

DIVISION 90
CIVIL PENALTIES

817-090-0025

Schedule of Penalties for Facility and Independent Contractor Registration Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of facility license and independent contractor registration laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Operating or purporting to operate a facility without a valid facility license is a violation of ORS 690.015(2)(b) ~~or and~~ **690.015(2)(e)**:

(a) **Never licensed:**

(A) 1st offense: \$500;

~~(B)(b)~~ 2nd offense: \$1000;

~~(C)(c)~~ 3rd offense: \$2500

(b) **Inactive or expired license:**

(A) 1st offense: \$200;

(B) 2nd offense: \$500;

(C) 3rd offense: \$1,000

(c) **Certificate, Authorization, or Registration Suspended or Revoked:**

(A) 1st offense: \$2,500;

(B) 2nd offense: \$5,000;

(C) 3rd offense: Monetary penalty and any other actions allowed by law including revocation of suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(2) Operating or purporting to operate as an independent contractor without **independent contractor registration** or with a dormant independent contractor registration is a violation of ORS 690.015 (2)(d) **or and 690.015(2)(e)**:

- (a) 1st offense: \$200
- (b) 2nd offense: \$500
- (c) 3rd offense: \$1,000

~~(3) Operating a facility with an inactive or expired license is a violation of ORS 676.612 (2)(r):~~

- ~~(a) 1st offense: \$200;~~
- ~~(b) 2nd offense: \$500;~~
- ~~(c) 3rd offense: \$1,000~~

~~(3)~~**(4)** Allowing an uncertified person **employee or uncertified individual under a person's supervision and control** to practice in a field of practice is a violation of ORS 690.015(2)(g):.

(a) Employee or individual with suspended who has never been certified:

- ~~(A)~~**(a)** 1st offense: \$500;
- ~~(B)~~**(b)** 2nd offense: \$1,000;
- ~~(C)~~**(c)** 3rd offense: \$2,500

(b) Employee or individual with inactive, suspended, revoked, or expired certification:

- (a) 1st offense: \$200**
- (b) 2nd offense: \$500**
- (c) 3rd offense: \$1000**

~~(5) Failing to allow the Agency to inspect the premises when the facility is open or obstructing or hindering the normal progress of the inspection, threatening or exerting physical harm, or enabling another individual to impede the inspection progress is a violation of OAR 817-0200006(9) and will result in monetary penalties and any other actions allowed by law.~~

~~(6) Allowing an employee to practice with an inactive or expired practitioner certificate is a violation of ORS 676.612(2)(h):~~

~~(a) 1st offense: \$200~~

~~(b) 2nd offense: \$500~~

~~(c) 3rd offense: \$1000~~

~~(4)(7) Failing to meet the specifications and standards required under OAR 817-010-0007 in a facility is a violation of OAR 817-020-0006 (1)(e) and may result in an emergency suspension of the facility license until the violation is corrected.~~

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Stats. Implemented: ~~ORS 676.605, 676.615, 676.992,~~ **690.015**, 690.165 & 690.167

Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

817-090-0035

Schedule of Penalties for Practitioner Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of practitioner licensing laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

~~(1) Operating~~ **Performing, attempting to perform, or purporting to perform services in a field of practice without proper certification, authorization, registration or permit with an inactive or expired practitioner certificate** is a violation of ORS **690.015(2)(a) or 690.015(2)(e)**. ~~676.612(2)(r):~~

(a) Certificate, authorization, registration, or permit inactive or expired:

~~(A)(a)~~ 1st offense: \$200;

~~(B)(b)~~ 2nd offense: \$500;

~~(C)(c)~~ 3rd offense: \$1000.

(b) Certificate, authorization, registration, permit never held:

~~(2) Practicing or purporting to practice in a field of practice without a certificate, is a violation of ORS 690.015(2)(a)~~

~~(A)(a)~~ 1st offense: \$1,000;

(B)~~(b)~~ 2nd offense: \$2,500;

(C)~~(c)~~ 3rd offense \$5,000.

(c) Certificate, authorization, or registration suspended or revoked:

(A) 1st offense: \$2,500;

(B) 2nd offense: \$5,000;

(C) 3rd offense: Monetary penalty and any other actions allowed by law including revocation of suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(2)~~(3)~~ Performing **or attempting to perform** services in a field of practice in an unlicensed facility is a violation of ORS 690.015(2)(c):

(a) 1st offense: \$200;

(b) 2nd offense: \$500;

(c) 3rd offense: \$1,000

~~(4) Practicing or purporting to practice in a field of practice with a suspended certificate is a violation of 676.612 (4)~~

~~(a) 1st offense: \$2,500;~~

~~(b) 2nd offense: \$5,000;~~

~~(c) 3rd offense: Monetary penalty and any other actions allowed by law including refusal to issue an authorization to practice~~

(3)~~(5)~~ Performing in a field of practice by a student when not on the premises of an educational institution in which he or she is enrolled is a violation of OAR 817-100-0005:

(a) 1st offense: \$500;

(b) 2nd offense: \$1,000;

(c) 3rd offense: \$2,500.

Stat. Auth: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96, Renumbered from 817-090-0020; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

817-090-0045

Schedule of Penalties for Certificate/License/Registration/Permit Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of certificate/license/registration/permit laws and rules. This schedule applies, except at the discretion of the agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 apply.

(1) Altering with fraudulent intent or fraudulent use of a license, certificate, registration, permit or authorization issued by the agency is a violation of ORS 690.015(2)(j) or ORS 690.015(2)(k):

(a) 1st offense: \$1,500;

(b) 2nd offense: \$3,500;

(c) 3rd offense: \$5,000.

(2) Failing to post a valid license, registration, certificate, permit or authorization issued by the agency in public view is a violation of ORS 690.095 and OAR 817-035-0110:

(a) 1st offense: \$100

(b) 2nd offense: \$200

(c) 3rd offense: \$500

(3) Failing to post the most recent inspection certificate in public view within the facility is a violation of OAR 817-035-0110:

(a) 1st offense: \$100;

(b) 2nd offense: \$200;

(c) 3rd offense: \$500.

~~(4) Failing to return or surrender a certificate, license, registration, permit or authorization upon demand by the Agency is a violation of OAR 331-030-0020:~~

~~(a) 1st offense: \$1,000;~~

~~(b) 2nd offense: \$2,500;~~

~~(c) 3rd offense: \$5,000.~~

~~(5) Failing to provide appropriate photographic identification upon request by the Agency is a violation of OAR 331-030-0020(4):~~

~~(a) 1st offense: \$500;~~

~~(b) 2nd offense: \$1,000;~~

~~(c) 3rd offense: \$2500.~~

~~(6) Failing to inform the Agency within 30 calendar days of a change work location, home or mailing address, or other notification requirement listed in OAR 331-010-0040 is a violation of OAR 331-010-0040~~

~~(a) 1st offense: \$100;~~

~~(b) 2nd offense: \$200;~~

~~(c) 3rd offense: \$500.~~

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Stats. Implemented: ORS ~~676.605, 676.615, 676.992,~~ **690.015**, 690.165 & 690.167

Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

817-090-0105

Schedule of Penalties for Client Health and Safety Violations

The Agency 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 agency pursuant to OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 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) Failing to wear single-use disposable protective gloves while having open sores or skin lesions during any performance of service on a client is a violation of OAR 817-015-0030(2):

(a) 1st offense: \$300;

(b) 2nd offense: \$500;

(c) 3rd offense: \$1000.

~~(4) Performing services while diagnosed with a communicable disease or condition in a transmittable form is a violation of OAR 817-120-0005(4) and (5) and shall incur the following penalty for any violation: Emergency suspension until the disease or condition is no longer communicable.~~

~~(5) Treating any disease or knowingly serving any client having a communicable disease or condition except head lice is a violation of OAR 817-120-0005(4) and (5):~~

~~(a) 1st offense: \$300;~~

~~(b) 2nd offense: \$500;~~

~~(c) 3rd offense: \$1000.~~

~~(4)~~(6) 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.

~~(5)~~(7) Failing to maintain client records for each client receiving esthetics or nail technology services, maintain client records 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 OAR 817-015-0070:

(a) 1st offense: \$300;

(b) 2nd offense: \$500;

(c) 3rd offense: \$1000.

~~(6)(8)~~ Failing to maintain required documentation of an FDA Class I or Class II manual or mechanical device or equipment, or to provide required documentation upon request is a violation of OAR 817-010-0065(10) or (14):

(a) 1st offense: \$300;

(b) 2nd offense: \$500;

(c) 3rd offense: \$1000.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167, 690.205

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 2-2011, f. & cert. ef. 5-5-11

DIVISION 120 CODE OF PROFESSIONAL CONDUCT

817-120-0005 Practice Standards

(1) Practitioners must be guided by the highest standards of professional conduct.

(2) Practitioners shall act and practice in a manner which safeguards the public's health, safety, and welfare.

(3) All practitioners shall be appropriately clothed while providing services and shall be subject to public decency laws.

~~4) Practitioners shall not perform services while diagnosed with a communicable disease or condition in a transmittable form.~~

~~(5) Practitioners shall not treat any disease or knowingly serve any client having a communicable disease or condition, except head lice.~~

Stat. Auth.: ORS 676.605, 676.615 & 690.165

Stats. Implemented: ORS 676.605, 676.615 & 690.165

Hist.: BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-95, cert. ef. 7-1-96; Renumbered from 817-120-0010, BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06