



**BLACKWELL LAW**

Litigation and Negotiation

Oregon | California | Idaho | Washington

Michelle A. Blackwell  
Attorney | Shareholder

March 17, 2021

Rep. Rachel Prusak, Chair of House Health Care Committee  
Reps. Cedric Hayden & Andrea Salinas, Vice Chairs  
Members of the House Health Care Committee'

Re: House Bill 2970

Dear Honored Members of the House Committee on Health Care,

My name is Michelle Blackwell. I am an Oregon licensed private attorney in good standing, a consumer of basic and advanced esthetics, and the former public member and Chair of the Oregon Board of Certified Advanced Estheticians (2016 - 2019). Please accept this letter submission as supplemental to my anticipated live testimony concerning HB 2970 and the proposed -6 amendment.

In 2015, I co-authored ORS Chapter 690 with legislative counsel. The language of the chapter created a new Board of Certified Advanced Estheticians ("BCAE") to operate laser, impulse light and other FDA approved medical beauty devices. Oregon was at the forefront of a movement to improve beauty consumer safety and it joined Washington, Utah and several other states in recognizing the new field of advanced esthetics. The text of ORS Chapter 690 was the result of a series of discussions and negotiations involving many stakeholders including representatives of OHA, basic estheticians, the Oregon Medical Association and the Board of Cosmetology.

In 2015, the BCAE was formed. In 2016, Governor Brown appointed me to the BCAE as its public member, and then the Board appointed me as its first Chair. I left the Board in 2019, at the end of term.

In co-authoring Chapter 690, the text of the definitions section in ORS 690.630(1) created an unforeseen problem or overlap with modalities used by basic estheticians which really does need to be addressed. As a non-esthetician myself, I did not then have the detailed understanding of the modalities traditionally used by basic estheticians that I do today. The hint of a problem first came to my attention in 2019 while I served as Chair of the BCAE; however, even then I did not fully conceive the nature of the problem because BCAE's regulations and published flow charts clearly identified the category of devices reserved to advanced esthetics. Further, the authorizing

statute seemed clear to me, i.e. “other devices approved by the FDA,” but then I co-wrote it, so naturally it would. I had confirmation bias. It is also true the problem was not articulated in 2019 as I now understand it.

What I failed to do in 2019 was to seek an understanding from the perspective of basic estheticians. For that, I was remiss and deeply apologize. It was not the fault of the legislature, legislative counsel, BCAE, or any advanced esthetician, board member, staff, or OHA. As former Chair of BCAE, I take responsibility for not taking the lead to fully learn about and engage with the Board of Cosmetology to correct the problem when it was first brought to my attention in 2019.

Now that we understand the problem, we can fix it. There is a good fix, although it is not exactly the fix proposed by H.B. 2790, or the -6 amendment, because they actually create more problems than they solve, including conflict of laws. The fix must be a good fix, for everyone.

In conclusion, let me say that I am AGAINST HB 2790 and the -6 amendment. However, I can and will identify the problem in more detail and outline the right fix (and some alternatives) during my live testimony on March 18, 2021. I believe we can all get on the same page and this could be a consensus vote. Thank you for reading this entire testimony and for your service.

Very sincerely,



Michelle A. Blackwell

MAB:swH