

The Nurse Who Participates in Cosmetic Procedures

Purpose: Many nurses contact the Oregon State Board of Nursing (OSBN) asking whether or not a specific procedure, activity or intervention is within their scope of practice. Such a question cannot be answered by Board staff as Oregon's Nurse Practice Act (NPA) does not contain lists of health-related procedures or interventions that may be performed based on one's nursing licensure level.

Within the broader scope of practice set forth in the NPA for each nursing licensure category is each licensee's individual scope of practice. Individual scope of practice is a licensee's demonstrated knowledge, skills, abilities, and competencies that have been developed and maintained through practice experience and through engagement in independent and formal learning experiences.

The decision-making framework set forth within this interpretive statement guides the RN and the LPN to determine whether or not a specific cosmetic-related specific treatment, intervention or activity is within their individual scope of practice.

For the purpose of this interpretive statement, cosmetics practice means nursing practice which occurs as a function of the nurse assisting a licensed independent practitioner (LIP) in implementation of the LIP-authored plan of care/treatment plan for a healthy client who seeks to enhance their appearance. Access Chapter 851 Division 006 of the practice act for the Board's definition of *licensed independent practitioner*.

Application of Scope of Practice Decision Making Framework

In proceeding with the use of this interpretive statement, the nurse shall further clarify the specific LIP-ordered cosmetic treatment, procedure, or intervention in question. Then, specific and sequential questions will be encountered to which the licensee must respond. Depending on a licensee's response to the first question, one of two things will happen:

1. Progression through the model will be stopped as it will have been determined that the treatment, procedure, or intervention is not within the scope of practice of the licensee; or
2. The licensee will be allowed to continue to the next question.

It is only when a licensee's response to each question allows progression through all questions, and the licensee has an affirmative response to the final question, that the licensee may engage in the specific treatment, procedure, or intervention to acceptable and prevailing standards of safe nursing care.

1. Is the role, intervention or activity prohibited by the Nurse Practice Act statutes and rules or any other applicable laws, rules, regulations or accreditation standards?

Oregon's NPA Statutes and Rules

The NPA does not expressly prohibit the nurse's performance of any cosmetic treatment, procedure, or intervention.

For the LPN, however, 851-045-0050 (1), (2) and (3), establishes that LPN practice shall occur under the clinical direction and supervision of an RN or a licensed independent practitioner. Without clinical direction

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provided by an RN or LIP, any nursing practice role, intervention or activity is outside of LPN scope of practice.

The NPA limits the practice privilege to diagnose conditions and to issue orders for treatment of conditions to the advanced practice registered nurse (APRN). This means that the RN's and the LPN's role within a cosmetic practice is as a health care team member who assists with implementation of the APRN's plan of care for a client or other LIP's treatment plan for a client.

Oregon Medical Board

The Oregon Medical Board (OMB) has published a Statement of Philosophy titled *Responsibilities of Medical Directors of Spas* (October 9, 2015) based on OMB statutes and rules. This publication communicates that the medical director (OMB licensee) must treat their patient the same as a patient in any other medical facility. The medical director must perform an evaluation of the client to establish the appropriate diagnosis and treatment plan, and that diagnosis of a medical condition or the development of a treatment plan cannot be delegated to a staff member who is not licensed to provide independent medical judgment. The statement of philosophy further communicates that once the MD has evaluated the client and established the client's diagnosis and treatment plan, it is up to the judgment of the MD if further medical examination is needed prior to the implementation of the client's treatment plan. This means that the RN's or the LPN's practice role in a medical spa would be as a health care team member who assists the MD with implementation of the MD's treatment plan for a client.

Oregon Health Authority Public Health Division Office of Health Licensing

The Oregon Health Authority Public Health Division Health Licensing Office (HLO) is a central licensing and regulatory office that oversees multiple health and related professions including cosmetology, esthetics, advanced esthetics, electrologists, and body art practitioners. It is the responsibility of the individual nurse to determine if the performance of the cosmetic procedure in question requires licensure or certification through the HLO office.

- Pursuant to ORS 690.005 through 690.025, the Oregon Board of Cosmetology (OBC) states that persons may engage in cosmetology practices without a cosmetology license when that person is acting within the scope of their professional license and following their Board's practice standards. Based on this OBC statute, the Board of Nursing interprets that the OSBN-licensee may perform a cosmetic procedure when abiding by the laws and regulations of the NPA.
- Pursuant to 676.635, the Board of Certified Advanced Estheticians (BCAE) states a person may not practice advanced non-ablative esthetics procedures unless the person is certified by the Board of Certified Advanced Estheticians under ORS 676.640 or the person is a licensed health care professional whose scope of practice includes the practice of advanced non-ablative esthetics procedures. Based on this BCAE statute, and as the NPA does not specifically prohibit the nurse from performing advanced non-ablative esthetics procedures, the Board of Nursing has interpreted that the nurse may perform advanced non-ablative esthetics procedures when abiding by the laws and regulations of the NPA.

The nurse who seeks to engage in a cosmetics practice is individually responsible to access laws, rules and regulations both within and outside of the NPA to determine if any changes have occurred or if any new laws have been published since the Board's approval of this interpretive statement.

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Individual LPN's Response to Question 1:

- **Yes** – The LPN's performance of the LIP-ordered treatment, procedure, or intervention is prohibited by the NPA because there is no clinical direction and supervision of the LPN's practice. The LPN must stop and not proceed with the activity.
- **Yes** – The LPN's performance of the LIP-ordered treatment, procedure, or intervention is prohibited by a law, rule, regulation or accreditation standard outside of the NPA. The LPN must stop and not proceed with the activity.
- **No** – The LPN's performance of the LIP-ordered treatment, procedure, or intervention is not prohibited by the NPA or any other applicable law, rule, regulation or accreditation standard. The LPN may proceed to the next question of the decision making framework.

Individual RN's Response to Question 1:

- **Yes** – The RN's performance of the LIP-ordered treatment, procedure, or intervention is prohibited by a law, rule, regulation or accreditation standard outside of the NPA. The RN must stop and not proceed with the activity.
- **No** – The RN's performance of the LIP-ordered treatment, procedure, or intervention is not prohibited by the NPA or any other applicable law, rule, regulation or accreditation standard. The RN may proceed to the next question of the decision making framework.

2. Is performing the role, intervention or activity consistent with professional nursing standards, evidence-based nursing and health care literature?

Professional specialty nursing organizations, such as the Dermatology Nurses' Association (DNA), provide standards and guidelines on the nurse's role in the provision of cosmetic services. DNA offers Dermatology Nurse Certified (DNC) certification for the RN licensee. The DNA's guidelines are retrievable through their website at www.dnanurse.org/

Depending on the specific treatment, procedure, or intervention that has been ordered for the client by the LIP, there may or may not be professional nursing practice standards or nursing literature regarding an LPN's or an RN's performance of the treatment, procedure, or intervention. It is the responsibility of the individual nurse to verify that performance of a specific treatment, procedure, or intervention is consistent with professional nursing standards, and evidence-based nursing and health care literature for their level of licensure.

Individual Nurse's Response to Question 2:

- **No** - The nurse's performance of the LIP-ordered treatment, procedure, or intervention at their level of licensure is not supported by professional nursing standards or by evidence-based nursing or health care literature. The nurse must stop and not proceed with the activity.
- **Yes** – The nurse's performance of the LIP-ordered treatment, procedure, or intervention at their level of licensure is supported by professional nursing standards and by evidence-based nursing and health care literature. The nurse may proceed to the next question of the decision making framework.

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3. Are there practice setting policies and procedures in place to support performing the role, intervention or activity?

The nurse is responsible for ensuring that policies and procedures support the nurse's engagement in the LIP-ordered treatment, procedure, or intervention and are accessible in the environment of care. The nurse has a responsibility to recognize that an organization's or business's policy may not compel a licensee of the Board to practice in violation of the NPA or in violation of any law or regulation.

Collaborative development of these policies and procedures is recommended to ensure their functionality and appropriateness in the event the LIP is not physically present during the RN's or the LPN's implementation of the client's plan of care or treatment plan, or for an emergent situation. The procedures should include absolute stops for when it is deemed unsafe to proceed with implementation of the LIP's ordered treatment, procedure, or intervention for the client.

Individual Nurse's Response to Question 3:

- **No** - There are no policies and procedures which support the nurse's engagement in the LIP-ordered treatment, procedure, or intervention thus the activity not within scope of practice. The nurse must stop and not proceed with the activity.
- **Yes** - The policies and procedures support the nurse's engagement in the LIP-ordered treatment, procedure, or intervention. The nurse may proceed to next question of the decision making framework.

4. Has the nurse completed the necessary education to safely perform the role, intervention or activity?

Depending on the identified LIP-ordered treatment, procedure, or intervention, there may or may not be a recognized educational standard. However, the nurse remains responsible for providing documented evidence of education in cosmetics nursing practice and for each cosmetic-related procedure performed.

The Board interprets the educational standard for the performance of advanced non-ablative esthetic procedures as that published by the Board of Certified Advanced Esthetics (HLO, 2018). This educational standard includes, but is not limited to, the successful completion of at least forty hours of education in laser theory and fundamentals as published in American National Standards Laser Safety Education Program.

Individual Nurse's Response to Question 4:

- **No** – The nurse does not have evidence of education in cosmetics nursing practice and does not have evidence of education for the identified LIP-ordered treatment, procedure, or intervention making the activity not within scope of practice. The nurse must stop and not proceed with the activity.
- **Yes** - The nurse has documented evidence of the necessary education to engage in cosmetics nursing practice and documented evidence of the necessary education to safely perform the identified LIP-ordered treatment, procedure, or intervention. The nurse may proceed to the next question of the decision making framework.

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5. Is there documented evidence of the nurse's current competence (knowledge, skills, abilities and judgement) to safely perform the role, intervention or activity?

Division 45 of the NPA identifies the responsibility of the licensed nurse to ensure competency in the cognitive and technical aspects of any nursing activity prior to its performance and to maintain documentation of the method that competency was acquired and maintained. Evidence of the nurse meeting this requirement may be demonstrated by the documented completion of a formal educational program that validates attainment of competency objectives or by documented completion of continuing education courses that validates attainment of competency objectives. Competency documentation is an individual responsibility of the nurse and may be subject to audit by the Oregon State Board of Nursing.

Individual Nurse's Response to Question 5:

- **No** – There is no documented evidence of the nurse's current competencies with performance of the identified LIP-ordered treatment, procedure, or intervention making the activity not within scope of practice. The nurse must stop and not proceed with the activity.
- **Yes** - -The nurse has documented evidence of competencies in the performance of identified LIP-ordered treatment, procedure, or intervention, the nurse may proceed to the next question of the decision making framework.

6. Would a reasonable and prudent nurse perform the role, intervention or activity in this setting?

A reasonable and prudent nurse is one that uses sound nursing judgment in the provision of nursing services according to accepted standards and that another nurse with similar education and experience, in similar circumstances, with a similar client, in the same setting would provide.

Individual Nurse's Response to Question 6:

- **No** – A reasonable and prudent nurse would not perform the identified LIP-ordered treatment, procedure, or intervention for this client in this setting. The nurse must stop and not proceed with the activity.
- **Yes** - A reasonable and prudent nurse would perform the identified LIP-ordered treatment, procedure, or intervention for this client in this setting. The nurse may proceed to the final question.

7. Is the nurse prepared to accept accountability for the role, intervention or activity for the related outcome?

The individual nurse remains accountable for their nursing actions and for the outcome of nursing services provided.

Individual Nurse's Response to Question 7:

- **No** - The individual nurse whose response to each of the previous questions has allowed the progression to this final question but who is not prepared to accept accountability for performance of the identified LIP-ordered treatment, procedure, or intervention and the related outcome, should decline the assignment. When this decision is made by the nurse, the choice to decline the nursing assignment is not a scope of practice issue.
- **Yes** – The individual nurse whose response to each of the previous questions has allowed the progression to this final question, and who is prepared to accept accountability for performance of

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the identified LIP-ordered treatment, procedure, or intervention and its outcome, may consider the activity to be within their scope of practice. The nurse may perform the activity to acceptable and prevailing standards of safe nursing care which includes, but is not limited to: the RN's documented engagement in nursing practice as required by 851-045-0060(3)(a) through (f); and the LPN's documented engagement in nursing practice as required by 851-045-0050(3)(a) through (e).

Frequently Asked Questions

Q: I read the referenced Oregon Medical Board's (OMB) document titled *Responsibilities of Medical Directors of Spas*. Does the information in the OMB document apply to naturopathic physicians?

A: No. Naturopathic physicians are regulated by the Oregon Board of Naturopathic Medicine. Please contact the Oregon Board of Naturopathic Medicine for an answer to your question.

Q: On a few occasions, our cosmetics clinic has signed up a new patient on days that our NP and physician (LIP) are out of the office. Can we start treating a new patient with Botox prior to the LIP evaluating them?

A: There is no legal authority for you to perform a cosmetic procedure on a patient for whom the NP or the MD has not evaluated, diagnosed, and developed a plan for treatment.

References:

Laser Institute of America (2014). *American National Standard for Safe Use of Lasers ANSI Z136*. Author Oregon Board of Advanced Esthetics (January 1, 2018). Advanced Esthetics Curriculum.

Oregon Health Authority Public Health Office of Health Licensing (n.d.) *Health Licensing Office Laws and Rules* www.oregon.gov/OHA/PH/HLO/Pages/Laws-Rules.aspx

Oregon Medical Board (October 9, 2015) *Responsibilities of Medical Directors of Medical Spas*. Retrieved from www.oregon.gov/omb/board/Pages/default.aspx

Oregon Medical Board (January 2002) Use of Medical Lasers. Retrieved from www.oregon.gov/omb/board/philosophy/Pages/Medical-Use-of-Lasers.aspx

Oregon's Nurse Practice Act.

Oregon Revised Statutes 676.635; 676.640; 677.085; 690.005 through 690.025.

Oregon State Board of Nursing). *Scope of Practice Decision Making Guideline for All Licensed Nurses*.

Authority for Approval: ORS 678

History of Document:

Originally adopted February 15, 2017 as *Policy Guideline Nursing Scope of Practice for Cosmetic and Dermatologic Procedures*; Revised, formatted and approved April 14, 2016 as *OSBN Interpretive Statement The Registered Nurse Who Participates in Cosmetic Procedures*; Formatted and approved February 15, 2018; June 14, 2018; Revised and approved April 11, 2019; Revised and approved September 12, 2019; Revised and approved April 9, 2020.

The Oregon State Board of Nursing (OSBN) is authorized by Oregon Revised Statutes Chapter 678 to exercise general supervision over the practice of nursing in Oregon to include regulation of nursing licensure, education, and practice in order to assure that the citizens of Oregon receive safe and effective care. The OSBN further interprets statute and rule and issues opinions in the form of policies and interpretive statements, which are advisory in nature and used as guidelines for safe nursing practice.