

**PROPOSED AMENDMENTS TO
HOUSE BILL 2642**

1 On page 1 of the printed bill, line 2, after “676.583” insert “and 676.992”.

2 Delete lines 5 through 30 and delete pages 2 through 4 and insert:

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

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

9 **“(a) Skin rejuvenation;**

10 **“(b) Photo rejuvenation;**

11 **“(c) Body contouring;**

12 **“(d) Dyschromia reduction;**

13 **“(e) Cellulite reduction;**

14 **“(f) Hair removal or reduction; and**

15 **“(g) Nonablative tattoo removal.**

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

19 **“(3) ‘Esthetician’ means a person certified to practice esthetics un-**
20 **der ORS 690.005 to 690.225.**

21 **“(4) ‘Nonablative’ means involving an action performed on the skin**
22 **or hair of a person that does not result in the cutting or removal of**

1 the skin.

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

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

10 **“(3) This section does not apply to:**

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

14 **“(b) A student enrolled in an advanced nonablative esthetics edu-**
15 **cation program or training program or in an advanced nonablative**
16 **esthetics program that combines education and training.**

17 **“SECTION 3. (1) Except as provided in subsection (3) of this section,**
18 **the Health Licensing Office shall issue a certificate to practice ad-**
19 **vanced nonablative esthetics procedures to an applicant who:**

20 **“(a) Is at least 18 years of age;**

21 **“(b) Is an esthetician in good standing with the Board of**
22 **Cosmetology;**

23 **“(c) Successfully completes:**

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

29 **“(B) A nationally recognized program that is approved by the Board**
30 **of Certified Advanced Estheticians and through which individuals are**

1 certified to use lasers or other devices for purposes related to practic-
2 ing advanced nonablative esthetics procedures;

3 “(d) Passes an examination adopted by the Board of Certified Ad-
4 vanced Estheticians by rule; and

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

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

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

10 “(b) If the program is not located in this state, substantially
11 equivalent to a program licensed through the Higher Education Coor-
12 dinating Commission.

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

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

17 “(b) Is authorized and in good standing to practice advanced
18 nonablative esthetics procedures in a state where the requirements to
19 practice nonablative esthetics procedures are substantially similar to
20 the requirements to practice advanced nonablative esthetics proce-
21 dures in this state; and

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

23 “(4) The office shall issue a temporary certificate to perform ad-
24 vanced nonablative esthetics procedures to an applicant who:

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

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

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

29 **“SECTION 4. (1) A certificate issued under section 3 (1) or (3) of this**
30 **2015 Act must be renewed biennially. To renew a certificate under this**

1 section, a certified advanced esthetician must submit to the Health
2 Licensing Office:

3 “(a) A renewal application;

4 “(b) Proof that the certified advanced esthetician has completed any
5 continuing education requirements established by the Board of Certi-
6 fied Advanced Estheticians by rule; and

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

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

10 **“SECTION 5. (1) There is established the Board of Certified Ad-
11 vanced Estheticians within the Health Licensing Office, consisting of:**

12 **“(a) Seven members appointed by the Governor; and**

13 **“(b) The section manager of the Radiation Protection Services Sec-
14 tion of the Oregon Health Authority, or the section manager’s
15 designee.**

16 **“(2) Of the seven members appointed by the Governor:**

17 **“(a) Five must be certified advanced estheticians; and**

18 **“(b) Two must be public members who are residents of this state.**

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

21 **“(4) The term of office of each appointed member is four years, but
22 a member serves at the pleasure of the Governor. Before the expira-
23 tion of the term of a member, the Governor shall appoint a successor
24 whose term begins on January 1 next following. A member is eligible
25 for reappointment. If there is a vacancy for any cause, the Governor
26 shall make an appointment to become immediately effective for the
27 unexpired term.**

28 **“(5) The voting members of the board shall select one of the voting
29 members as chairperson and another voting member as vice chair-
30 person. The board shall establish the terms of service for the chair-**

1 person and the vice chairperson and the duties and powers of the
2 chairperson and the vice chairperson.

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

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

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

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

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

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

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

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

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

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

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

29 “(a) Requiring a certified advanced esthetician to conduct all ad-
30 vanced nonablative esthetics procedures in a facility for which a li-

1 cense has been issued under ORS 690.055;

2 “(b) Requiring a certified advanced esthetician to maintain client
3 disclosure forms that include, at a minimum, whether the certified
4 advanced esthetician has malpractice insurance; and

5 “(c) Requiring a certified advanced esthetician to enter into an
6 agreement with a health care professional whose scope of practice in-
7 cludes prescriptive authority.

8 **“SECTION 7.** In the manner provided by ORS chapter 183 for con-
9 tested cases, and after consultation with the Board of Certified Ad-
10 vanced Estheticians, the Health Licensing Office may impose a form
11 of discipline described in ORS 676.612 against any person certified un-
12 der section 3 of this 2015 Act for a violation of the provisions of
13 sections 1 to 7 of this 2015 Act or of a rule adopted under sections 1
14 to 7 of this 2015 Act, or for commission of a prohibited act listed in
15 ORS 676.612.

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

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

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

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

1 **“(a) One shall serve for a term ending December 31, 2016.**

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

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

4 **“(d) Two shall serve for terms ending December 31, 2019.**

5 **“(2) Notwithstanding the requirements for board membership spec-**
6 **ified by section 5 (2)(a) of this 2015 Act, the members first appointed**
7 **to the board under section 5 (2)(a) of this 2015 Act may be estheticians**
8 **who have at least three years’ experience practicing advanced**
9 **nonablative esthetics procedures.**

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

11 “676.583. Pursuant to ORS 676.586, the Health Licensing Office shall pro-
12 vide administrative and regulatory oversight and centralized service for the
13 following boards and councils:

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

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

16 “(3) State Board of Denture Technology, as provided in ORS 680.500 to
17 680.565;

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

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

22 “(6) Environmental Health Registration Board, as provided in ORS chap-
23 ter 700;

24 “(7) Board of Body Art Practitioners, as provided in ORS 690.350 to
25 690.410;

26 “(8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to
27 694.170;

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

29 “(10) Nursing Home Administrators Board, as provided in ORS 678.710 to
30 678.820; [and]

1 “(11) Board of Licensed Dietitians, as provided in ORS 691.405 to
2 691.485[.]; **and**

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

5 **“SECTION 11.** ORS 676.992 is amended to read:

6 “676.992. (1) Except as provided in subsection (3) of this section, and in
7 addition to any other penalty or remedy provided by law, the Health Li-
8 censing Office may impose a civil penalty not to exceed \$5,000 for each vio-
9 lation of the following statutes and any rule adopted [*thereunder*] **under the**
10 **following statutes:**

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

12 “(b) ORS 690.005 to 690.225 (cosmetology);

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

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

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

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

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

20 “(h) ORS chapter 700 (environmental sanitation);

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

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

23 “(k) ORS 691.405 to 691.485 (dietitians);

24 “(L) ORS 676.612 (prohibited acts); [*and*]

25 “(m) ORS 676.800 (applied behavior analysis)[.]; **and**

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

28 “(2) The office may take any other disciplinary action that it finds proper,
29 including but not limited to assessment of costs of disciplinary proceedings,
30 not to exceed \$5,000, for violation of any statute listed in subsection (1) of

1 this section or any rule adopted under any statute listed in subsection (1)
2 of this section.

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

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

7 “(a) The immediacy and extent to which the violation threatens the public
8 health or safety;

9 “(b) Any prior violations of statutes, rules or orders;

10 “(c) The history of the person incurring a penalty in taking all feasible
11 steps to correct any violation; and

12 “(d) Any other aggravating or mitigating factors.

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

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

20 **“SECTION 12. (1) Sections 1 to 9 of this 2015 Act and the amend-
21 ments to ORS 676.583 and 676.992 by sections 10 and 11 of this 2015 Act
22 become operative on July 1, 2016.**

23 **“(2) The Health Licensing Office may take any action before the
24 operative date specified in subsection (1) of this section that is neces-
25 sary to enable the office to exercise, on or after the operative date
26 specified in subsection (1) of this section, all the duties, functions and
27 powers conferred on the office by sections 1 to 9 of this 2015 Act and
28 the amendments to ORS 676.583 and 676.992 by sections 10 and 11 of this
29 2015 Act.**

30 **“SECTION 13. This 2015 Act being necessary for the immediate**

1 **preservation of the public peace, health and safety, an emergency is**
2 **declared to exist, and this 2015 Act takes effect on its passage.”.**

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