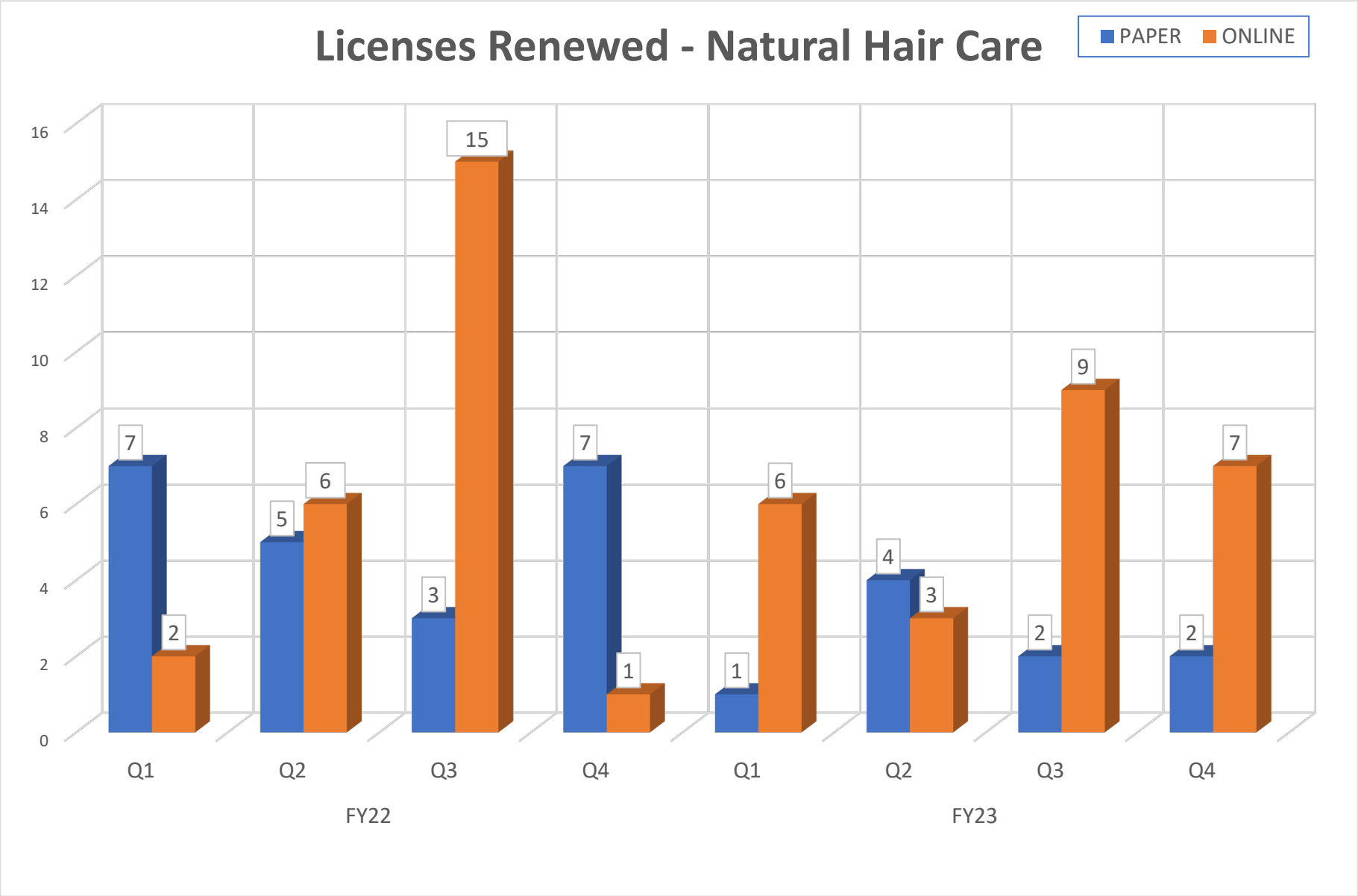
TOTAL ISSUED	FY22	1247	FY23	1141	TOTAL	2388
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			



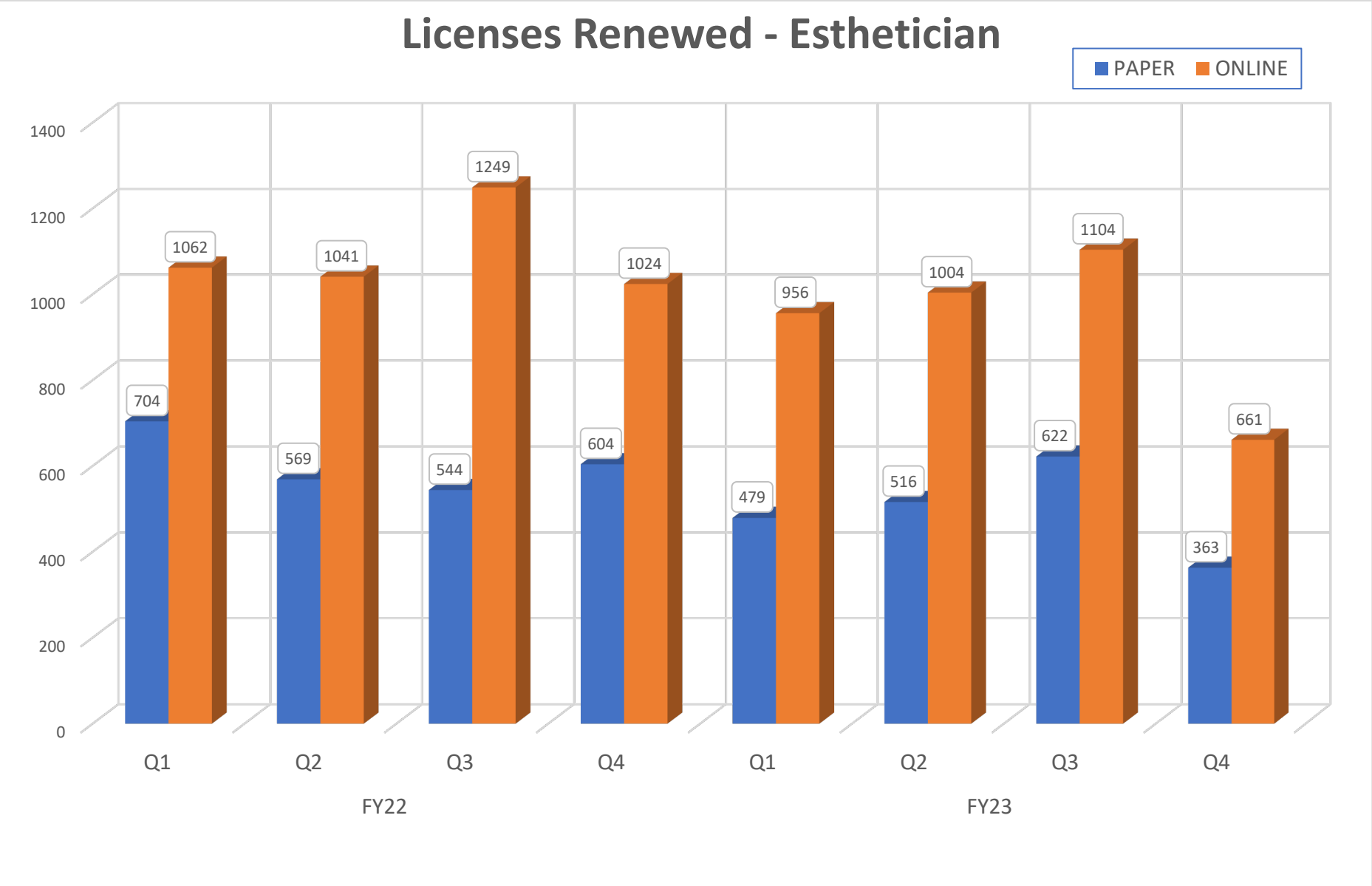
TOTAL ISSUED	FY22	9409	FY23	8187	TOTAL	17596
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			



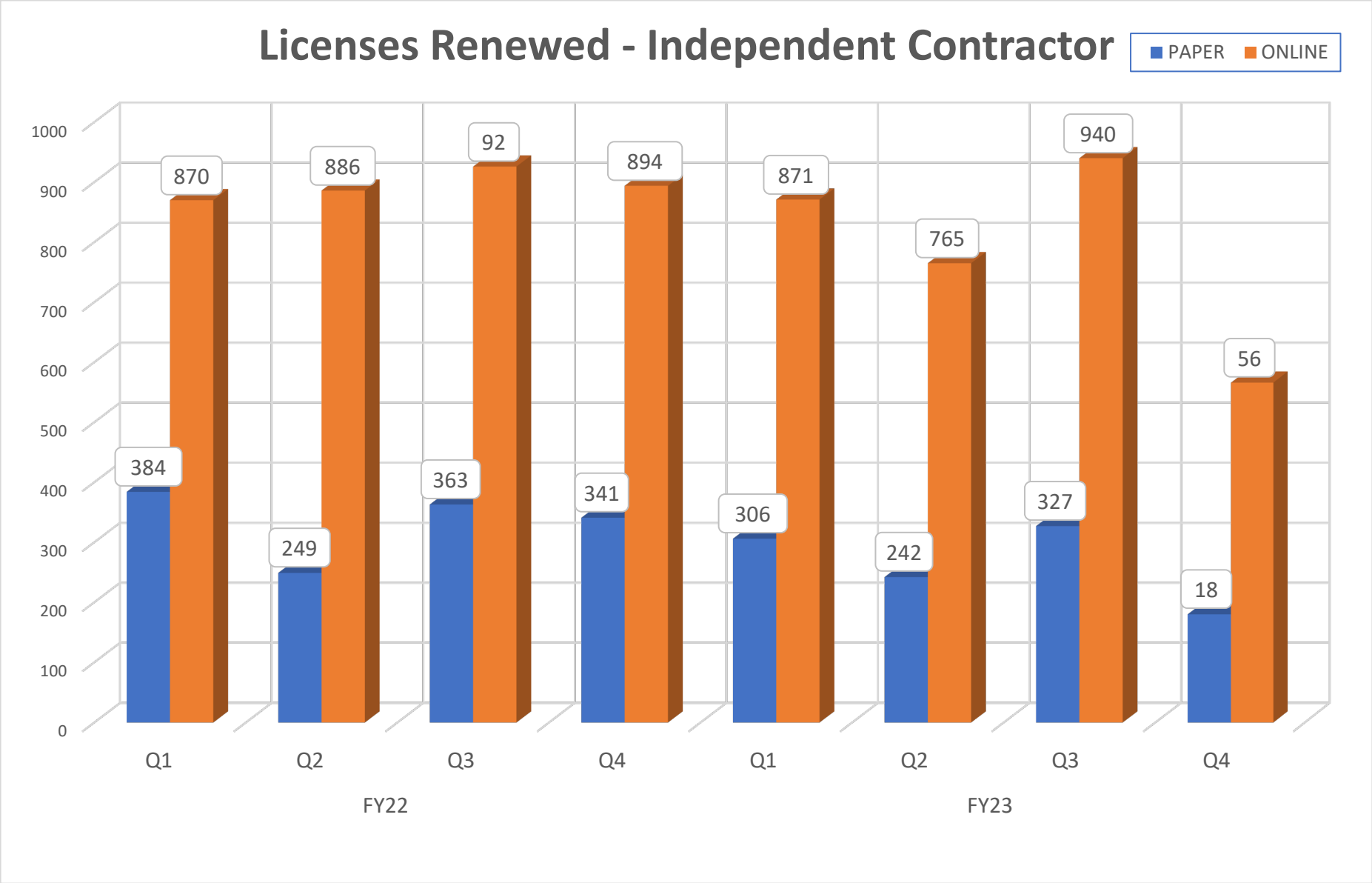
TOTAL ISSUED	FY22	5863	FY23	5115	TOTAL	10978
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			



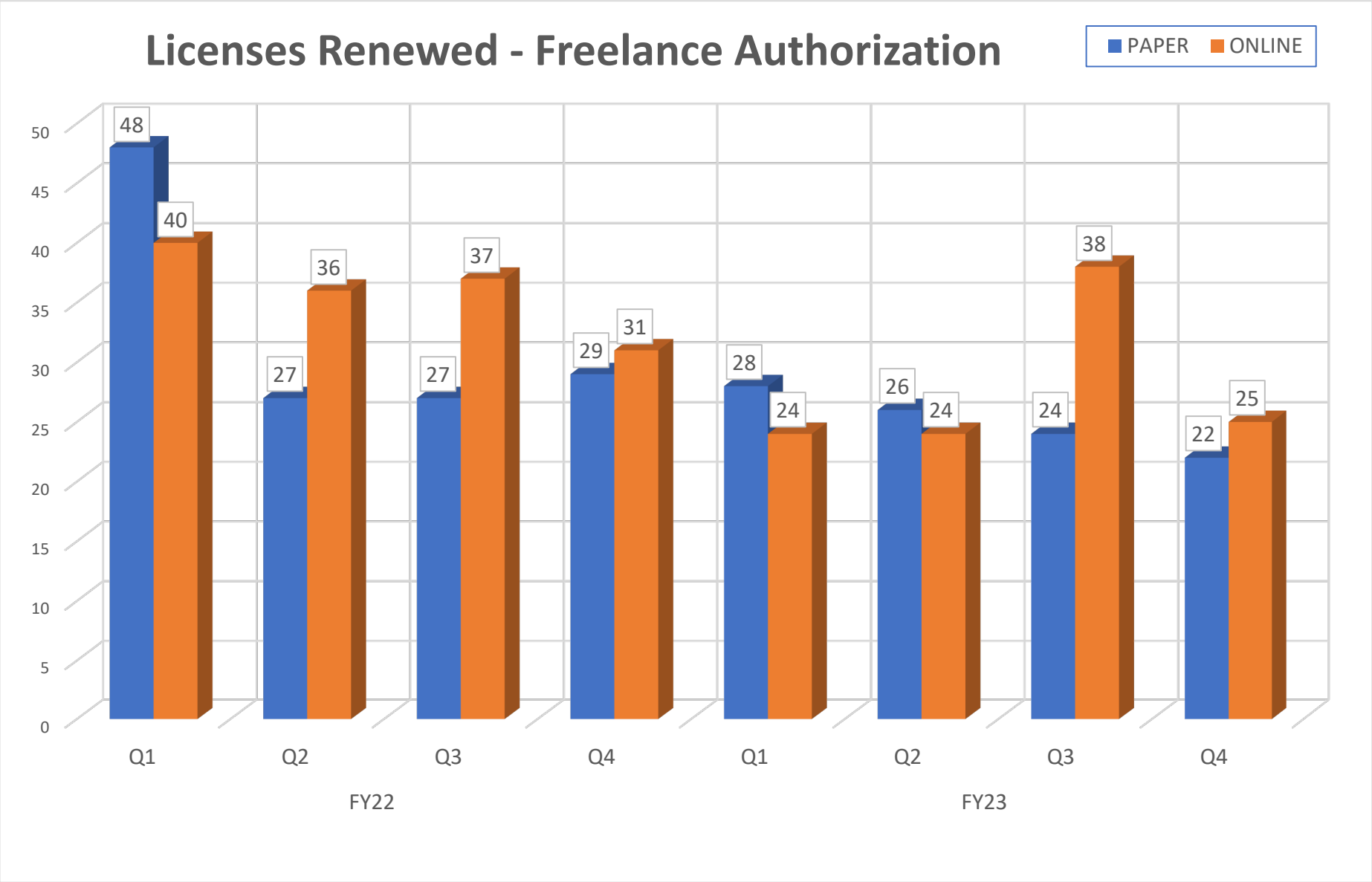
TOTAL ISSUED	FY22	46	FY23	34	TOTAL	80
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			



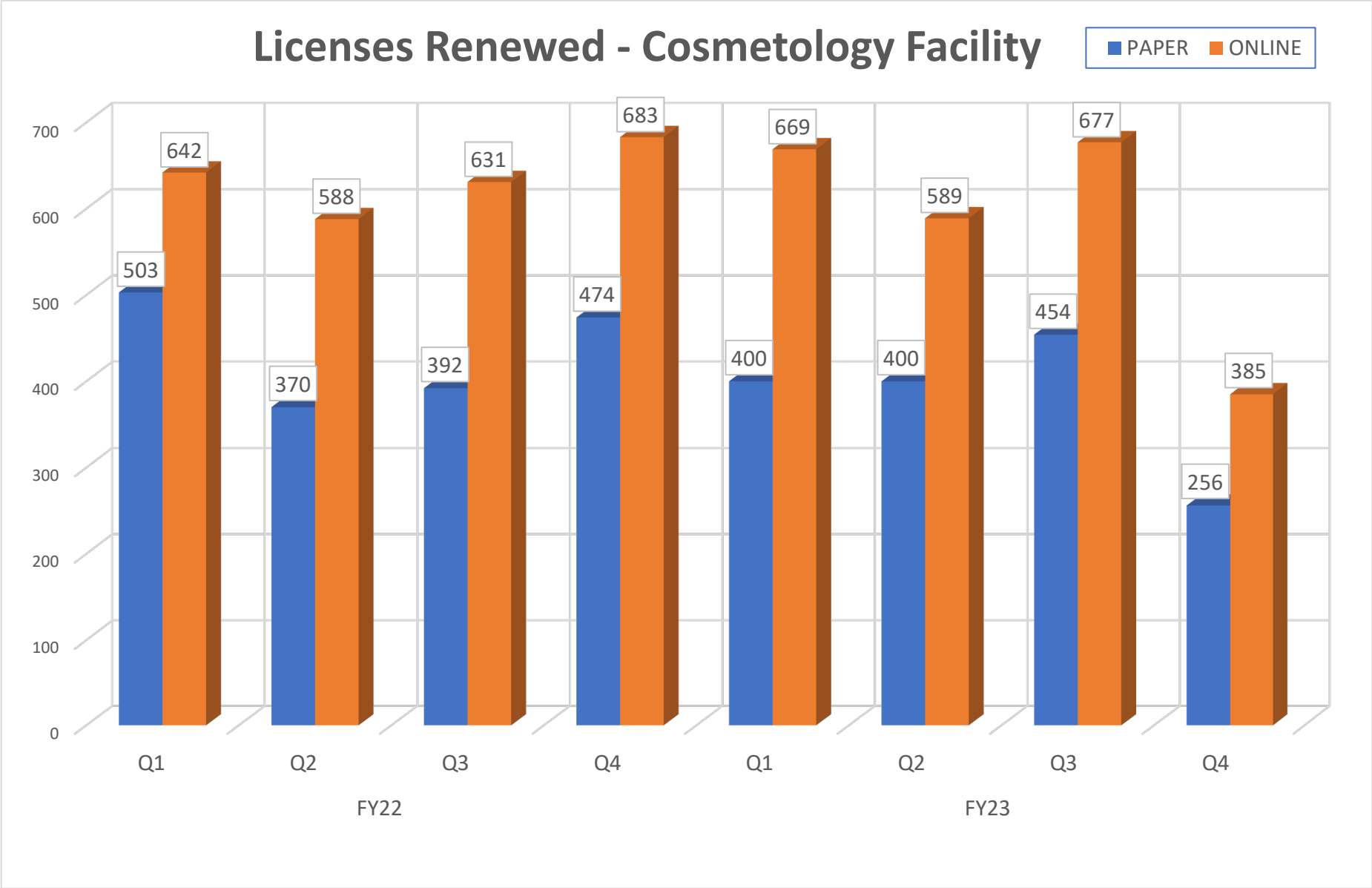
TOTAL ISSUED	FY22	6797	FY23	5705	TOTAL	12502
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			



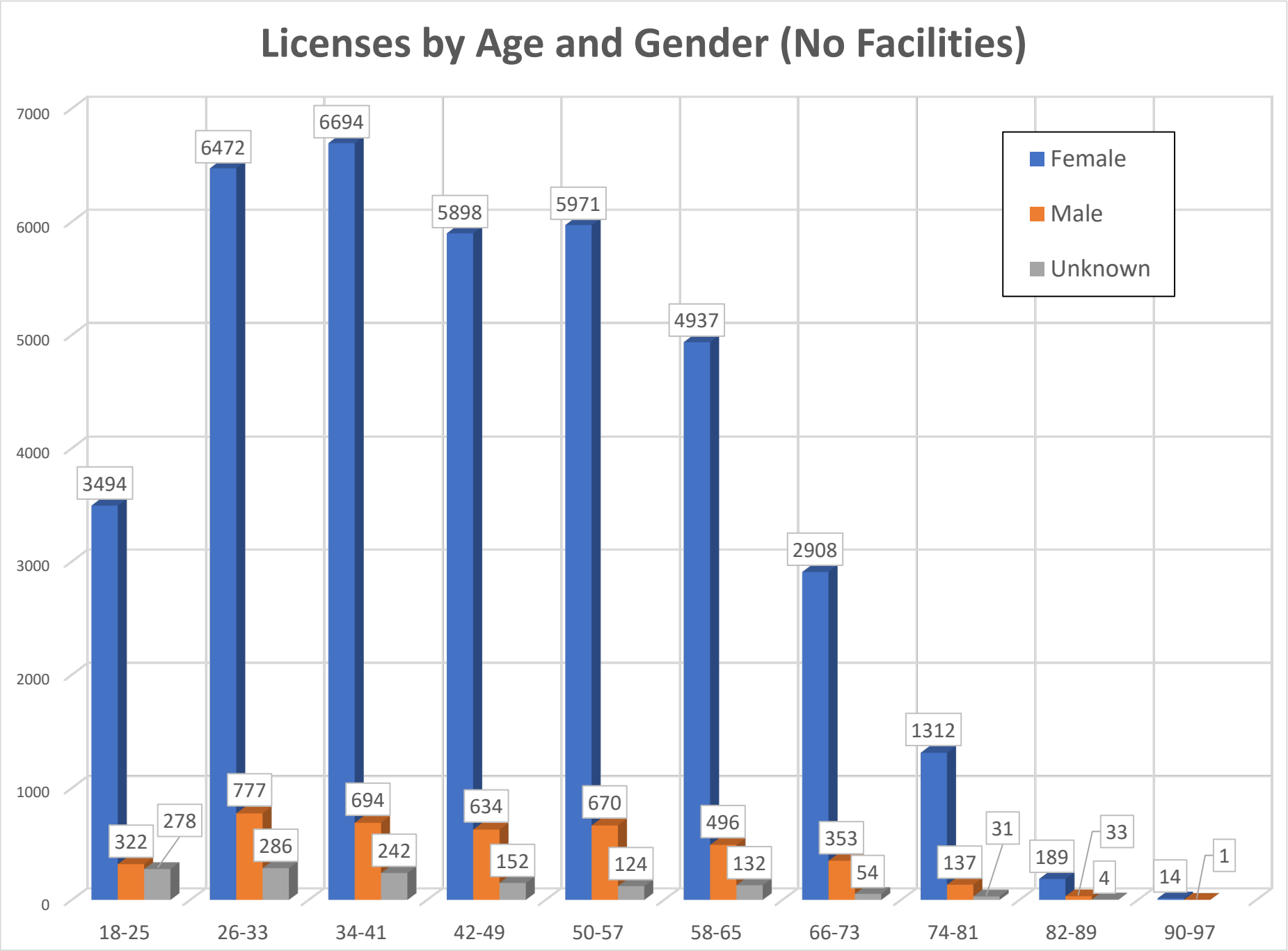
TOTAL ISSUED	FY22	4913	FY23	4197	TOTAL	9110
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			

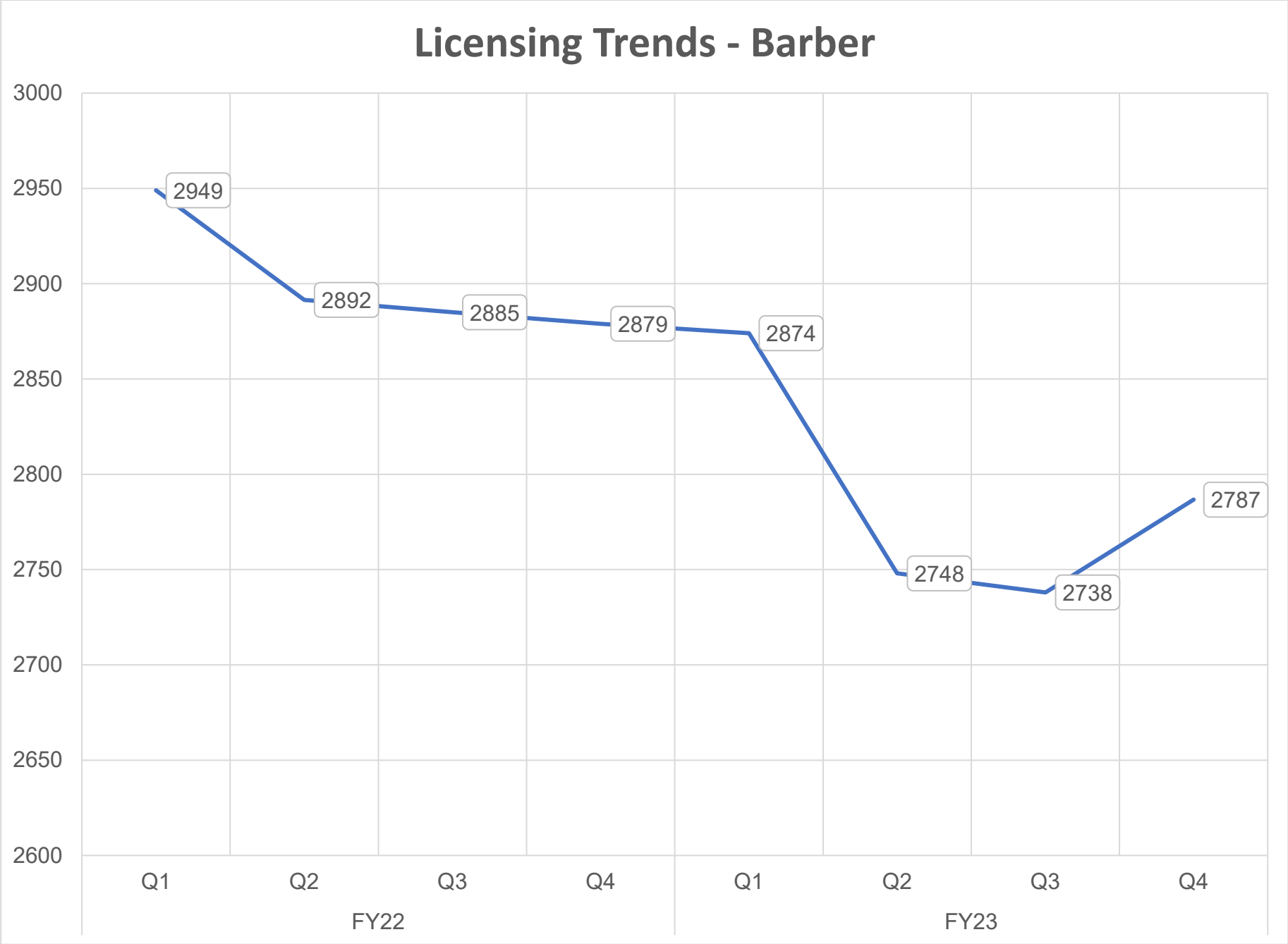


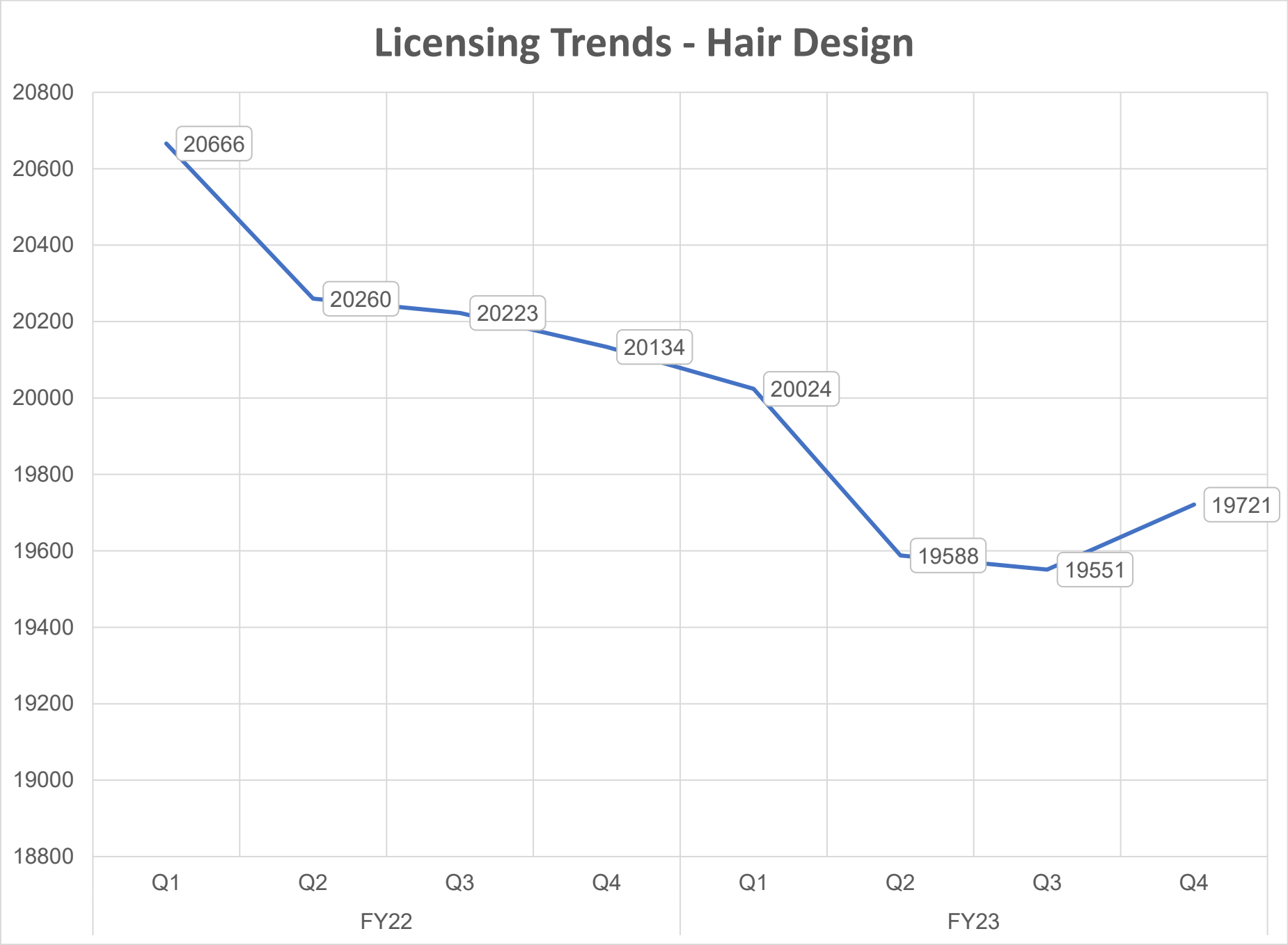
TOTAL ISSUED	FY22	275	FY23	211	TOTAL	486
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			

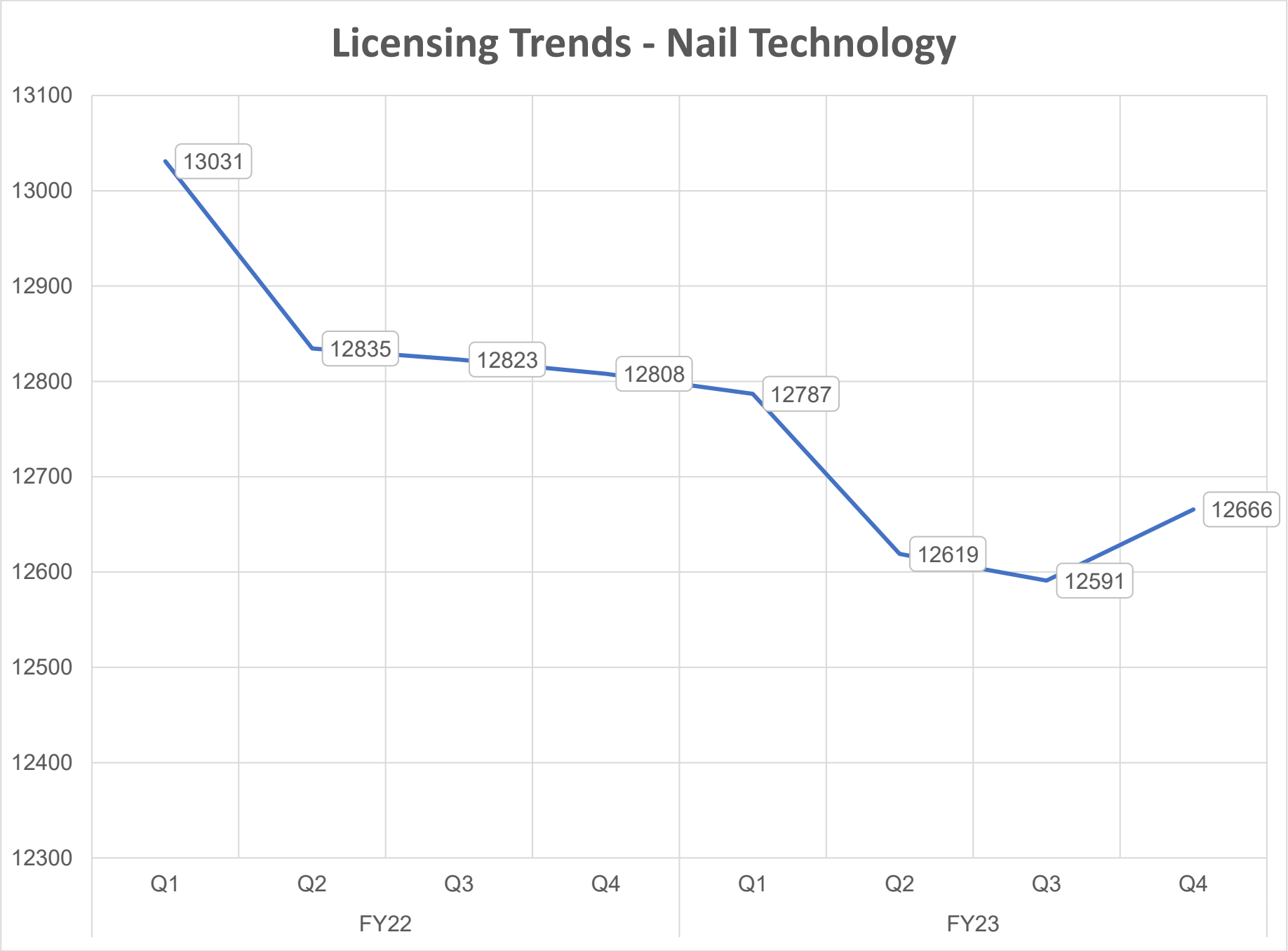


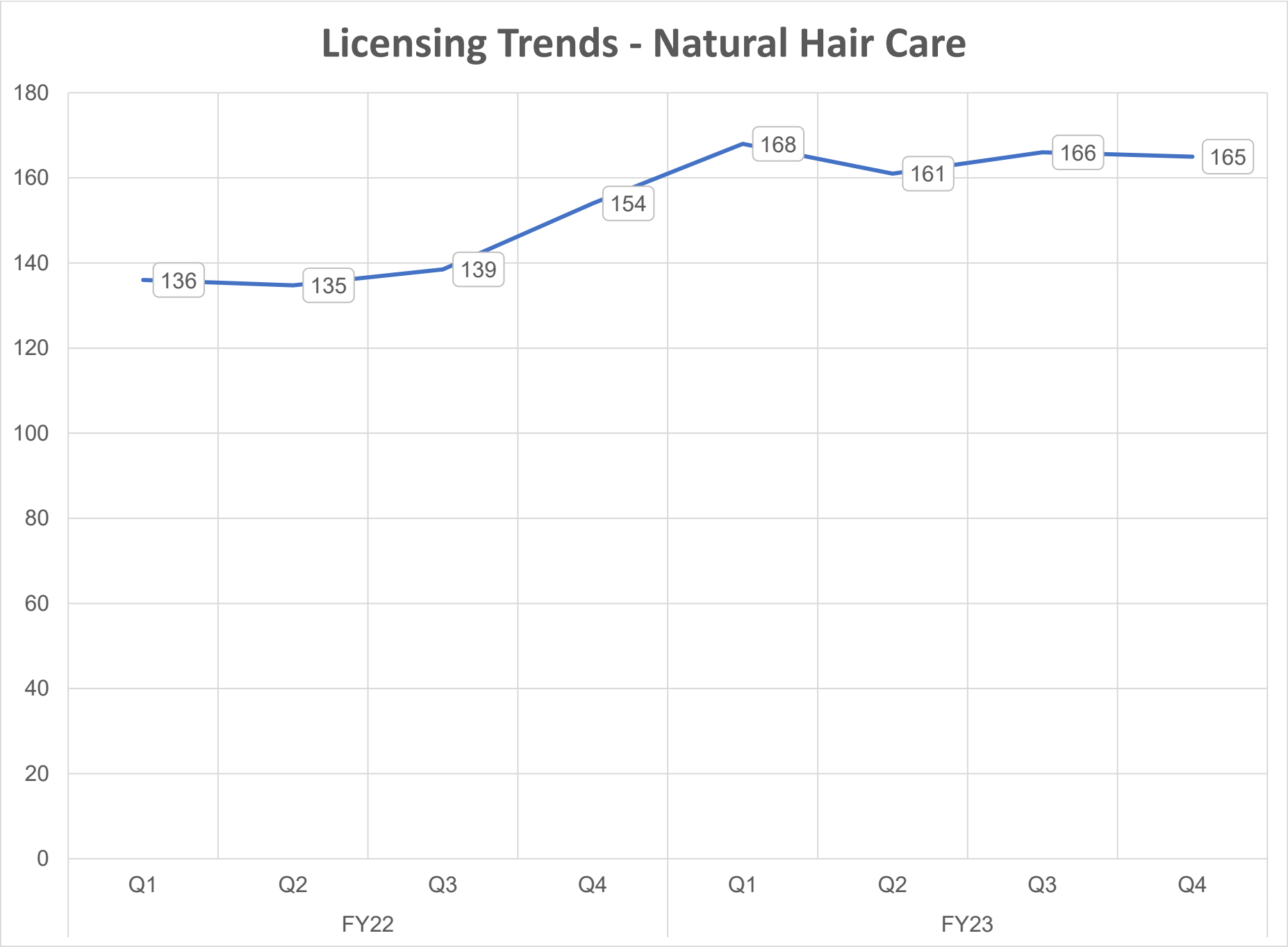
TOTAL ISSUED	FY22	4283	FY23	3830	TOTAL	8113
	7/1/21 - 6/30/22		7/1/22 - 6/30/23			

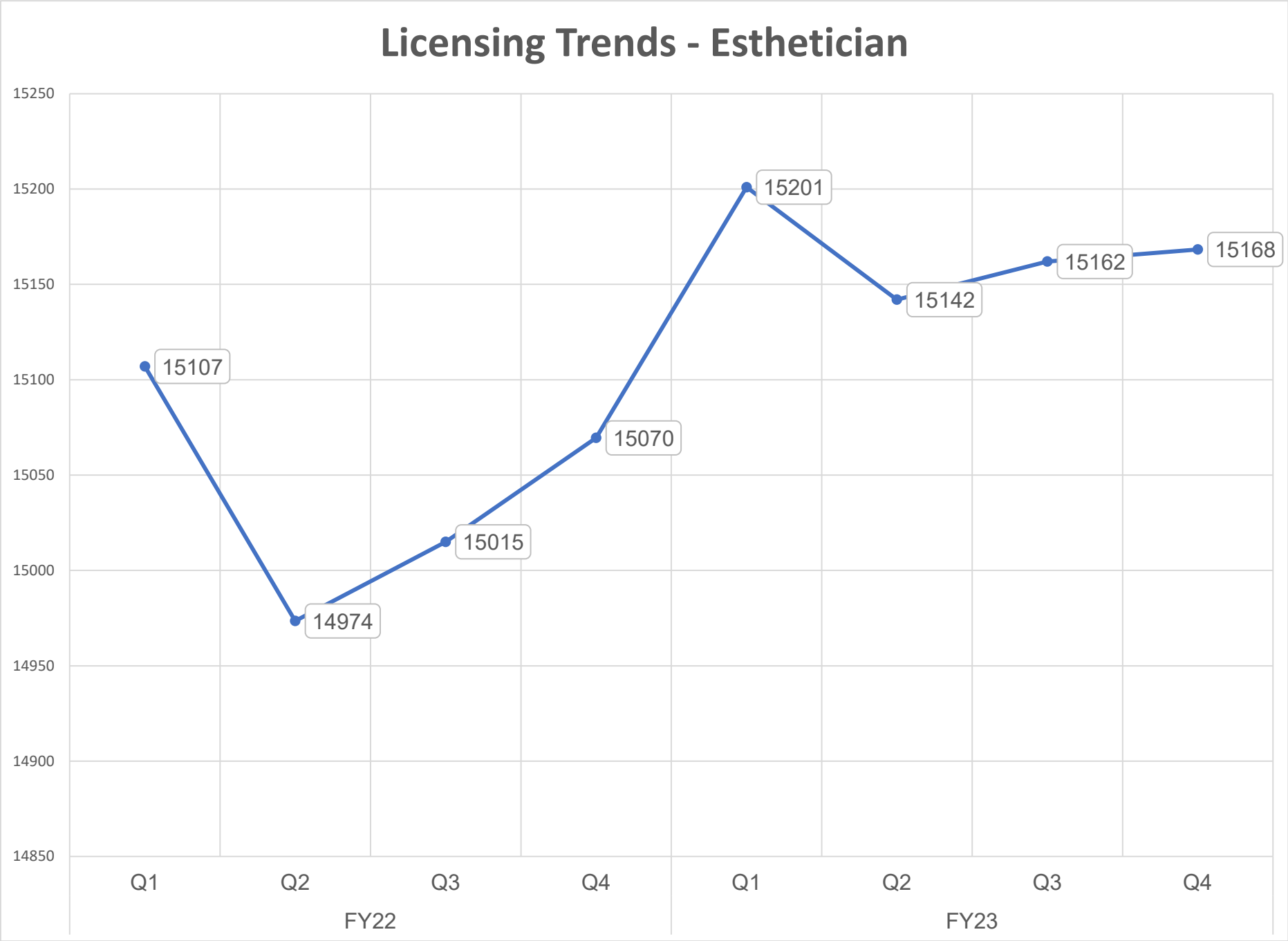

Licenses by Age and Gender (No Facilities)
7000
6000
5000
4000
3000
2000
1000
0
Female
Male
Unknown
3494
322
278
6472
777
286
6694
694
242
5898
634
152
5971
670
124
4937
496
132
2908
353
54
1312
137
31
189
4
33
14
1
18-25
26-33
34-41
42-49
50-57
58-65
66-73
74-81
82-89
90-97

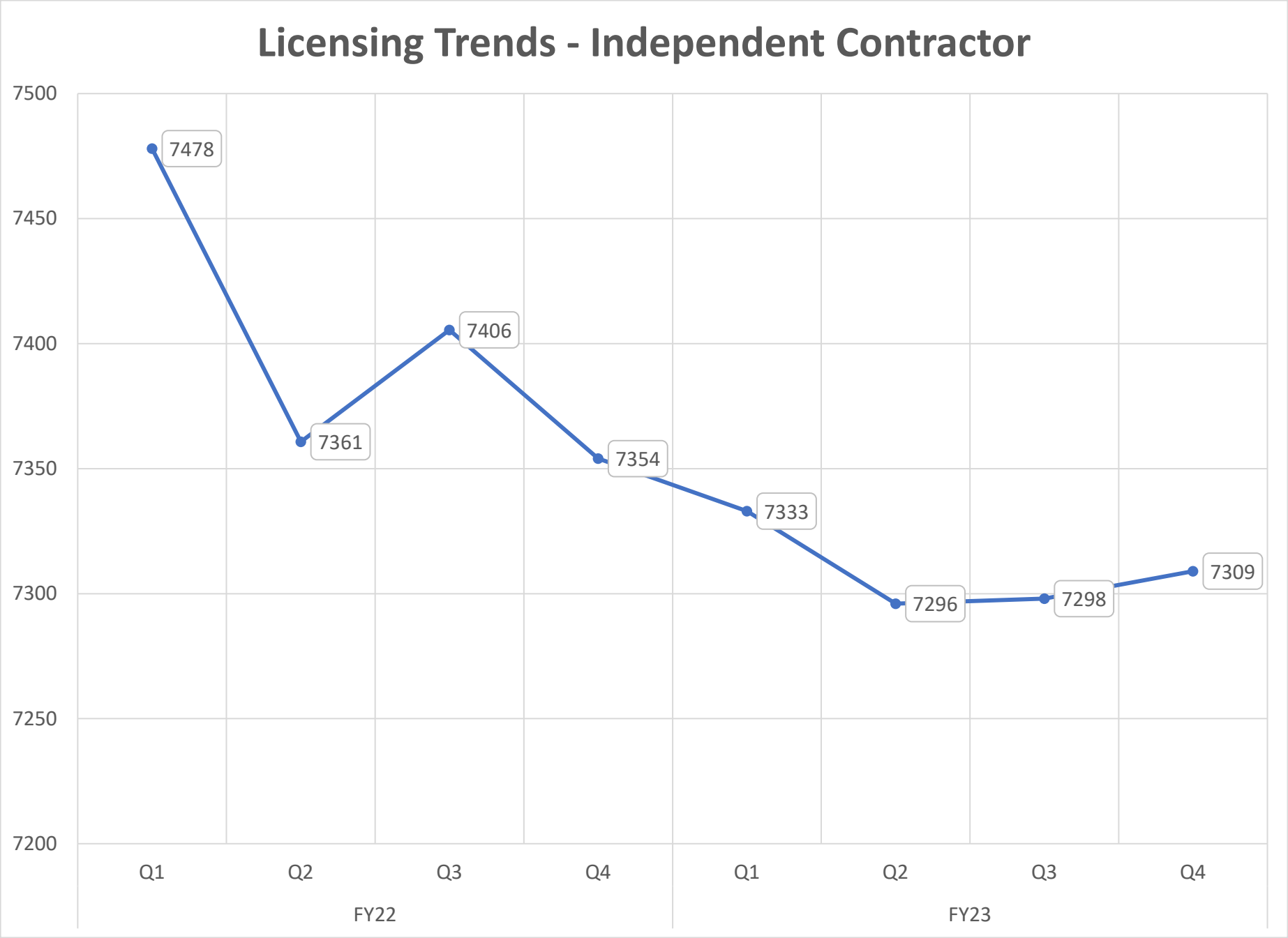

Licensing Trends - Barber
3000
2950
2900
2850
2800
2750
2700
2650
2600
2949
2892
2885
2879
2874
2748
2738
2787
Q1
Q2
Q3
Q4
Q1
Q2
Q3
Q4
FY22
FY23

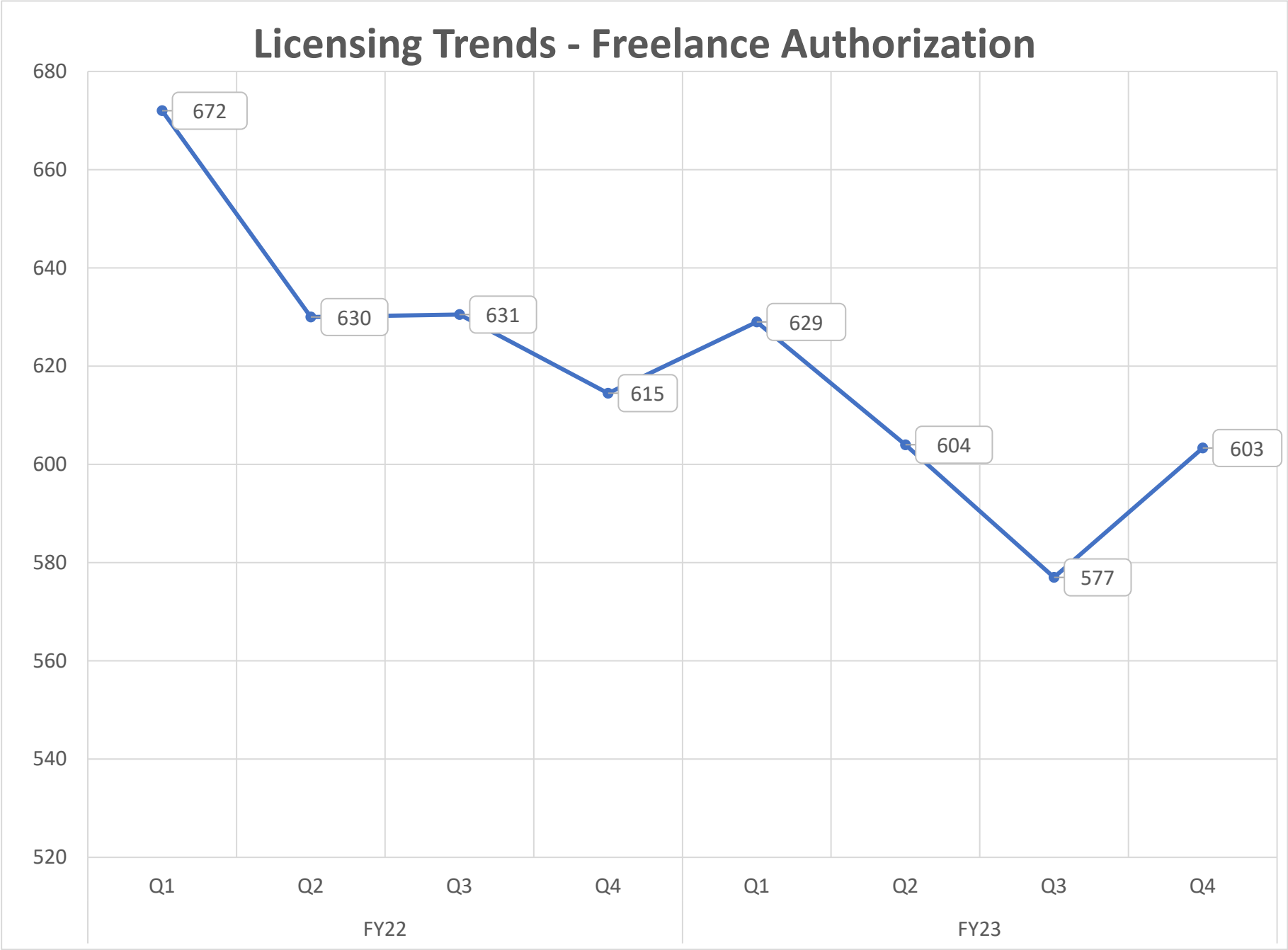

Licensing Trends - Hair Design
20800
20600
20400
20200
20000
19800
19600
19400
19200
19000
18800
20666
20260
20223
20134
20024
19588
19551
19721
Q1
Q2
Q3
Q4
Q1
Q2
Q3
Q4
FY22
FY23

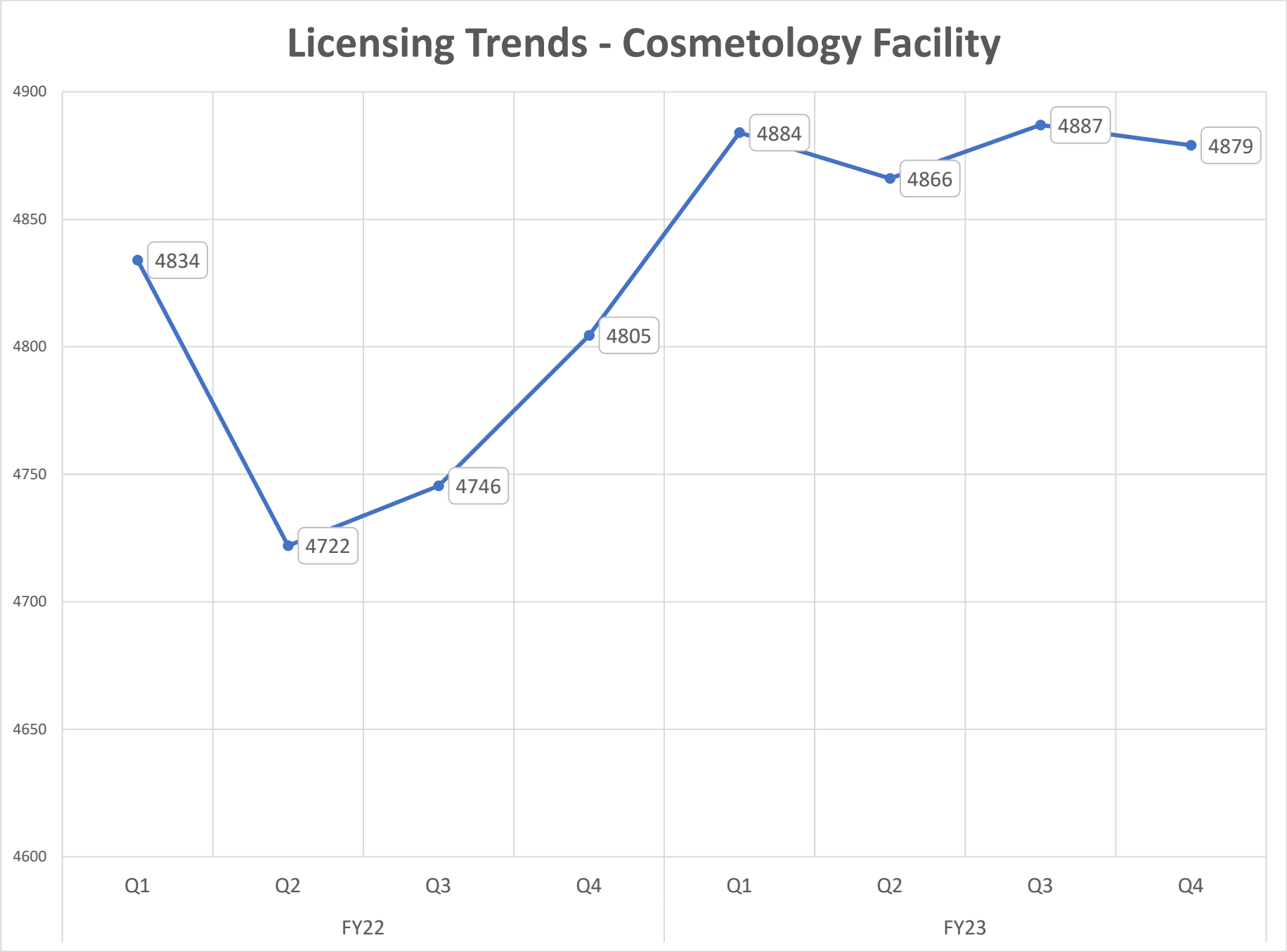

Licensing Trends - Nail Technology
13100
13000
12900
12800
12700
12600
12500
12400
12300
13031
12835
12823
12808
12787
12619
12591
12666
Q1
Q2
Q3
Q4
Q1
Q2
Q3
Q4
FY22
FY23


Licensing Trends - Natural Hair Care
180
160
140
120
100
80
60
40
20
0
136
135
139
154
168
161
166
165
Q1
Q2
Q3
Q4
Q1
Q2
Q3
Q4
FY22
FY23


Licensing Trends - Esthetician
15250
15200
15150
15100
15050
15000
14950
14900
14850
15107
14974
15015
15070
15201
15142
15162
15168
Q1
Q2
Q3
Q4
Q1
Q2
Q3
Q4
FY22
FY23


Licensing Trends - Independent Contractor
7500
7450
7400
7350
7300
7250
7200
7478
7361
7406
7354
7333
7296
7298
7309
Q1
Q2
Q3
Q4
Q1
Q2
Q3
Q4
FY22
FY23


Licensing Trends - Freelance Authorization
680
660
640
620
600
580
560
540
520
672
630
631
615
629
604
577
603
Q1
Q2
Q3
Q4
Q1
Q2
Q3
Q4
FY22
FY23


Licensing Trends - Cosmetology Facility
4900
4850
4800
4750
4700
4650
4600
4834
4722
4746
4805
4884
4866
4887
4879
Q1
Q2
Q3
Q4
Q1
Q2
Q3
Q4
FY22
FY23

COSMOTOLOGY TESTING RESULTS											
Fiscal Years and Quarters	2022				**2022 TOTAL**	2023				**2023 TOTAL**	GRAND TOTAL
	1	2	3	4		1	2	3	4		
BARBER											
PASSED	28	32	21	51	**132**	38	47	32	36	**153**	285
FAILED	39	41	33	83	**196**	77	53	66	58	**254**	450
TOTAL	**67**	**73**	**54**	**134**	**328**	**115**	**100**	**98**	**94**	**407**	735
ESTHETICS											
PASSED	249	267	263	420	**1199**	368	302	333	268	**1271**	2470
FAILED	126	141	157	252	**676**	216	168	200	128	**712**	1388
TOTAL	**375**	**408**	**420**	**672**	**1875**	**584**	**470**	**533**	**396**	**1983**	3858
HAIR											
PASSED	162	169	146	231	**708**	204	182	170	111	**667**	1375
FAILED	78	83	67	137	**365**	125	96	87	85	**393**	758
TOTAL	240	252	213	368	**1073**	329	278	257	196	**1060**	2133
NAIL											
PASSED	130	137	138	225	**630**	196	163	209	139	**707**	1337
FAILED	81	79	80	127	**367**	106	106	97	61	**370**	737
TOTAL	211	216	218	352	**997**	302	269	306	200	**1077**	2074
NATURAL HAIR CARE											
PASSED	6	7	12	21	**46**	10	9	6	16	**41**	87
FAILED	5	8	12	11	**36**	9	8	6	28	**51**	87
TOTAL	11	15	24	32	**82**	19	17	12	44	**92**	174
OREGON LAWS AND RULES											
PASSED	452	487	460	787	**2186**	702	553	620	474	**2349**	4535
FAILED	264	284	279	453	**1280**	410	349	395	259	**1413**	2693
TOTAL	716	771	739	1240	**3466**	1112	902	1015	733	**3762**	7228

Board of Cosmetology

Biennium	<2019-21 >		<2021-23 >		
State Fiscal Year	**2019 (Jul18-Jun19)**	**2020 (Jul19-June20)**	**2021 (Jul20-Jun21)**	**2022 (Jul21-Jun22)**	**2023 (Jul22-Present)**
Beginning Cash Balance	**$1,250,354**	**$655,323**	**($190,257)**	**($800,862)**	**($881,907)**
Revenues	**$3,414,529**	**$3,366,149**	**$3,123,494**	**$3,900,809**	**3,817,109**
Expenditures	**$4,009,560**	**$4,211,729**	**$3,734,099**	**$3,981,854**	**3,561,242**
Net Operations (Rev - Exp Only)	**($595,031)**	**($845,580)**	**($610,605)**	**($81,045)**	**$255,866**
Ending Cash Balance	**$655,323**	**($190,257)**	**($800,862)**	**($881,907)**	**($626,041)**

(Beg Cash + Rev - Exp)

HLO Pooled Expenditures Allocation Share for Board *(allocated based on average license volume and inspections/examinations counts)*

				Change
Shared Assessment	89.043%	88.065%	86.341%	*1.958%*
Small Board Examinations	92.917%	91.209%	91.532%	*-0.354%*
Inspections	90.051%	89.224%	86.839%	*2.673%*

** As noted in header, to ensure consistency 'Current' data in all reports are based on data from the most recently closed month to the report date.*

*Revenues and Expenditures updated with FY23M10 Actuals 05.17.23 AJC

Regulatory Report

HEALTH LICENSING OFFICE
1430 Tandem Ave. NE, Suite 180
Salem, OR 97301-2192
Phone: (503) 378-8667 | Fax: (503) 370-9004
Email: hlo.info@dhsoha.state.or.us
Web: www.oregon.gov/oha/ph/hlo

Board Report

Board of Cosmetology

6/1/2023

CASES OPEN/CLOSED STATUS				
	2019	2021	2023	Grand Total
OPEN				
Barber	0	1	3	4
Cosmetology Facility	0	5	53	58
Cosmetology Independent Contractor	0	1	0	1
Esthetician	0	5	13	18
Hair Design	1	7	21	29
Nail Technology	0	2	5	7
Unlicensed Cosmetology	0	27	55	82
TOTAL	**1**	**48**	**150**	**199**
CLOSED				
Barber	8	7	0	15
Cosmetology Facility	200	314	35	549
Cosmetology Independent Contractor	5	9	0	14
Esthetician	21	15	4	40
Freelance Authorization	2	2	0	4
Hair Design	50	45	9	104
Nail Technology	12	9	1	22
Unlicensed Cosmetology	87	125	31	243
TOTAL	**385**	**526**	**80**	**991**
Grand Total	**386**	**574**	**230**	**1190**

COMPLAINTS BY TYPE				
	2019	2021	2023	Grand Total
Covid Complaint		288	10	298
Laser Services	5	3		8
Licensing Concern	216	184	127	527
Safety/Sanitation Issues	96	47	29	172
Services performed by an unlicensed person on minors		1		1
Services performed on the hair			1	1
Services Provided	69	50	58	177
Unassigned		1	5	6
Grand Total	**386**	**574**	**230**	**1190**

COMPLAINANTS BY TYPE	
ANONYMOUS	313
CLIENT	236
OTHER	641
TOTAL	**1190**

Policy Report

2023 Legislative Update

SB 217 B-Engrossed

B-Engrossed
Senate Bill 217

Ordered by the House May 16
Including Senate Amendments dated March 24 and House Amendments dated May 16

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with presession filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Higher Education Coordinating Commission)

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.

Requires that cosmetology curriculum taught by school meet standards established by Board of Cosmetology and be approved by Health Licensing Office. **Directs board to convene curriculum requirements advisory committee to make curriculum requirements recommendations.** Exempts persons performing specified spray tanning services from requirements related to cosmetology.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to cosmetology; creating new provisions; amending ORS 345.010, 690.005, 690.015, 690.025, 690.046, 690.047, 690.155, 690.165, 690.195, 690.205, 690.225 and 690.360; repealing ORS 345.400, 345.430, 345.440 and 345.450; and prescribing an effective date.

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

REGULATION OF COSMETOLOGY

SECTION 1. Sections 2 and 3 of this 2023 Act are added to and made a part of ORS 690.005 to 690.225.

SECTION 2. The Health Licensing Office may adopt rules to carry out its duties under ORS 690.005 to 690.225.

SECTION 3. The Board of Cosmetology shall convene a curriculum requirements advisory committee consisting of representatives of schools. The advisory committee shall make recommendations to the board regarding curriculum requirements for a field of practice as described in ORS 690.046. Prior to adopting rules regarding the curriculum requirements, the board shall consult with the advisory committee.

SECTION 4. ORS 690.005 is amended to read:

690.005. As used in ORS 690.005 to 690.225:

(1) "Authorization" has the meaning given that term in ORS 676.562.

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

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

(b) Applying hair tonics, dressings and rinses.

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.

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

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

[*(2)*] **(3)** "Certificate" means a written authorization for the holder to perform in one or more fields of practice.

[*(3)*] **(4)** "Cosmetology" means the art or science of beautifying and improving the skin, nails and hair and the study of cosmetics and their application.

[*(4)*] **(5)** "Demonstration permit" means a written authorization for a person to practice, demonstrate and teach one or more fields of practice on a temporary basis.

[*(5)*] **(6)** "Esthetics" means any of the following skin care or facial care practices performed on the human body or face for the purpose of keeping the skin of the human body or face healthy and attractive and not for medical diagnosis or treatment of disease or physical or mental ailments:

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

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

(c) Makeup artistry.

(d) Eyebrow and eyelash services.

(e) Facial and body treatments.

[*(6)*] **(7)** "Facility" means an establishment operated on a regular or irregular basis for the purpose of providing services in one or more fields of practice.

[*(7)*] **(8)** "Field of practice" means the following cosmetology disciplines:

(a) Barbering.

(b) Esthetics.

(c) Hair design.

(d) Nail technology.

(e) Natural hair care.

[*(8)*] **(9)** "Freelance license" means a written authorization that allows a practitioner to practice outside or away from a licensed facility.

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

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

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

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

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

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

[*(12)(a)*] **(13)(a)** "Mechanical or electrical apparatus, appliance or device" includes, but is not

limited to, galvanic current, high-frequency microcurrents, light-emitting diode therapy and microdermabrasion that does not penetrate beyond the epidermis except through natural physiological effects.

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

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

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

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

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

[*(14)(a)*] **(15)(a)** "Natural hair care" means:

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

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

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

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

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

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

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

[*(17)*] **(18)** "School" means an educational establishment that [*has a license issued by the Department of Education and is operated for the purpose of teaching one or more fields of practice. For purposes of this subsection, "field of practice" does not include natural hair care*] **offers a program of study in one or more fields of practice other than natural hair care, including, but not limited to, a career school licensed under ORS 345.010 to 345.450 including a proficiency-based career school, a community college or an educational establishment operated by a school district**.

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

SECTION 5. ORS 690.015 is amended to read:

690.015. (1) This section establishes prohibitions relating to the practice of hair design, barbering, esthetics, nail technology and natural hair care. The prohibitions under this section are subject to the exemptions under ORS 690.025. A person who commits an act prohibited under this section is subject to the penalties under ORS 690.992 in addition to any administrative action taken by or

any civil penalty imposed by the Health Licensing Office under ORS 676.612.

(2) A person may not:

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

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

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

(d) Practice hair design, barbering, esthetics, nail technology or natural hair care as an independent contractor without [*a registration*] **an authorization**.

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

(f) Knowingly make a false statement on an application to obtain or renew [*a certificate, registration, license or permit*] **an authorization**.

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

(h) Sell, barter or offer to sell or barter a document evidencing [*a certificate, registration, license or permit*] **an authorization**.

(i) Purchase or procure by barter a document evidencing [*a certificate*] **an authorization** with intent to use it as evidence of the person's qualification as a practitioner.

(j) Materially alter with fraudulent intent a document evidencing [*a certificate, registration, license or permit*] **an authorization**.

(k) Use or attempt to use a fraudulently obtained, counterfeited or materially altered document evidencing [*a certificate, registration, license or permit*] **an authorization**.

SECTION 6. ORS 690.025 is amended to read:

690.025. (1) ORS 690.005 to 690.225 do not apply to:

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

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

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

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

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

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

(g) Subject to subsection (3) of this section, persons applying temporary makeup, combing hair, brushing hair, braiding hair, applying hair spray or holding cream to hair or styling hair through the use of barrettes, ties, clips, ribbons and other similar hair accessories for the sole purpose of preparing an individual for a professional photograph, provided that the person does not use any product that alters the keratin of the individual's hair.

(h) Subject to subsection (3) of this section, persons applying temporary makeup or styling hair

by any method for the sole purpose of preparing an individual for a professional film or video performance or a theatrical performance.

(i) A student while engaged in training at the direction of and under the direct supervision of the faculty of a school [*licensed under ORS 345.010 to 345.450 to teach a field of practice. For purposes of this paragraph, "field of practice" does not include natural hair care*].

(j) Persons performing spray tanning services using a handheld airbrush tanning device that applies to another individual, without physical contact, a spray tanning solution that may include, but is not limited to, products containing dihydroxyacetone.

(2) The office may exempt from ORS 690.005 to 690.225 practitioners providing services at charitable or [*fund raising*] **fund-raising** events. In establishing an exemption, the office shall consider and evaluate each written request on an individual basis.

(3) The office may develop and disseminate guidelines for persons described in subsection (1)(g) and (h) of this section for the purpose of ensuring sanitation and hygiene best practices. The office is not required to adopt rules to implement this subsection.

SECTION 7. ORS 690.046 is amended to read:

690.046. (1) To qualify for certification as a practitioner of hair design, barbering, esthetics, nail technology or natural hair care, an applicant shall:

(a) If the applicant is applying for certification to practice hair design, barbering, esthetics or nail technology[*, successfully complete all courses required by rule of the State Board of Education for graduation from a school teaching one or more fields of practice*]**:**

(A) Complete the curriculum requirements in the field of practice for which certification is sought that are adopted by the Board of Cosmetology by rule and approved by the Health Licensing Office; and

(B) Submit satisfactory evidence from a school to the office that demonstrates the applicant has successfully met the requirements described in subparagraph (A) of this paragraph.

(b) Successfully pass the certification examination approved, administered or recognized by the board [*of Cosmetology for*] **in** the field of practice [*in*] **for** which certification is sought.

(c) Pay the applicable fees established under ORS 676.576.

(d) Meet any additional requirements the board [*of Cosmetology*] may impose by rule [*for*] **in the field of practice for which** certification [*in a particular field of practice*] **is sought**.

(2) The office may waive all or part of the requirements described in subsection (1) of this section and allow an applicant who meets all of the other requirements of subsection (1) of this section to take the certification examination if:

(a) For an applicant who holds an active authorization issued in another state or territory of the United States or another country:

(A) The office determines that the applicant's education or training, including any education or training obtained in the military, is substantially equivalent to the certification requirements described in subsection (1) of this section and any rules adopted under subsection (1) of this section; and

(B) The applicant's active authorization has not been subject to disciplinary action by the authorizing body.

(b)(A) For an applicant who has received education or training outside of this state and does not hold an active authorization issued by another jurisdiction, the school that provided to the applicant a skills assessment and practical evaluation:

(i) Submits to the office evidence that the applicant passed the skills assessment and practical evaluation; and

(ii) Attests, on a form prescribed by the office, to having verified the applicant's prior training or education.

(B) An applicant described in this paragraph shall obtain a skills evaluation and practical assessment from a school.

[*(2)*] **(3)** A person who is certified to practice hair design or barbering under this section is authorized to practice natural hair care.

SECTION 8. ORS 690.047 is amended to read:

690.047. [*(1) For purposes of this section, "field of practice" does not include natural hair care.*]

[*(2) The Board of Cosmetology may waive all or part of the educational requirement for an applicant in a field of practice and allow the applicant to take the certification examination, provided that:*]

[*(a) The applicant's education or training, including relevant education or training obtained in the military, is determined by the board to be substantially equivalent to Oregon certification requirements;*]

[*(b) The applicant is otherwise qualified to take the examination; and*]

[*(c) The applicant holds an active certification that was issued in another state or a territory of the United States and has not been subject to disciplinary action by the other certifying body.*]

[*(3)*] The Health Licensing Office may issue a specialty certificate in a field of practice **other than natural hair care** to a practitioner who has:

[*(a)*] **(1)** Completed post-graduate education approved by the office that is separate from the education or training required for entry-level certification;

[*(b)*] **(2)** Passed an examination approved or recognized by the Board **of Cosmetology**; and

[*(c)*] **(3)** Paid the applicable fees established under ORS 676.576.

SECTION 9. ORS 690.155 is amended to read:

690.155. (1) There is established within the Health Licensing Office the Board of Cosmetology consisting of seven members appointed by the Governor. At all times the membership of the board shall be so constituted that:

(a) [*Six*] **Four** members of the board shall be practitioners with active [*certificates*] **authorizations**.

(b) One member shall be a representative of an hourly-based school.

(c) One member shall be a representative of a proficiency-based school.

[*(b)*] **(d)** One member shall be a public member who is not a practitioner.

(2) Of the members described in subsection (1)(b) and (c) of this section, at least one member must be a practitioner with an active authorization.

[*(2)*] **(3)** The term of office of each member of the board is four years, but a member serves at the pleasure of the Governor. Vacancies shall be filled by the Governor by appointment for the unexpired term. A member shall hold the member's office until the appointment and qualification of a successor. A member is eligible for reappointment. If a person serves two consecutive full terms, a period of at least four years must elapse before the person is again eligible for appointment to serve on the board.

[*(3)*] **(4)** The Director of the Health Licensing Office, or a designated representative, shall serve as an ex officio member of the board but without the right to vote.

SECTION 10. ORS 690.165 is amended to read:

690.165. In addition to the powers otherwise granted by ORS [*345.430 and*] 690.005 to 690.225, the Board of Cosmetology shall have the power to:

(1) Determine whether applicants are qualified to take certification examinations**, except as that power is vested in the Health Licensing Office under ORS 690.046**.

(2) Administer, approve or recognize certification examinations and designate the time, place and administrators of certification examinations.

(3) Contract for the administration of examinations as part of regional or national examinations and contract with independent testing services for examination administration.

(4) Pursuant to ORS 676.568, direct the [*Health Licensing*] office to issue [*certificates, registrations, licenses and permits*] **authorizations** to individuals determined by the board to be qualified.

(5) Except as otherwise provided in ORS 690.205 (2) or other provision of law, adopt rules establishing and enforcing standards for safety, infection control, professional conduct**, curriculum** and any other matters relating to fields of practice, facilities or locations used by persons providing services regulated by ORS 690.005 to 690.225.

(6) Pursuant to ORS 676.612 and 690.167, direct the office to suspend, revoke, limit or refuse to issue or renew [*certificates, registrations, licenses or permits*] **authorizations** or impose a period of probationary activity on the holder.

(7) Do any act necessary or proper to effect and carry out the duties required of the board by ORS 690.005 to 690.225.

(8) Adopt rules prescribing standards of professional conduct for persons practicing hair design, barbering, esthetics, nail technology or natural hair care.

(9) Consult with the office about the issuance and renewal of a license under ORS 690.055 [*authorizing a facility to provide barbering, esthetics, hair design, nail technology services or natural hair care*].

(10) Pursuant to ORS 690.046, direct the office to approve a school's curriculum.

SECTION 11. ORS 690.195 is amended to read:

690.195. (1) The Health Licensing Office shall keep a record of [*its*] **the office's** proceedings relating to the issuance, refusal, suspension and revocation of [*certificates, registrations, licenses and permits*] **authorizations** and to the imposition of probation. This record [*shall*] **must** also contain the name, place of business and [*the*] date of each [*certificate, registration, license and permit*] **authorization** issued by the office.

(2) The office shall keep a record of all complaints received, including the date of receipt, **the** name and place of business of each practitioner involved, the name and address of each complainant and the nature of the complaint.

(3) The records of the office shall at all reasonable times be open to inspection by the public.

SECTION 12. ORS 690.205 is amended to read:

690.205. (1) The Board of Cosmetology may adopt rules for the administration of ORS [*345.440 and*] 690.005 to 690.225 and for prescribing safety and infection control requirements for facilities. Infection control requirements for facilities shall be subject to the approval of the Oregon Health Authority. [*A copy of the rules adopted by the board shall be furnished by the board to the owner or manager of each facility.*]

(2) Notwithstanding subsection (1) of this section, the board may not prohibit the use of the facility for domestic purposes if the part devoted to domestic purposes is in a completely separate room not used by customers, with walls extending from floor to ceiling and with any connecting doors kept closed while the facility is in actual operation.

(3) Rules adopted by the board prescribing safety and infection control requirements for facilities shall be adopted in accordance with the procedures set forth in ORS chapter 183.

SECTION 13. ORS 690.225 is amended to read:

690.225. (1) In addition to any other duties prescribed by law, the Health Licensing Office shall provide for the inspection of facilities [*and schools licensed to teach practitioner skills under ORS 345.010 to 345.450*].

(2) Inspections conducted under this section shall determine whether the facilities comply with the health, safety, infection control and licensing rules of the Board of Cosmetology [*and whether the schools comply with the health, safety and infection control requirements under ORS 345.010 to 345.450 and rules of the office. A report of the results of the inspection shall be submitted to the Higher Education Coordinating Commission*].

(3)(a) The office may not inspect a school unless the Higher Education Coordinating Commission requests the office's assistance in carrying out an inspection of a school.

(b) The office may not impose any disciplinary action on a school.

SECTION 14. ORS 690.360 is amended to read:

690.360. (1) A person may not:

(a) Perform or attempt to perform services in a field of practice without a license to perform services in that field of practice;

(b) Perform or attempt to perform services in a field of practice outside a licensed facility;

(c) Display a sign or in any way advertise or purport to offer services in a field of practice without a license to perform services in that field of practice;

(d) Operate a facility, display a sign or in any way advertise or purport to offer services in a field of practice in a facility without a license to operate a facility or a temporary license to operate a facility;

(e) Knowingly make a false statement on an application to obtain or renew a license;

(f) Allow an individual in the employ or under the supervision or control of the person to perform services in a field of practice without a license to perform services in that field of practice;

(g) Sell, barter or offer to sell or barter a document evidencing a license;

(h) Purchase or procure by barter a document evidencing a license with intent to use the document as evidence of the person's qualification to provide services in a field of practice;

(i) Materially alter with fraudulent intent a license or temporary license; or

(j) Use or attempt to use a fraudulently obtained, counterfeited or materially altered license or temporary license.

(2) ORS 690.350 to 690.410 do not limit, preclude or otherwise interfere with the practice of other persons or health care providers licensed in this state.

(3) Subsection (1)(a), (b) or (d) of this section does not apply to:

(a) A student while engaged in training at the direction of and under the direct supervision of the faculty of a school [*licensed under ORS 345.010 to 345.450 to teach a field of practice*]; or

(b) An individual self-administering body piercing.

CONFORMING AMENDMENTS

SECTION 15. ORS 345.010 is amended to read:

345.010. As used in ORS 345.010 to 345.450 and 345.992 to 345.997:

(1) "Agent" means an individual who is employed by or for a career school, or is working on

behalf of the school under a contract, for the purpose of actively procuring students, enrollees or subscribers of the school by solicitation in any form that is made at a place or places other than the school office or place of business of the school.

[*(2) "Barbering" has the meaning given that term in ORS 690.005.*]

[*(3)*] **(2)** "Career school" or "school" means any private proprietary professional, technical, home study, correspondence, business or other school instruction, organization or person that offers any instruction or training for the purpose or purported purpose of instructing, training or preparing persons for any profession.

[*(4) "Esthetics" has the meaning given in ORS 690.005.*]

[*(5) "Hair design" has the meaning given in ORS 690.005.*]

[*(6)*] **(3)** "License" means the authority the career school has been granted to operate under ORS 345.010 to 345.450.

[*(7) "Nail technology" has the meaning given in ORS 690.005.*]

[*(8)*] **(4)** "Registration" means the approval by the Higher Education Coordinating Commission of a teacher or agent to instruct in or to represent the school.

CONTINUITY OF CURRICULA

SECTION 16. A school that teaches a curriculum that was approved by the Higher Education Coordinating Commission before the operative date specified in section 19 of this 2023 Act may continue to teach the curriculum after the operative date specified in section 19 of this 2023 Act unless the Health Licensing Office determines that the curriculum must be approved by the office pursuant to rules adopted by the Board of Cosmetology under ORS 690.005 to 690.225.

REPEALS

SECTION 17. ORS 345.400, 345.430, 345.440 and 345.450 are repealed.

UNIT CAPTIONS

SECTION 18. The unit captions used in this 2023 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2023 Act.

OPERATIVE AND EFFECTIVE DATES

SECTION 19. (1) Sections 2 and 3 of this 2023 Act, the amendments to ORS 345.010, 690.005, 690.015, 690.025, 690.046, 690.047, 690.155, 690.165, 690.195, 690.205, 690.225 and 690.360 by sections 4 to 15 of this 2023 Act and the repeal of ORS 345.400, 345.430, 345.440 and 345.450 by section 17 of this 2023 Act become operative on July 1, 2024.

(2) The Board of Cosmetology, the Higher Education Coordinating Commission and 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 board, the commission and the office to exercise, on and after the operative date specified in subsection (1) of this section, all of the

duties, functions and powers conferred on the board, the commission and the office by sections 2 and 3 of this 2023 Act, the amendments to ORS 345.010, 690.005, 690.015, 690.025, 690.046, 690.047, 690.155, 690.165, 690.195, 690.205, 690.225 and 690.360 by sections 4 to 15 of this 2023 Act and the repeal of ORS 345.400, 345.430, 345.440 and 345.450 by section 17 of this 2023 Act.

SECTION 20. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.

Public and Interested Parties Feedback Period

Added to public and interested parties feedback period

-----Original Message-----
From: E Higuera <higuerae@yahoo.com>
Sent: Wednesday, June 7, 2023 5:54 AM
To: Fleming April <April.Fleming@oha.oregon.gov>
Subject: Advanced Aesthetician Concerns

[You don't often get email from higuerae@yahoo.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Think twice before clicking on links or opening attachments. This email came from outside our organization and might not be safe. If you are not expecting an attachment, contact the sender before opening it.

Hi April,

Thank you for allowing me to write something about my concerns. I moved from California in 2016 to Oregon. I was working as a medical aesthetician in California since 2010. I was told I would need to get my advanced license to do what I did in California as an Oregon aesthetician. My husband stayed in California while I was here alone going to school. This expense, and being alone knowing no one in Oregon was a very difficult time for us, both fiscally and emotionally. My point is that, why does an esthetician deserve to do advanced treatments like Microneedle without putting in the time, money and effort that an advanced aesthetician has had to do? This is a slap in the face to us. If an esthetician wants to do advanced Aesthetician treatments they need to do it the way I, and others had to do it. Education! I am sure I speak for other advanced aestheticians like myself. Thank you for hearing my concerns.

Best,
Ellisha

Sent from my iPhone

Other Board Business

Meeting Adjourned