

# House Bill 2196

Sponsored by Representatives SMITH DB, LEVY B (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**.

Directs Board of Cosmetology to adopt rules to allow holder of provisional certificate to perform in cosmetology field of practice under supervision of practitioner. Directs board to adopt rules for Health Licensing Office to issue provisional certificate.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to cosmetology provisional certificates; creating new provisions; amending ORS 676.562,  
3 690.005, 690.015, 690.035, 690.165 and 690.195; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 690.005 to**  
6 **690.225.**

7 **SECTION 2. (1) The Board of Cosmetology shall adopt rules to allow an individual who**  
8 **holds a provisional certificate issued under this section to perform in a field of practice un-**  
9 **der the supervision of a practitioner who holds a certificate in the same field of practice. The**  
10 **rules adopted under this subsection must establish:**

11 (a) **A process for the Health Licensing Office to issue a provisional certificate, including**  
12 **eligibility requirements specifying that the holder of a provisional certificate shall be actively**  
13 **working toward holding a certificate; and**

14 (b) **A process to enable a practitioner to supervise the holder of a provisional certificate.**

15 (2) **A provisional certificate issued under this section may not be renewed. The holder**  
16 **of a provisional certificate may perform only in the field of practice for which the provisional**  
17 **certificate is issued, and may hold provisional certificates in more than one field of practice.**

18 (3) **The number of hours of supervised experience completed by the holder of a provi-**  
19 **sional certificate shall be credited in an equal number toward the total number of educa-**  
20 **tional hours required for issuance of a certificate under ORS 690.046. The board may**  
21 **establish by rule a limit on the number of hours of supervised experience that may be cred-**  
22 **ited under this subsection.**

23 (4) **A practitioner described in subsection (1) of this section may not be required to pay**  
24 **a fee in order to supervise the holder of a provisional certificate.**

25 (5) **The board may adopt other rules as necessary to carry out this section, including**  
26 **rules to establish the amount of time for which a provisional certificate issued under this**  
27 **section is valid.**

28 **SECTION 3. ORS 676.562 is amended to read:**

29 676.562. As used in ORS 676.560 to 676.625:

30 (1) **"Active authorization" means an authorization that is current and not suspended.**

**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 (2) "Authorization" means a certificate, **provisional certificate**, license, permit or registration  
2 issued by the Health Licensing Office that allows a person to [*practice*]:

3 (a) **Practice** one of the occupations or professions [*or*] **subject to the authority of the boards,**  
4 **councils and programs listed in ORS 676.565;**

5 (b) Maintain a facility subject to the authority of the boards, councils and programs listed in  
6 ORS 676.565; or

7 [*b*] (c) **Practice** a profession or occupation subject to direct oversight by the office.

8 (3) "Expired authorization" means an authorization that has been not current for more than  
9 three years.

10 (4) "Inactive authorization" means an authorization that has been not current for three years  
11 or less.

12 **SECTION 4.** ORS 690.005 is amended to read:

13 690.005. As used in ORS 690.005 to 690.225:

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

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

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

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

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

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

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

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

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

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

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

35 (c) Makeup artistry.

36 (d) Eyebrow and eyelash services.

37 (e) Facial and body treatments.

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

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

41 (a) Barbering.

42 (b) Esthetics.

43 (c) Hair design.

44 (d) Nail technology.

45 (e) Natural hair care.

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

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

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

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

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

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

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

16 (12)(a) "Mechanical or electrical apparatus, appliance or device" includes, but is not limited to,  
17 galvanic current, high-frequency microcurrents, light-emitting diode therapy and microdermabrasion  
18 that does not penetrate beyond the epidermis except through natural physiological effects.

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

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

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

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

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

30 (14)(a) "Natural hair care" means:

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

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

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

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

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

43 (15) "Practitioner" means a person certified to perform services included within a field of prac-  
44 tice.

45 (16) "Provisional certificate" means a written authorization for the holder to perform in

1 **one field of practice under the supervision of a practitioner who holds a certificate in the**  
 2 **same field of practice.**

3 [(16)] (17) “Registration” means a written authorization issued to an independent contractor to  
 4 hold forth to the public as a business entity providing services in a field of practice.

5 [(17)] (18) “School” means an educational establishment that has a license issued by the De-  
 6 partment of Education and is operated for the purpose of teaching one or more fields of practice.  
 7 For purposes of this subsection, “field of practice” does not include natural hair care.

8 [(18)] (19) “Temporary facility permit” means a written authorization issued under ORS 690.055  
 9 to provide services on a temporary basis in one or more fields of practice.

10 **SECTION 5.** ORS 690.015 is amended to read:

11 690.015. (1) This section establishes prohibitions relating to the practice of hair design, barber-  
 12 ing, esthetics, nail technology and natural hair care. The prohibitions under this section are subject  
 13 to the exemptions under ORS 690.025. A person who commits an act prohibited under this section  
 14 is subject to the penalties under ORS 690.992 in addition to any administrative action taken by or  
 15 any civil penalty imposed by the Health Licensing Office under ORS 676.612.

16 (2) A person may not:

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

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

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

22 (d) Practice hair design, barbering, esthetics, nail technology or natural hair care as an inde-  
 23 pendent contractor without a registration.

24 (e) Display a sign or in any way advertise or purport to offer services in a field of practice  
 25 without first obtaining a permit, certificate, **provisional certificate**, independent contractor regis-  
 26 tration or facility license.

27 (f) Knowingly make a false statement on an application to obtain or renew a certificate, **provi-**  
 28 **sional certificate**, registration, license or permit.

29 (g) Allow an individual in the employ or under the supervision or control of the person to per-  
 30 form in a field of practice without a certificate, **provisional certificate** or permit.

31 (h) Sell, barter or offer to sell or barter a document evidencing a certificate, **provisional cer-**  
 32 **tificate**, registration, license or permit.

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

35 (j) Materially alter with fraudulent intent a document evidencing a certificate, **provisional**  
 36 **certificate**, registration, license or permit.

37 (k) Use or attempt to use a fraudulently obtained, counterfeited or materially altered document  
 38 evidencing a certificate, **provisional certificate**, registration, license or permit.

39 **SECTION 6.** ORS 690.035 is amended to read:

40 690.035. [A person desiring] **In order** to obtain a certificate, **provisional certificate** or demon-  
 41 stration permit, **a person** shall apply in writing to the Health Licensing Office on a form approved  
 42 by the office. Each application [shall] **must** contain:

43 (1) An affirmation by the applicant that the information contained therein is accurate[. *The ap-*  
 44 *plication must also include*]; **and**

45 (2) Evidence establishing to the satisfaction of the office that the applicant possesses the nec-

1    essary qualifications.

2        **SECTION 7.** ORS 690.165 is amended to read:

3        690.165. In addition to the powers otherwise granted by ORS 345.430 and 690.005 to 690.225, the  
4    Board of Cosmetology shall have the power to:

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

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

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

10       (4) Pursuant to ORS 676.568, direct the Health Licensing Office to issue certificates, **provisional**  
11 **certificates**, registrations, licenses and permits to individuals determined by the board to be quali-  
12 fied.

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

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

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

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

24       (9) Consult with the office about the issuance and renewal of a license under ORS 690.055 au-  
25 thORIZING a facility to provide barbering, esthetics, hair design, nail technology services or natural  
26 hair care.

27        **SECTION 8.** ORS 690.195 is amended to read:

28        690.195. (1) The Health Licensing Office shall keep a record of its proceedings relating to the  
29 issuance, refusal, suspension and revocation of certificates, **provisional certificates**, registrations,  
30 licenses and permits and to the imposition of probation. This record shall also contain the name,  
31 place of business and the date of each certificate, **provisional certificate**, registration, license and  
32 permit issued by the office.

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

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

37        **SECTION 9.** (1) **Section 2 of this 2023 Act and the amendments to ORS 676.562, 690.005,**  
38 **690.015, 690.035, 690.165 and 690.195 by sections 3 to 8 of this 2023 Act become operative on**  
39 **January 1, 2024.**

40        **(2) The Board of Cosmetology and the Health Licensing Office may take any action before**  
41 **the operative date specified in subsection (1) of this section that is necessary to enable the**  
42 **board and the office to exercise, on and after the operative date specified in subsection (1)**  
43 **of this section, all of the duties, functions and powers conferred on the board and the office**  
44 **by section 2 of this 2023 Act and the amendments to ORS 676.562, 690.005, 690.015, 690.035,**  
45 **690.165 and 690.195 by sections 3 to 8 of this 2023 Act.**

1        **SECTION 10.** This 2023 Act takes effect on the 91st day after the date on which the 2023  
2 regular session of the Eighty-second Legislative Assembly adjourns sine die.  
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