

House Bill 2587

Sponsored by Representative BARNHART (Pre-session filed.)

SUMMARY

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

Defines "natural nail care." Specifies that person who is certified to practice nail technology is authorized to practice natural nail care.

Makes natural nail care subject to regulatory authority of Board of Cosmetology, Health Licensing Office and Higher Education Coordinating Commission.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to natural nail care; creating new provisions; amending ORS 345.010, 345.400, 345.430,
3 345.440, 345.450, 348.290, 690.005, 690.015, 690.046, 690.165 and 690.167; and declaring an emer-
4 gency.

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

6 **SECTION 1.** ORS 690.005 is amended to read:

7 690.005. As used in ORS 690.005 to 690.225:

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

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

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

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

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

16 (2) "Certificate" means a written authorization for the holder to perform in one or more fields
17 of practice.

18 (3) "Cosmetology" means the art or science of beautifying and improving the skin, nails and hair
19 and the study of cosmetics and their application.

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

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

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

27 (b) Temporary removal of hair.

28 (c) Makeup artistry.

29 (d) Eyelash services.

30 (e) Facial and body wrapping.

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

1 (f) Facial and body waxing.

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

4 (7) "Field of practice" means the following cosmetology disciplines:

5 (a) Barbering.

6 (b) Esthetics.

7 (c) Hair design.

8 (d) Nail technology.

9 (e) Natural hair care.

10 (f) **Natural nail care.**

11 (8) "Freelance license" means a written authorization that allows a practitioner to practice
12 outside or away from a licensed facility.

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

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

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

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

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

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

26 (12) "Nail technology" means any of the following manicuring or pedicuring practices performed
27 for cosmetic purposes and not for medical diagnosis or treatment of disease or physical or mental
28 ailments:

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

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

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

34 (13)(a) "Natural hair care" means:

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

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

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

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

1 (14)(a) “Natural nail care” means any of the following manicuring or pedicuring practices
 2 performed for cosmetic purposes and not for medical diagnosis or treatment of disease or
 3 physical or mental ailments:

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

6 (B) Massaging, cleansing, treating or beautifying the hands, arms below the elbow, feet
 7 or legs below the knees.

8 (C) The use of gel polish on the nails of the hands or feet.

9 (b) “Natural nail care” does not include applying, sculpturing or removing artificial nails,
 10 such as nail tips or forms, sculptured monomers and polymers or ultraviolet gel nails, of the
 11 hands or feet.

12 [(14)] (15) “Practitioner” means a person certified to perform services included within a field of
 13 practice.

14 [(15)] (16) “Registration” means a written authorization issued to an independent contractor to
 15 hold forth to the public as a business entity providing services in a field of practice.

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

19 [(17)] (18) “Temporary facility permit” means a written authorization issued under ORS 690.055
 20 to provide services on a temporary basis in one or more fields of practice.

21 **SECTION 2.** ORS 690.015 is amended to read:

22 690.015. (1) This section establishes prohibitions relating to the practice of hair design, barber-
 23 ing, esthetics, nail technology, [and] natural hair care **and natural nail care**. The prohibitions un-
 24 der this section are subject to the exemptions under ORS 690.025. A person who commits an act
 25 prohibited under this section is subject to the penalties under ORS 690.992 in addition to any ad-
 26 ministrative action taken by or any civil penalty imposed by the Health Licensing Office under ORS
 27 676.612.

28 (2) A person may not:

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

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

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

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

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

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

40 (g) Allow an individual in the employ or under the supervision or control of the person to per-
 41 form in a field of practice without a certificate or permit.

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

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

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

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

5 **SECTION 3.** ORS 690.046 is amended to read:

6 690.046. (1) To qualify for certification as a practitioner of hair design, barbering, esthetics, nail
7 technology, [or] natural hair care **or natural nail care**, an applicant shall:

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

11 **(b) If the applicant is applying for certification to practice natural nail care, successfully**
12 **complete all courses required by rule of the State Board of Education for graduation from**
13 **a school teaching one or more fields of practice, except that the applicant is not required to**
14 **complete those courses relating to the application, sculpturing or removal of artificial nails**
15 **of the hands and feet.**

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

18 [(c)] (d) Pay the applicable fees established under ORS 676.592.

19 [(d)] (e) Meet any additional requirements the Board of Cosmetology may impose by rule for
20 certification in a particular field of practice.

21 (2) A person who is certified to practice hair design or barbering under this section is author-
22 ized to practice natural hair care.

23 **(3) A person who is certified to practice nail technology under this section is authorized**
24 **to practice natural nail care.**

25 **SECTION 4.** ORS 690.165 is amended to read:

26 690.165. In addition to the powers otherwise granted by ORS 345.430 and 690.005 to 690.225, the
27 Board of Cosmetology shall have the power to:

28 (1) Determine whether applicants are qualified to take certification examinations.

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

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

33 (4) Pursuant to ORS 676.586, direct the Health Licensing Office to issue certificates, registra-
34 tions, licenses and permits to individuals determined by the board to be qualified.

35 (5) Except as otherwise provided in ORS 690.205 (2) or other provision of law, adopt rules es-
36 tablishing and enforcing standards for safety, infection control, professional conduct and any other
37 matters relating to fields of practice, facilities or locations used by persons providing services reg-
38 ulated by ORS 690.005 to 690.225.

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

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

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

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

4 **SECTION 5.** ORS 690.167 is amended to read:

5 690.167. In the manner prescribed in ORS chapter 183 for contested cases and at the direction
 6 of the Board of Cosmetology, the Health Licensing Office may impose a form of discipline listed in
 7 ORS 676.612 against any person practicing barbering, hair design, esthetics, nail technology, [or]
 8 natural hair care **or natural nail care** for any of the grounds listed in ORS 676.612 and for any
 9 violation of the provisions of ORS 690.005 to 690.225, or the rules adopted thereunder.

10 **SECTION 6.** ORS 345.010 is amended to read:

11 345.010. As used in ORS 345.010 to 345.450 and 345.992 to 345.997:

12 (1) "Agent" means an individual who is employed by or for a career school, or is working on
 13 behalf of the school under a contract, for the purpose of actively procuring students, enrollees or
 14 subscribers of the school by solicitation in any form that is made at a place or places other than
 15 the school office or place of business of the school.

16 (2) "Barbering" has the meaning given that term in ORS 690.005.

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

21 (4) "Esthetics" has the meaning given in ORS 690.005.

22 (5) "Hair design" has the meaning given in ORS 690.005.

23 (6) "License" means the authority the career school has been granted to operate under ORS
 24 345.010 to 345.450.

25 (7) "Nail technology" has the meaning given in ORS 690.005.

26 **(8) "Natural nail care" has the meaning given in ORS 690.005.**

27 [(8)] **(9)** "Registration" means the approval by the Higher Education Coordinating Commission
 28 of a teacher or agent to instruct in or to represent the school.

29 **SECTION 7.** ORS 345.400 is amended to read:

30 345.400. In addition to the other requirements of ORS 345.010 to 345.450, the rules adopted by
 31 the Higher Education Coordinating Commission to regulate schools teaching hair design, barbering,
 32 esthetics, [or] nail technology **or natural nail care**:

33 (1) May include rules the commission considers necessary to protect the economic or physical
 34 health and safety of the public and of the students attending the school including compliance with
 35 ORS 345.110.

36 (2) Shall include rules that set standards for teachers teaching in schools licensed to teach hair
 37 design, barbering, esthetics, [or] nail technology **or natural nail care** pursuant to ORS 345.010 to
 38 345.450.

39 (3) Shall require the schools to teach, and require for graduation from the school, courses that
 40 meet the following minimum standards:

41 (a)(A) A minimum hourly training requirement for:

42 (i) Hair design, 1,450 hours;

43 (ii) Barbering, 1,100 hours;

44 (iii) Esthetics, 250 hours; and

45 (iv) Nail technology **and natural nail care**, 350 hours **except that for natural nail care, the**

1 **hours dedicated to courses on applying, sculpturing and removing artificial nails of the hands**
2 **and feet are not required;** and

3 (B) In addition to the programs listed in this subsection, a student is also required to success-
4 fully complete the following requirements once:

5 (i) Safety and sanitation, 150 hours; and

6 (ii) Career development, 100 hours.

7 (b) A student proficiency-based training requirement for hair design, barbering, esthetics, [*or*]
8 nail technology **or natural nail care**, if the school has developed written requirements for gradu-
9 ation that are approved by the commission.

10 **SECTION 8.** ORS 345.430 is amended to read:

11 345.430. The Higher Education Coordinating Commission shall determine whether a person from
12 out-of-state who is not certified in hair design, barbering, esthetics, [*or*] nail technology **or natural**
13 **nail care** by another state or a person from out-of-country seeking a certificate in hair design,
14 barbering, esthetics, [*or*] nail technology **or natural nail care** is qualified to take the test of the
15 Board of Cosmetology. A determination shall be made by an evaluation of academic transcripts,
16 apprenticeship records and work experience documentation. If documentation is not available, the
17 commission may refer the person to a career school for evaluation and recommendation.

18 **SECTION 9.** ORS 345.440 is amended to read:

19 345.440. Safety and sanitation inspections performed in schools licensed under ORS 345.010 to
20 345.450 to teach hair design, barbering, esthetics, [*or*] nail technology **or natural nail care** shall
21 be conducted by the Health Licensing Office.

22 **SECTION 10.** ORS 345.450 is amended to read:

23 345.450. (1) In addition to the fees required by ORS 345.080, before issuing any license under
24 ORS 345.010 to 345.450 to a school teaching hair design, barbering, esthetics, [*or*] nail technology
25 **or natural nail care**, and annually thereafter, the Higher Education Coordinating Commission shall
26 collect a nonrefundable annual inspection fee of \$100.

27 (2) The inspection fee collected under subsection (1) of this section shall be transferred to the
28 Health Licensing Office for inspections performed by the office under ORS 345.440.

29 **SECTION 11.** ORS 348.290 is amended to read:

30 348.290. The Executive Director of the Office of Student Access and Completion shall apply the
31 interest on the amount transferred to the Oregon Student Assistance Fund under section 4, chapter
32 377, Oregon Laws 1985, to provide financial aid, as defined in ORS 348.505, to students to study
33 barbering, hairdressing, manicure, [*and*] esthetics **and natural nail care** at eligible post-secondary
34 schools.

35 **SECTION 12.** (1) **The amendments to ORS 345.010, 345.400, 345.430, 345.440, 345.450,**
36 **348.290, 690.005, 690.015, 690.046, 690.165 and 690.167 by sections 1 to 11 of this 2015 Act become**
37 **operative on January 1, 2016.**

38 (2) **The Board of Cosmetology and the Health Licensing Office may take any action nec-**
39 **essary before the operative date specified in subsection (1) of this section to enable the board**
40 **and the office to exercise, on or after the operative date specified in subsection (1) of this**
41 **section, all the duties, functions and powers conferred on the board and the office by the**
42 **amendments to ORS 345.010, 345.400, 345.430, 345.440, 345.450, 348.290, 690.005, 690.015, 690.046,**
43 **690.165 and 690.167 by sections 1 to 11 of this 2015 Act.**

44 **SECTION 13.** **This 2015 Act being necessary for the immediate preservation of the public**
45 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**

1 **on passage.**

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