



HEALTH LICENSING OFFICE

Kate Brown, Governor

Oregon
Health
Authority

1430 Tandem Ave. NE Suite 180

Salem OR 97301-2192

Phone: (503)378-8667

Fax: (503)585-9114

www.oregon.gov/oha/ph/hlo

WHO: Health Licensing Office
Board of Certified Advanced Estheticians & Board of Cosmetology
Esthetics & Advanced Esthetics Rules Advisory Committee

WHERE: TELEPHONE CONFERENCE CALL ONLY
1430 Tandem Ave. N.E. Suite 180, Salem, OR 97301

WHEN: August 23, 2021 9 am

Due to the COVID-19 pandemic, the Health Licensing Office (Office) is closed to the public and not open for in-person attendance at the Board meeting. All audience members may attend the public meeting by telephone conference call. Telephone conference call instructions are provided below. Please note Rules Advisory Committee (RAC) members will be allowed to participate in-person.

What is the purpose of the meeting?

The purpose of the meeting is to conduct board business. A copy of the agenda is printed with this notice. Please visit <https://www.oregon.gov/oha/PH/HLO/Pages/Public-Meetings.aspx> for current meeting information.

May the public attend open sessions?

Yes. A teleconference line is available for the public to attend the open sessions of the public meeting.

Telephone conference call instructions:

- Approximately five minutes prior to the start of the meeting dial (503) 934-3605 and enter the specific passcode listed on the agenda below. The passcode is different for each public meeting.
- You will be notified that you are connected to the conference call.
- The conference call line will stay connected for the duration of the meeting.
- For the courtesy of all participants on the call, keep your phone on mute during all times of the meeting, until your turn to speak during the Public and Interested Parties Feedback period.
- Email April Fleming at april.fleming@dhsosha.state.or.us stating you are logged in and whether or not you want to make public comment during the Public and Interested Parties Feedback period.

What if the board/council enters into executive session?

Prior to entering executive session, the board/council chairperson will announce the nature of and the authority for holding executive session. Board members, designated participants such as staff, and representatives of the news media shall be allowed to attend the executive session. All other audience members are not allowed to attend the executive session. Executive session would be held according to ORS 192.660.

Representatives of the news media who are interested in attending an executive session are asked to contact April Fleming at april.fleming@dhsosha.state.or.us prior to the meeting to make arrangements to attend Executive Session by telephone conference call.

No final actions or final decisions will be made in executive session. The board/council will return to open session before taking any final action or making any final decisions.

Who do I contact if I have questions or need special accommodations?

The meeting location is accessible to persons with disabilities. A request for accommodations for persons with disabilities should be made at least 48 hours before the meeting. For questions or requests contact April Fleming at April.fleming@dhsosha.state.or.us



Health Licensing Office
Board of Certified Advanced Estheticians & Board of Cosmetology
Esthetics & Advanced Esthetics Rules Advisory Committee
1430 Tandem Ave, N.E., Suite 320, Salem, OR 97301
August 23, 2021 at 9 a.m.



TELEPHONE CONFERENCE CALL ONLY
Conference call phone line number: (503) 934-3605
Conference call passcode: 747147

#	Topic	Content
1	Call to Order Agenda Timeline Review	<ul style="list-style-type: none">• Call Rules Advisory Committee (RAC) to order• Agenda overview• Rule schedule timeline
2	Administrative Rules Training ~	<ul style="list-style-type: none">• Branches of government• Statute versus rule• Process of legal analysis• Administrative rule process• Statutory review
3	HB 2970	<ul style="list-style-type: none">• Define device for esthetics and advanced esthetics• Reconcile current rules to align with HB 2970
4	Working Lunch	
5	HB 2970 Continued	<ul style="list-style-type: none">• Temporary rule• Revisions to rule schedule if necessary
6	Statement of Need and Fiscal Impact	<ul style="list-style-type: none">• Effect on the public and small business• Cost of compliance with proposed rules
7	Next Steps	<ul style="list-style-type: none">• Homework• Next steps
8	Public Comment	

Agenda is subject to change.
For the most up to date information visit www.oregon.gov/oha/ph/hlo



ADMINISTRATIVE RULE SCHEDULE

HEALTH LICENSING OFFICE

Cosmetology & Advanced Esthetics

Date	Action	Time
July 9, 2021	Board of Cosmetology (COS) meeting – approve rule schedule & membership recommendations	9 am
July 19, 2021	Board Certified Advanced Estheticians (CAE) meeting – approve rule schedule & membership recommendations	9 am
August 16, 2021	COS meeting	9 am
August 23, 2021	Esthetics & Advanced Esthetics Rules Advisory Committee	9 am
September 8, 2021	CAE meeting	9 am
September 15, 2021	Esthetics & Advanced Esthetics Rules Advisory Committee	9 am
September 30, 2021	Advanced Esthetics Rules Advisory Committee	9 am
October 7, 2021	Cosmetology Rules Advisory Committee	9 am
October 18, 2021	CAE meeting – approve proposed rules	9 am
October 20, 2021	COS meeting – approve proposed rules	9 am
November 1, 2021	First day for public comment Notice of proposed rules in Oregon Bulletin	
November 17, 2021	COS Public rule hearing	9 am to 11 am
November 17, 2021	CAE Public rule hearing	11 am to 1 pm
November 28, 2021	Last day for public comment	12 pm
December 8, 2021	COS meeting - consider public comment and hearings officer report -adopt permanent rules	9 am
December 15, 2021	CAE meeting - consider public comment and hearings officer report -adopt permanent rules	9 am
January 1, 2022	Permanent rules filed and effective	

Please send all public comment or questions to:

Samie Patnode, Policy Analyst

1430 Tandem Ave NE, Suite 180, Salem OR 97301

Work phone – (503)373-1917

Samie.patnode@dhsosha.state.or.us

Administrative rule schedules are subject to change. 7/7/2021

HEALTH LICENSING OFFICE
BOARD OF COSMETOLOGY
BOARD OF CERTIFIED ADVANCED ESTHETICIANS

HB 2970 (2021)

The 2021 Legislature passed HB 2970 which became effective on June 23, 2021. The legislature made changes to both the Board of Certified Advanced Estheticians (CAE) and the Board of Cosmetology (COS) which includes scope of practice changes for estheticians and advanced estheticians. The Legislature also charged both the CAE and COS boards to work collaboratively to define the term “device” within both the esthetics and advanced esthetics profession.

BOARD OF COSEMTOLOGY

In relation to COS HB 2970 does for the following:

- Provides ways in which an esthetician can do temporary removal of hair: by use of lotion, cream, an appliance, wax, thread, sugar, tweezers, dermaplaning, a depilatory, or other means.
- Specifies that an esthetician can perform eyebrow and eyelash services.
- In relation to an esthetician doing facial and body wrapping, it changes “facial and body “wrapping” to facial and body “treatments.”
- States that for cleansing, stimulating, manipulating, exfoliating, or applying lotions or creams, an esthetician can use “mechanical or electrical apparatuses, appliances or devices” including, but not be limited to, galvanic current, high-frequency microcurrents, light-emitting diode therapy and microdermabrasion that does not penetrate beyond the epidermis except through natural physiological effects.
- Specifies that a “mechanical or electrical apparatus, appliance or device” does not include lasers and intense pulsed light, or devices as that term is defined in rule.

BOARD OF CERTIFIED ADVANCED ESTHETICIANS

In relation to CAE HB 2970 does for the following:

- Prior to passage of HB 2790 the statutory definition of “advanced nonablative esthetics procedure” and the CAE scope of practice hinged on the use of an USFDA registered device (this definition also impacted the COS scope of practice). Now, with HB 2970, the “advanced nonablative esthetics procedure” definition and CAE *scope of practice* are no longer tied to the USFDA definition of device (2021).
- Specifies that intense pulsed light is included within an advanced esthetician’s scope of practice.
- Prohibits a person from using a non USFDA registered device when performing advanced nonablative esthetics procedures.

Enrolled House Bill 2970

Sponsored by Representative NOSSE; Representatives HAYDEN, PRUSAK, SCHOUTEN

CHAPTER

AN ACT

Relating to health care; creating new provisions; amending ORS 676.579, 676.612, 676.613, 676.622, 676.630, 678.733, 679.020 and 690.005; and declaring an emergency.

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

ESTHETICS

SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 676.630 to 676.660.

SECTION 2. (1) A person may not use a device that is not registered with the United States Food and Drug Administration to perform advanced nonablative esthetics procedures.

(2) The Board of Certified Advanced Estheticians may adopt rules to carry out this section.

SECTION 3. ORS 676.579 is amended to read:

676.579. (1)(a) The Health Licensing Office is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers and for the organization of the office.

(b) The Director of the Oregon Health Authority shall establish the qualifications for and appoint the Director of the Health Licensing Office, who holds office at the pleasure of the Director of the Oregon Health Authority.

(c) The Director of the Health Licensing Office shall receive a salary as provided by law or, if not so provided, as prescribed by the Director of the Oregon Health Authority.

(d) The Director of the Health Licensing Office is in the unclassified service.

(2) The Director of the Health Licensing Office shall provide the boards, councils and programs administered by the office with any services and employees as the office requires to carry out the office's duties. Subject to any applicable provisions of the State Personnel Relations Law, the Director of the Health Licensing Office shall appoint all subordinate officers and employees of the office, prescribe their duties and fix their compensation.

(3) The Director of the Health Licensing Office is responsible for carrying out the duties, functions and powers under ORS 675.365 to 675.410, 676.560 to 676.625, **676.630 to 676.660**, 676.665 to 676.689, 676.810, 676.815, 676.825, 676.992, 678.710 to 678.820, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS chapter 700.

(4) The enumeration of duties, functions and powers in subsection (3) of this section is not intended to be exclusive or to limit the duties, functions and powers imposed on or vested in the office by other statutes.

SECTION 4. ORS 676.612 is amended to read:

676.612. (1) Subject to ORS 676.616 and 687.445, and in the manner prescribed in ORS chapter 183 for contested cases and as specified in ORS 675.385, **676.660**, 676.685, 676.825, 678.780, 680.535, 681.733, 681.755, 687.445, 688.734, 688.836, 690.167, 690.407, 691.477, 694.147 and 700.111, the Health Licensing Office may refuse to issue or renew, may suspend or revoke or may otherwise condition or limit an authorization or may discipline or place on probation an authorization holder for commission of the prohibited acts listed in subsection (2) of this section.

(2) A person subject to the authority of a board, council or program listed in ORS 676.565 commits a prohibited act if the person engages in:

(a) Fraud, misrepresentation, concealment of material facts or deception in applying for or obtaining an authorization to practice in this state, or in any written or oral communication to the office concerning the issuance or retention of the authorization.

(b) Using, causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, insignia or any other representation, however disseminated or published, that is false, misleading or deceptive.

(c) Making a representation that the authorization holder knew or should have known is false or misleading regarding skill or the efficacy or value of treatment or remedy administered by the authorization holder.

(d) Practicing under a false, misleading or deceptive name, or impersonating another authorization holder.

(e) Permitting a person other than the authorization holder to use the authorization.

(f) Practicing with a physical or mental condition that presents an unreasonable risk of harm to the authorization holder or to the person or property of others in the course of performing the authorization holder's duties.

(g) Practicing while under the influence of alcohol, cannabis, controlled substances or other skill-impairing substances, or engaging in the illegal use of controlled substances or other skill-impairing substances so as to create a risk of harm to the person or property of others in the course of performing the duties of an authorization holder.

(h) Failing to properly and reasonably accept responsibility for the actions of employees.

(i) Employing, directly or indirectly, any suspended, uncertified, unlicensed or unregistered person to practice a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.565.

(j) Unprofessional conduct, negligence, incompetence, repeated violations or any departure from or failure to conform to standards of practice in performing services or practicing in a regulated occupation or profession subject to the authority of the boards, councils and programs listed under ORS 676.565.

(k) Conviction of any criminal offense, subject to ORS 670.280. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of the conviction. A plea of no contest or an admission of guilt is a conviction for purposes of this paragraph.

(L) Failing to report any adverse action, as required by statute or rule, taken against the authorization holder by another regulatory jurisdiction or any peer review body, health care institution, professional association, governmental agency, law enforcement agency or court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action as described in this section.

(m) Violation of a statute regulating an occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.565.

(n) Violation of any rule regulating an occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.565.

(o) Failing to cooperate with the office in any investigation, inspection or request for information.

(p) Selling or fraudulently obtaining or furnishing an authorization to practice in a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.565, or aiding or abetting such an act.

(q) Selling or fraudulently obtaining or furnishing any record related to practice in a regulated occupation or profession subject to the authority of the boards, councils and programs listed in ORS 676.565, or aiding or abetting such an act.

(r) Failing to pay an outstanding civil penalty or fee that is due or failing to meet the terms of any order issued by the office that has become final.

(3) For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the office may require the fingerprints of a person who is:

(a) Applying for an authorization;

(b) Applying for renewal of an authorization; or

(c) Under investigation by the office.

(4) If the office places an authorization holder on probation under subsection (1) of this section, the office, in consultation with the appropriate board, council or program, may determine and at any time modify the conditions of the probation.

(5) If an authorization is suspended, the authorization holder may not practice during the term of suspension. Upon the expiration of the term of suspension, the authorization may be reinstated by the office if the conditions of suspension no longer exist and the authorization holder has satisfied all requirements in the relevant statutes or administrative rules for issuance, renewal or reinstatement.

SECTION 5. ORS 676.613 is amended to read:

676.613. (1) In addition to all other remedies, when it appears to the Health Licensing Office that a person is engaged in, has engaged in or is about to engage in any act, practice or transaction that violates any provision of ORS 675.365 to 675.410, **676.630 to 676.660**, 676.665 to 676.689, 676.810, 676.815, 678.710 to 678.820, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 or 694.015 to 694.170 or ORS chapter 700, the office may, through the Attorney General or the district attorney of the county in which the act, practice or transaction occurs or will occur, apply to the court for an injunction restraining the person from the act, practice or transaction.

(2) A court may issue an injunction under this section without proof of actual damages. An injunction issued under this section does not relieve a person from any other prosecution or enforcement action taken for violation of statutes listed in subsection (1) of this section.

SECTION 6. ORS 676.622 is amended to read:

676.622. (1) A transaction conducted through a state or local system or network that provides electronic access to the Health Licensing Office information and services is exempt from any requirement under ORS 675.365 to 675.410, 676.560 to 676.625, **676.630 to 676.660**, 676.665 to 676.689, 676.810, 676.815, 676.992, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS chapter 700, and rules adopted thereunder, requiring an original signature or the submission of handwritten materials.

(2) Electronic signatures subject to ORS 84.001 to 84.061 and facsimile signatures are acceptable and have the same force as original signatures.

SECTION 7. ORS 676.630 is amended to read:

676.630. As used in ORS 676.630 to 676.660:

(1) "Advanced nonablative esthetics procedure" means a procedure that uses a laser, **intense pulsed light** or other device [*registered with the United States Food and Drug Administration*] for nonablative procedures performed on the skin or hair, including, but not limited to, procedures performed in conjunction with one of the following modalities:

(a) Skin rejuvenation;

- (b) Photo rejuvenation;
- (c) Body contouring;
- (d) Dyschromia reduction;
- (e) Cellulite reduction;
- (f) Hair removal or reduction; and
- (g) Nonablative tattoo removal.

(2) "Certified advanced esthetician" means a person certified to practice advanced nonablative esthetics procedures under ORS 676.630 to 676.660.

(3) "Device" has the meaning given that term by the Board of Certified Advanced Estheticians by rule, in collaboration with the Board of Cosmetology.

[3] (4) "Esthetician" means a person certified to practice esthetics under ORS 690.005 to 690.225.

[4] (5) "Nonablative" means involving an action performed on the skin or hair of a person that does not result in the wounding of skin or underlying tissue.

SECTION 8. ORS 690.005 is amended to read:

690.005. As used in ORS 690.005 to 690.225:

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

- (a) Shampooing, styling, cutting, singeing and conditioning of the hair of an individual.
- (b) Applying hair tonics, dressings and rinses.

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

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

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

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

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

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

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

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

(c) Makeup artistry.

(d) **Eyebrow and** eyelash services.

(e) Facial and body [wrapping] **treatments.**

[f] *Facial and body waxing.*

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

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

- (a) Barbering.
- (b) Esthetics.
- (c) Hair design.
- (d) Nail technology.
- (e) Natural hair care.

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

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

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

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

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

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

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

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

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

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

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

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

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

[(13)(a)] (14)(a) "Natural hair care" means:

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

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

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

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

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

[(14)] (15) "Practitioner" means a person certified to perform services included within a field of practice.

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

[(16)] (17) "School" means an educational establishment that has a license issued by the Department of Education and is operated for the purpose of teaching one or more fields of practice. For purposes of this subsection, "field of practice" does not include natural hair care.

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

RESIDENTIAL CARE FACILITY ADMINISTRATORS

SECTION 9. ORS 678.733 is amended to read:

678.733. (1) The Health Licensing Office may issue a residential care facility administrator license to an applicant who:

(a) Is at least 21 years of age;
(b) Has earned at least a high school diploma or its equivalent[;], **as indicated by evidence of the following, in a form deemed sufficient by the office:**

(A) Completion of high school or an equivalent educational level;

(B) Passage of an approved high school equivalency test, including but not limited to the General Educational Development (GED) test; or

(C) Graduation from a post-secondary institution;

(c)(A) For at least two of the last five years has been employed in a professional or managerial capacity in a health or social service related field, or has a combination of experience and education deemed sufficient by the office; or

(B) Has earned at least a bachelor's degree in a health or social service related field;

(d) Has completed at least 40 hours of training approved by the office by rule;

(e) Pays a licensure fee; and

(f) Passes an examination described in ORS 678.743.

(2) Evidence of the education described in subsection (1)(b) of this section may be provided by a diploma or other document, or by facts, circumstances or other indicators deemed sufficient by the office.

[2] (3) When issuing a license under this section, the office shall consider the qualifications for employment under ORS 443.004.

SECTION 10. The amendments to ORS 678.733 by section 9 of this 2021 Act apply to residential care facility administrator license applications submitted to the Health Licensing Office on or after the effective date of this 2021 Act.

DENTAL CLINICS

SECTION 11. ORS 679.020 is amended to read:

679.020. (1) A person may not practice dentistry without a license.

(2) Only a person licensed as a dentist by the Oregon Board of Dentistry may own, operate, conduct or maintain a dental practice, office or clinic in this state.

(3) The restrictions of subsection (2) of this section, as they relate to owning and operating a dental office or clinic, do not apply to a dental office or clinic owned or operated by any of the following:

(a) A labor organization as defined in ORS 243.650 and 663.005 (6), or to any nonprofit organization formed by or on behalf of such labor organization for the purpose of providing dental services. Such labor organization must have had an active existence for at least three years, have a constitution and bylaws, and be maintained in good faith for purposes other than providing dental services.

(b) The School of Dentistry of the Oregon Health and Science University.

(c) Public universities listed in ORS 352.002.

(d) Local governments.

(e) Institutions or programs accredited by the Commission on Dental Accreditation of the American Dental Association to provide education and training.

(f) Nonprofit corporations organized under Oregon law to provide dental services to rural areas and medically underserved populations of migrant, rural community or homeless individuals under 42 U.S.C. 254b or 254c or health centers qualified under 42 U.S.C. 1396d(l)(2)(B) operating in compliance with other applicable state and federal law.

(g) Nonprofit charitable corporations as described in section 501(c)(3) of the Internal Revenue Code and determined by the Oregon Board of Dentistry as providing dental services by volunteer

licensed dentists to populations with limited access to dental care at no charge or a substantially reduced charge.

(h) Nonprofit charitable corporations as described in section 501(c)(3) of the Internal Revenue Code and determined by the Oregon Board of Dentistry as having an existing program that provides medical and dental care to medically underserved children with special needs at an existing single fixed location or multiple mobile locations.

(i) Nonprofit charitable corporations as described in section 501(c)(3) of the Internal Revenue Code and determined by the board as providing dental services to individuals who are 65 years of age or older and individuals who are unable to stand or walk unassisted.

(4) For the purpose of owning or operating a dental office or clinic, an entity described in subsection (3) of this section must:

(a) Except as provided in ORS 679.022, name an actively licensed dentist as its dental director, who shall be subject to the provisions of ORS 679.140 in the capacity as dental director. The dental director, or an actively licensed dentist designated by the director, shall have responsibility for the clinical practice of dentistry, which includes, but is not limited to:

(A) Diagnosis of conditions within the human oral cavity and its adjacent tissues and structures.

(B) Prescribing drugs that are administered to patients in the practice of dentistry.

(C) The treatment plan of any dental patient.

(D) Overall quality of patient care that is rendered or performed in the practice of dentistry.

(E) Supervision of dental hygienists, dental assistants or other personnel involved in direct patient care and the authorization for procedures performed by them in accordance with the standards of supervision established by statute or by the rules of the board.

(F) Other specific services within the scope of clinical dental practice.

(G) Retention of patient dental records as required by statute or by rule of the board.

(H) Ensuring that each patient receiving services from the dental office or clinic has a dentist of record.

(I) The prescription and administration of vaccines.

(b) Maintain current records of the names of licensed dentists who supervise the clinical activities of dental hygienists, dental assistants or other personnel involved in direct patient care utilized by the entity. The records must be available to the board upon written request.

(5) Subsections (1) and (2) of this section do not apply to an expanded practice dental hygienist who renders services authorized by a permit issued by the board pursuant to ORS 680.200.

(6) Nothing in this chapter precludes a person or entity not licensed by the board from:

(a) Ownership or leasehold of any tangible or intangible assets used in a dental office or clinic. These assets include real property, furnishings, equipment and inventory but do not include dental records of patients related to clinical care.

(b) Employing or contracting for the services of personnel other than licensed dentists.

(c) Management of the business aspects of a dental office or clinic that do not include the clinical practice of dentistry.

(7) If all of the ownership interests of a dentist or dentists in a dental office or clinic are held by an administrator, executor, personal representative, guardian, conservator or receiver of the estate of a former shareholder, member or partner, the administrator, executor, personal representative, guardian, conservator or receiver may retain the ownership interest for a period of 12 months following the creation of the ownership interest. The board shall extend the ownership period for an additional 12 months upon 30 days' notice and may grant additional extensions upon reasonable request.

SECTION 12. ORS 679.020, as amended by section 11 of this 2021 Act, is amended to read:

679.020. (1) A person may not practice dentistry without a license.

(2) Only a person licensed as a dentist by the Oregon Board of Dentistry may own, operate, conduct or maintain a dental practice, office or clinic in this state.

(3) The restrictions of subsection (2) of this section, as they relate to owning and operating a dental office or clinic, do not apply to a dental office or clinic owned or operated by any of the following:

(a) A labor organization as defined in ORS 243.650 and 663.005 (6), or to any nonprofit organization formed by or on behalf of such labor organization for the purpose of providing dental services. Such labor organization must have had an active existence for at least three years, have a constitution and bylaws, and be maintained in good faith for purposes other than providing dental services.

(b) The School of Dentistry of the Oregon Health and Science University.

(c) Public universities listed in ORS 352.002.

(d) Local governments.

(e) Institutions or programs accredited by the Commission on Dental Accreditation of the American Dental Association to provide education and training.

(f) Nonprofit corporations organized under Oregon law to provide dental services to rural areas and medically underserved populations of migrant, rural community or homeless individuals under 42 U.S.C. 254b or 254c or health centers qualified under 42 U.S.C. 1396d(l)(2)(B) operating in compliance with other applicable state and federal law.

(g) Nonprofit charitable corporations as described in section 501(c)(3) of the Internal Revenue Code and determined by the Oregon Board of Dentistry as providing dental services by volunteer licensed dentists to populations with limited access to dental care at no charge or a substantially reduced charge.

(h) Nonprofit charitable corporations as described in section 501(c)(3) of the Internal Revenue Code and determined by the Oregon Board of Dentistry as having an existing program that provides medical and dental care to medically underserved children with special needs at an existing single fixed location or multiple mobile locations.

[(i) Nonprofit charitable corporations as described in section 501(c)(3) of the Internal Revenue Code and determined by the board as providing dental services to individuals who are 65 years of age or older and individuals who are unable to stand or walk unassisted.]

(4) For the purpose of owning or operating a dental office or clinic, an entity described in subsection (3) of this section must:

(a) Except as provided in ORS 679.022, name an actively licensed dentist as its dental director, who shall be subject to the provisions of ORS 679.140 in the capacity as dental director. The dental director, or an actively licensed dentist designated by the director, shall have responsibility for the clinical practice of dentistry, which includes, but is not limited to:

(A) Diagnosis of conditions within the human oral cavity and its adjacent tissues and structures.

(B) Prescribing drugs that are administered to patients in the practice of dentistry.

(C) The treatment plan of any dental patient.

(D) Overall quality of patient care that is rendered or performed in the practice of dentistry.

(E) Supervision of dental hygienists, dental assistants or other personnel involved in direct patient care and the authorization for procedures performed by them in accordance with the standards of supervision established by statute or by the rules of the board.

(F) Other specific services within the scope of clinical dental practice.

(G) Retention of patient dental records as required by statute or by rule of the board.

(H) Ensuring that each patient receiving services from the dental office or clinic has a dentist of record.

(I) The prescription and administration of vaccines.

(b) Maintain current records of the names of licensed dentists who supervise the clinical activities of dental hygienists, dental assistants or other personnel involved in direct patient care utilized by the entity. The records must be available to the board upon written request.

(5) Subsections (1) and (2) of this section do not apply to an expanded practice dental hygienist who renders services authorized by a permit issued by the board pursuant to ORS 680.200.

(6) Nothing in this chapter precludes a person or entity not licensed by the board from:

(a) Ownership or leasehold of any tangible or intangible assets used in a dental office or clinic. These assets include real property, furnishings, equipment and inventory but do not include dental records of patients related to clinical care.

(b) Employing or contracting for the services of personnel other than licensed dentists.

(c) Management of the business aspects of a dental office or clinic that do not include the clinical practice of dentistry.

(7) If all of the ownership interests of a dentist or dentists in a dental office or clinic are held by an administrator, executor, personal representative, guardian, conservator or receiver of the estate of a former shareholder, member or partner, the administrator, executor, personal representative, guardian, conservator or receiver may retain the ownership interest for a period of 12 months following the creation of the ownership interest. The board shall extend the ownership period for an additional 12 months upon 30 days' notice and may grant additional extensions upon reasonable request.

SECTION 13. The amendments to ORS 679.020 by section 12 of this 2021 Act become operative on January 1, 2023.

CAPTIONS

SECTION 14. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

EMERGENCY CLAUSE

SECTION 15. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 15, 2021

Received by Governor:

Repassed by House June 8, 2021

.....M.,....., 2021

Approved:

.....
Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2021

.....
Tina Kotek, Speaker of House

.....
Kate Brown, Governor

Passed by Senate June 7, 2021

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Peter Courtney, President of Senate

.....
Shemia Fagan, Secretary of State

Board of Certified Advanced Estheticians

819-005-0005

Definitions

As used in OAR 819-005-0005 to 819-050-0020:

(1) “Ablative” means the total destruction of the epidermis creating a wound pursuant to the definition under OAR 819-005-0005(6) and ORS 676.630(4).

(2) “Applicant” means a natural person applying to be certified as a “certified advanced esthetician” defined in ORS 676.630(2).

(3) “Board” means the Board of Certified Advanced Estheticians.

(4) “Modality” defined under ORS 676.630 means:

(a) Light energy hair removal;

(b) Photo rejuvenation and dyschromia reduction;

(c) Skin rejuvenation;

(d) Cellulite reduction;

(e) Body contouring;

(f) Nonablative tattoo removal.

~~(5) “FDA” means the United States Food and Drug Administration.~~

~~(6)~~(5) “Nonablative” means involving an action performed on the skin or hair of a person that does not result in the wounding of skin or underlying tissue as defined under ORS 676.630.

~~(7)~~(6) “Office” means Health Licensing Office.

~~(7) “USFDA” means the United States Food and Drug Administration.~~

Statutory/Other Authority: 676.615, 676.630 & 676.655

Statutes/Other Implemented: 676.630 & 676.655

History:

[BCAE 3-2017, amend filed 12/29/2017, effective 01/01/2018](#)

[BCAE 1-2017, f. & cert. ef. 1-3-17](#)

[819-XXX-XXXX Advanced Esthetics Device](#)

(1) ORS 676.635 prohibits the practice of advanced nonablative procedures by anyone who is not authorized to practice advanced nonablative procedures by the Board of Certified Advanced Estheticians, except for licensed health-care professionals acting within their scope of practice and students enrolled in an advanced nonablative esthetics education or training program.

(2) The practice of advanced nonablative esthetics is defined in ORS 676.630, and is a procedure that uses an intense pulse light, laser, or other device for nonablative procedures performed on hair or skin.

(3) A “device” for purposes of ORS 676.630 is an “Advanced Esthetics Device”. An “Advanced Esthetics Device” is:

(a) A product that has the capability of penetrating beyond the epidermis.

(b) A laser.

(c) An intense pulse light.

(4) An Advanced Esthetics Device is not:

(a) Chemical products.

(b) A “Cosmetology Device” as defined in OAR 817-010-0067.

(5) A certified advanced esthetician may only perform advanced nonablative esthetics procedures with an Advanced Esthetics Device registered with the **USFDA**.

(6) A certified advanced esthetician may only perform nonablative procedures.

(7) A certified advanced esthetician may only perform advanced nonablative esthetics procedures on a person’s skin or hair.

(8) A certified advanced esthetician may only perform advanced nonablative esthetics procedures that are in a modality **defined under OAR 819-005-0005**.

(9) A certified advanced esthetician is responsible for determining if any services provided to clients would be prohibited by law.

(10) Services provided by a certified advanced esthetician that are prohibited, unsafe, dangerous or causes harm may result in a violation of incompetence, negligence or unprofessional conduct pursuant to ORS 676.612(2)(j) and under Office rules.

(11) A certified advanced esthetician must maintain and provide to HLO upon request clear documentation that any Advanced Esthetics Device used to perform advanced nonablative esthetics procedures is registered with the **USFDA**.

819-025-0020

CONTINUING EDUCATION REQUIREMENTS

(1) To maintain certification, a certified advanced esthetician must complete a minimum of five hours of continuing education every year.

(2) The subject matter of the continuing education must be related to advanced nonablative esthetics pursuant to OAR 819-020-0100 and ORS 676.630. Continuing education may include the laws and rules, infection control, professional ethics and business practices.

(3) A certification holder must document compliance with the continuing education requirement through attestation on the certification renewal application. A certification holder is subject to provisions of OAR 819-025-0030 pertaining to periodic audit of continuing education.

(4) Continuing education may be obtained through online courses, attendance at lectures, sessions, courses, workshops, symposiums seminars or other presentations offered by:

(a) Institutions or programs accredited by a federally recognized accrediting agency;

(b) Institutions or programs approved by Oregon Higher Education Coordinating Commission;

(c) An organization offering continuing advanced nonablative esthetics education opportunities, including but not limited to, Board-approved professional organization, association, hospital, or health-care clinic offering continuing education related to subject matter listed in subsection (2) of this rule.

(d) Society of Plastic Surgical Skin Care Specialists, Associated Skin Care Professionals, New Age Spa Institute, Cascade Aesthetic Alliance and and National Coalition of Estheticians Manufacturers/Distributors and Associations (NCEA) Commission on Accreditation.

(5) Continuing education relating to subject matter listed in subsection (2) of this rule may also be obtained through self-study, research, authorship, or teaching, provided that no more than half the required hours be in research, authorship or teaching.

(6) Obtaining and maintaining proof of continuing education is the responsibility of the certificate holder. The certificate holder must ensure that adequate proof of attainment of required continuing education is available for audit or investigation or when otherwise requested by the Office. Adequate proof of participation is listed under OAR 819-025-0030.

(7) Documentation of participation in continuing education requirements must be maintained for a period of five years.

(8) Hours of continuing education that are obtained in excess of the minimum requirements listed in this rule will not be carried forward as credit for the subsequent license renewal reporting cycle.

(9) For the purpose of this rule continuing education must include periods of continuous instruction and education, not to include breaks, rest periods, travel, registration or meals.

(10) A certification holder is not required to attest to having five hours of annual continuing education until their second renewal. The second and all subsequent renewals require annual attestation of five hours of continuing education.

Statutory/Other Authority: ORS 676.615, ORS 676.586 & ORS 676.655

Statutes/Other Implemented: ORS 676.655

History:

[BCAE 2-2018, adopt filed 06/28/2018, effective 06/28/2018](#)

[BCAE 4-2017, temporary adopt filed 12/29/2017, effective 01/01/2018 through 06/29/2018](#)

[819-030-0005](#)

GENERAL PRACTICE STANDARDS

(1) A certified advanced esthetician must wear a name tag that clearly states the individual's name and in what capacity the individual is working in and designate in each client's treatment log documenting who performed the service and in what capacity the service was being performed including but not limited to medical assistant or registered nurse.

(2) A certified advanced esthetician is prohibited from making any false representation either verbally or in writing that would imply services being performed outside the scope of practice are connected to their certified advanced esthetician practice.

(3) A certified advanced esthetician is prohibited from performing:

(a) Ablative services, ~~and~~

(b) Internal vaginal rejuvenation that goes beyond the introitus (vaginal opening).

[\(c\) An advanced nonablative esthetics procedure with a non-USFDA registered Advanced Esthetics Device.](#)

(4) Procedures performed without using an ~~an laser or other~~ [Advanced Esthetics Device registered with the FDA](#) are not considered advanced nonablative esthetics services pursuant to ORS 676.630(1).

(5) Services provided by a certified advanced esthetician to a client that are prohibited, unsafe, dangerous or cause serious harm may result in a violation of incompetence, negligence or unprofessional conduct pursuant to ORS 676.612(2)(j), OAR 331-020-0070 or OAR 331-020-0075.

Statutory/Other Authority: ORS 676.615, ORS 676.586, ORS 676.630 & ORS 676.655

Statutes/Other Implemented: ORS 676.630 & ORS 676.655

History:

[BCAE 2-2018, adopt filed 06/28/2018, effective 06/28/2018](#)

[BCAE 4-2017, temporary adopt filed 12/29/2017, effective 01/01/2018 through 06/29/2018](#)

819-030-0010

CLIENT DISCLOSURE PRACTICE STANDARDS

A certified advanced esthetician must maintain and provide to each client a “client disclosure form” pursuant to ORS 676.655, which includes at minimum the existence of professional liability insurance. The client disclosure information may be combined with other documentation used by the certified advanced esthetician including but not limited to informed consent or summary of visit.

Statutory/Other Authority: ORS 676.615, ORS 676.586, ORS 676.630 & ORS 676.655

Statutes/Other Implemented: ORS 676.630 & ORS 676.655

History:

[BCAE 2-2018, adopt filed 06/28/2018, effective 06/28/2018](#)

[BCAE 4-2017, temporary adopt filed 12/29/2017, effective 01/01/2018 through 06/29/2018](#)

819-030-0020

COLLABORATIVE AGREEMENT

(1) Pursuant to ORS 676.655(2)(c), a certified advanced esthetician must enter into a collaborative agreement with one or more of the following health-care professionals who hold an active license in good standing with no current or pending action:

(a) Physician licensed under ORS Chapter 677;

(b) Nurse practitioner licensed under ORS 678.375 to 678.390;

(c) A licensed health-care professional who works at the same location as the certified advanced esthetician and who has the authority to prescribe drugs listed in Schedule III, IV or V which includes, but is not limited to, the following:

(A) Dentist licensed under ORS 679;

(B) Naturopathic physician licensed under ORS 685; or

(C) Certified Registered Nurse Anesthetists licensed under ORS 678.245 to 678.285.

(2) All active collaborative agreements must be maintained and kept current by the certified advanced esthetician and made immediately available.

(3) Inactive collaborative agreements must be kept for seven years and must be made immediately available to the Office upon request.

(4) All collaborative agreements must contain the following information:

(a) Name of certified advanced esthetician;

(b) Certificate number of the certified advanced esthetician;

(c) Name of licensed health care professional;

(d) License number of licensed health care professional;

(e) Contact information of the licensed health care professional; and

(f) Effective date of agreement.

(5) The collaborative agreement must be current and updated at all times services are being performed.

(6) Multiple advanced certified estheticians can enter into a collaborative agreement under the same licensed health-care professional; however, each certified advanced esthetician must have individual agreements that meet requirements listed in subsection (1), (2) and (3) of this rule.

(7) For the purpose of this rule and pursuant to ORS 676.655 the purpose of an agreement is to provide a client with a referral to a licensed health care professional. It is not required that the client pursue treatment from the referred licensed health care professional and the licensed health care professional is not required to provide care to the client.

(8) Collaborative agreements may be stored electronically.

Statutory/Other Authority: ORS 676.615, ORS 676.586, ORS 676.630 & ORS 676.655

Statutes/Other Implemented: ORS 676.630 & ORS 676.655

History:

[BCAE 2-2018, adopt filed 06/28/2018, effective 06/28/2018](#)

[BCAE 4-2017, temporary adopt filed 12/29/2017, effective 01/01/2018 through 06/29/2018](#)

819-030-0060

Safety and Infection Control Practice Standards

(1) A certified advanced esthetician performing services must:

(a) Work in a licensed Board of Cosmetology facility with a certification issued under ORS 690.055 pursuant to ORS 676.655(2)(a);

(b) Adhere to facility standards set forth in ORS 690.055 and OAR Chapter 817 Division 10 and Division 20, if applicable to advanced nonablative esthetics;

(c) Use only ~~lasers or other~~ [Advanced Esthetics De](#) devices registered with the USFDA and for nonablative procedures pursuant to ORS 676.630;

(d) Use ~~an Advanced Esthetics laser or other d~~ [Device](#) registered with the USFDA in a manner described in the manufacturer's instructions and consistent with the manufacturer's intended use of the [Advanced Esthetics De](#) device by the USFDA;

(e) Maintain USFDA registration documentation on each ~~laser or~~ [Advanced Esthetics De](#) device on the facility premises.

(f) Ensure high-level disinfectant is used in accordance with manufacturer's instructions to disinfect surfaces where services are performed.

(g) Adhere to all Centers for Disease Control and Prevention Standard Precautions for All Patient Care.

(2) If a certified advanced esthetician is performing laser services they must meet the standards pursuant to the 2014 American National Standard Z136.1 and the 2011 American National Standards Laser Safety Education Program Z136.3.

(3) ~~A t~~ [Tools](#), instruments, equipment or [Advanced Esthetics De](#) devices that comes in direct contact with a client must be disposed of or sanitized and disinfected according to manufacturer's instructions before use on each client.

Statutory/Other Authority: ORS 676.655 & ORS 676.615

Statutes/Other Implemented: ORS 676.655

History:

BCAE 2-2018, adopt filed 06/28/2018, effective 06/28/2018

BCAE 4-2017, temporary adopt filed 12/29/2017, effective 01/01/2018 through
06/29/2018

Board of Cosmetology

817-005-0005

Definitions

The following definitions apply to OAR Chapter 817, Divisions 5 through 120.

- (1) "Adequate ventilation" means ventilation by natural or mechanical methods that removes or exhausts fumes, vapors, or dust to prevent hazardous conditions from occurring in accordance with OAR Chapter 437, Division 2, or to allow the free flow of air in a room in proportion to the size and capacity of the room.
- (2) "Affidavit of Licensure" means an original document or other approved means of verifying licensure history, including information disclosing all unresolved or outstanding penalties and disciplinary actions. Refer to OAR 331-030-0040.
- (3) "Article" means those items that complement services provided in the practice of barbering, hair design, esthetics or nail technology, including, but not limited to, neck-strips, towels or linens, and cloth or plastic capes.
- (4) "Authorization" has the definition set forth in ORS 676.562 and means a certificate, license, permit or registration issued by the Health Licensing Office that allows a person to practice one of the occupations or professions or maintain a facility subject to the authority of the boards and councils listed in ORS 676.565.
- (5) "Barbering" has the definition set forth in ORS 690.005.
- (6) "Board" means the Board of Cosmetology.
- (7) "Chemical service" means the use of any product that restructures or removes hair or changes the shape or appearance of skin, hair or nails.
- (8) "Common area" means an area of a facility that is used by all authorization holders performing services, including, but not limited to, reception areas, dispensing areas, sinks, shampoo bowls, hair dryers, hair dryer areas and employee lounges.
- (9) "Dermaplaning" means the use of a blade with a handle to remove dead skin cells and vellus hairs from the face.
- (10) "Disinfect" means using a process to destroy harmful organisms, including bacteria, viruses, germs, and fungi.
- (11) "Dispensing area" means an area with nonporous surfaces and a sink with hot and cold running water where service preparations are conducted, including, but not limited to, mixing of chemicals, cleaning of tools and equipment, disposing of residues, and rinsing parts of the body exposed to chemicals.

(12) "Educational institution" means an Oregon high school licensed under ORS 335, Oregon career school licensed under ORS 345 or an Oregon community college licensed under ORS 341.

(13) "EPA" means United States Environmental Protection Agency.

(14) "Equipment" means those items needed to operate a facility, including, but not limited to, waiting chairs, barber or styling chairs, shampoo chairs, cabinets, sinks, shampoo bowls, stationary dryers, pedicure bowls or whirlpool foot spas, paraffin wax containers, and nail technology tables.

(15) "Esthetics" has the definition set forth in ORS 690.005.

(16) "Facility" has the definition set forth in ORS 690.005.

(17) "FDA" means United States Food and Drug Administration.

(18) "Field of practice" has the definition set forth in ORS 690.005.

(19) "Fire-retardant container" means an airtight metal container for disposing of chemical waste or storing linens with chemical residue.

(20) "Freelance authorization" has the definition set forth in ORS 690.005.

(21) "Hair design" has the definition set forth in ORS 690.005.

(22) "HECC" means Higher Education Coordinating Commission.

(23) "High-level disinfectant" means a chemical agent, that has demonstrated tuberculocidal activity and is registered with the EPA.

(24) "Independent contractor" has the definition set forth in ORS 690.005.

(25) "Low-level disinfectant" means a chemical agent that has demonstrated bactericidal, germicidal, fungicidal, and limited virucidal activity and is registered with the EPA.

(26) "Materials and supplies" means those items which complement the use of tools and implements, including but not limited to hair tints, bleaches, permanent wave solutions, hair oils, shampoos, wax, rinses, disinfectants, and chemicals.

(27) "Mechanical or electrical apparatus, appliance or device" has the definition set forth in ~~ORS 690.005~~OAR 817-010-0067. "Mechanical or electrical apparatus, appliance or device" does not include an "Advanced Esthetics Device" defined under OAR XXX-XXX-XXXX.

~~(27)~~(28) "Nail technology" has the definition set forth in ORS 690.005

~~(28)~~(29) "Natural hair care" has the definition set forth in ORS 690.005.

~~(29)~~(30) "Natural person" means a living, individual, human being.

~~(30)~~(31) "Office" means Health Licensing Office.

~~(31)~~(32) "Official transcript" means a document authorized by the appropriate office in the HECC and certified by an educational institution indicating applicant identity information, each field of practice enrolled under, specific hour requirements for each field of practice if applicable, final practical examination scores for each field of practice, enrollment information and a signature from an authorized representative on file with the Office. Original documents must be submitted directly to the Office from the educational institution by United States Postal Service mail, email or fax.

~~(32)~~(33) "Practitioner" has the definition set forth in ORS 690.005.

~~(33)~~(34) "Premises" means the entire area of a facility, licensed by the Office as a facility defined under ORS 690.005.

~~(34)~~(35) "Sharp edged or pointed, non-electrical tools and implements" means those items that may come in contact with blood-borne pathogens and other potentially hazardous materials including, but not limited to, dermaplaning blade with handle, lancets, razors, cuticle nippers, cuticle pushers, nail clippers, tweezers, comedone extractors, shears, and metal nail files.

~~(35)~~(36) "Soiled" means an article that has been used and has not been cleaned or disinfected for use on the next client.

~~(36)~~(37) "Superficial peel" means a chemical peel that does not extend beyond the stratum basale (basal layer). This does not include enzymes and other solutions that act only on the stratum corneum.

~~(37)~~(38) "Tools and implements" means all portable articles and instruments, which the authorization holder uses when performing services on clients, including, but not limited to combs, brushes, shears, clippers and yoyettes.

~~(38)~~(39) "Very superficial peel" means a chemical peel that does not extend beyond the stratum spinosum. This does not include enzymes and other solutions that act only on the stratum corneum.

~~(39)~~(40) "Work area" means an area where services are performed, and preparations are conducted including, but not limited to shampoo area, work stations and dispensing area.

Statutory/Other Authority: ORS 690.005, ORS 345, ORS 690.165 & ORS 676.615

Statutes/Other Implemented: ORS 690.005, ORS 345 & ORS 690.165

History:

[BOC 3-2019, amend filed 12/06/2019, effective 01/01/2020](#)

[BOC 1-2018, minor correction filed 02/07/2018, effective 02/07/2018](#)

BOC 1-2014, f. 2-27-14, cert. ef. 3-1-14

BOC 2-2011, f. & cert. ef. 5-5-11 BOC 1-2009, f. & cert. ef. 6-1-09 BOC 1-2006, f. & cert. ef. 3-15-06 BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05 BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04 BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02 BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01 BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00 BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98 BH 1-1997, f. 7-22-97, cert. ef. 8-1-97 BH 2-1996, f. 6-28-96, cert. ef. 7-1-96 BH 1-1996, f. 5-31-96, cert. ef. 7-1-96 BH 3-1994, f. 6-23-94, cert. ef. 7-1-94 BH 1-1992, f. 6-1-92, cert. ef. 7-1-92 BH 2-1990, f. & cert. ef. 10-29-90 BH 1-1988, f. & cert. ef. 7-1-88 BH 4-1984, f. & cert. ef. 12-7-84, Renumbered from 817-010-0002 BH 1-1983(Temp), f. & cert. ef. 10-4-83 BH 2-1982, f. & cert. ef. 3-31-82 BH 1-1982, f. & cert. ef. 1-29-82 BH 2-1978, f. & cert. ef. 11-29-78

817-010-0067

Requirements, Standards and Prohibitions - Esthetics

[\(1\) An individual certified in esthetics may use hands or mechanical or electrical apparatuses, appliances or devices for cleansing, stimulating manipulating, exfoliating or applying lotions or creams on a human person's body or face for the purpose of keeping the skin healthy and attractive and not for medical diagnosis or treatment of disease or physical or mental ailments.](#)

[\(2\) "Mechanical or electrical apparatuses, appliances or devices" include:](#)

[\(a\) Galvanic current that does not penetrate beyond the epidermis except through natural physiological effects.](#)

[\(b\) High-frequency microcurrents that does not penetrate beyond the epidermis except through natural physiological effects.](#)

[\(c\) Light-emitting diode therapy that does not penetrate beyond the epidermis except through natural physiological effects.](#)

[\(d\) Microdermabrasion that does not penetrate beyond the epidermis except through natural physiological effects.](#)

[\(e\) A "Cosmetology Device".](#)

(i) A “Cosmetology Device” is a non-chemical product that does not penetrate beyond the epidermis except through natural physiological effects and claims only to do the following:

(A) Facilitate exfoliation of the skin (i.e. disruption of the stratum corneum);

(B) Improvement of appearance of the skin;

(C) Give skin a smoother look and feel; or

(D) Give skin a luminous look.

(ii) A “Cosmetology Device” is not:

(A) Chemical products.

(B) A laser.

(C) An intense pulse light.

(D) An “Advanced Esthetics Device” as defined in OAR XXX-XXX-XXXX.

(3) “Natural physiological effects” means produced by or follows immediately from a person’s normal biological functioning.

(4) An individual certified in esthetics may not use a “COS Device” that penetrates into the dermis.

(5) An individual certified in esthetics is responsible for determining if any services provided to clients would be prohibited by law.

(6) Services provided by an individual certified in esthetics that are prohibited, unsafe, dangerous or causes harm may result in a violation of incompetence, negligence or unprofessional conduct pursuant to ORS 676.612(2)(j) and under Office rules.

(7) An individual certified in esthetics is prohibited from using Advanced Esthetic Devices as defined in OAR XXX-XXX-XXXX, unless the individual holds a certificate to practice advanced nonablative esthetics, is a licensed health-care professional acting within the individual’s scope of practice, or is a student enrolled in an advanced nonablative esthetics education or training program.

Statutory/Other Authority: ORS 690.005, ORS 676.630, ORS 690.165, ORS 690.205 & ORS 676.615

Statutes/Other Implemented: ORS 690.005, ORS 676.630, ORS 690.165 & ORS 690.205

History:

[BOC 3-2019, adopt filed 12/06/2019, effective 01/01/2020](#)

817-015-0055

Chemical Peels

(1) An esthetician is prohibited from performing chemical peels that extend beyond the stratum basale.

(2) Except as needed to acquire the education or training, an esthetician is only permitted to perform very superficial peels when the five hours of required education or training is completed.

(3) The training or education described in subsection (2) of this rule must be obtained through schools, institutions, vendors, manufacturers, formal seminars, online courses, an esthetician experienced in chemical peels, a licensed health-care provider experienced in chemical peels or through self-study.

(4) Proof of self-study must be documented on a form prescribed by the Office.

(5) Proof of all training or education obtained from schools, institutions, vendors, manufacturers, formal seminars, online courses must include the following:

(a) Name of continuing education sponsor or provider;

(b) Course agenda and outline – including the date of the training and breakdown of hours for each agenda item, lunch and breaks; and a detailed summary of each topic discussed and the learning objective or training goal of each agenda item;

(c) Documentation of attendance and course completion including, but not limited to, certificate, transcript, sponsor statement, affidavit attesting to attendance or diploma.

(6) The training or education obtained from an esthetician or licensed health care provider with experience providing chemical peel services must include:

(a) Verification of the content and hours; and

(b) Proof of education or training received by the esthetician or licensed health-care provider providing the education or training.

(7) Records of the required education or training must be kept for as long as the esthetician provides very superficial or superficial peels and must be provided to Office upon request.

(8) An esthetician who is performing chemical peels must:

(a) Fully comply with the required education or training.

(b) Use chemicals in a manner intended by the manufacturer and in accordance with manufacturer's recommendations, guidelines and protocols.

(c) Only use chemicals that the licensed esthetician has been fully educated or trained in the use of and is fully informed of the ingredients in any products used.

(d) Only use chemicals that are suitable for the client after an analysis of the client's skin condition, medical history (including pregnancy if applicable), skin type, currently used medication and skin-care products.

(e) Chemicals must be stored and maintained in accordance with Division 60 of these rules.

Statutory/Other Authority: ORS 690.005, ORS 690.165, ORS 690.205 & ORS 676.615

Statutes/Other Implemented: ORS 690.005, ORS 690.165 & ORS 690.205

History:

[BOC 5-2019, adopt filed 12/18/2019, effective 01/01/2020](#)

817-015-0056

Dermaplaning

(1) Except as needed to acquire the education and training, an esthetician is only permitted to perform dermaplaning when the six hours of required education and training below are completed. A minimum of two hours of the education and training must be hands on, practical training.

(2) The education and training must be obtained through schools, institutions, vendors, manufacturers, formal seminars, an esthetician experienced in dermaplaning, or a licensed health-care provider experienced in dermaplaning. Proof of education and training must include:

(a) Name of continuing education sponsor or provider;

(b) Course agenda and outline – including the date and breakdown of hours for each agenda item, lunch and breaks; and a detailed summary of each topic discussed and the learning objective or training goal of each agenda item;

(c) Documentation of attendance and successful course completion including, but not limited to, certificate, transcript, sponsor statement, affidavit attesting to attendance, or diploma.

(3) The education and training obtained through an esthetician or from a licensed health care provider with experience providing dermaplaning services must include:

(a) Verification of the content and hours; and

(b) Proof of education and training received by the esthetician or licensed health care provider providing the education and training.

(4) An esthetician who is performing dermaplaning must:

(a) Comply with the required education and training and retain proof of the required education and training and make the proof available to the Office upon request.

(b) Only use dermaplaning when suitable for the client after an analysis of the client's skin condition, medical history (including pregnancy if applicable, skin type, currently used medication, and skin-care products).

(c) Provide dermaplaning in a manner that is safe for the client.

(5) Dermaplaning blades must be single-use and disposed of after each treatment as required in OAR 817-010-0060.

Statutory/Other Authority: ORS 690.055, ORS 690.165, ORS 690.205 & ORS 676.615

Statutes/Other Implemented: ORS 690.055, ORS 690.165 & ORS 690.205

History:

[BOC 5-2019, adopt filed 12/18/2019, effective 01/01/2020](#)

817-015-0065

Client Records

(1) A practitioner providing esthetic services is responsible for collecting and maintaining copies of client records. If client records are maintained by the facility, the facility license holder must provide the practitioner who is providing the service, with copies of those client records upon request. The record must include:

(a) Client information including the client's name, address, telephone number, type of service, date of birth, and date of service;

(b) The name of the practitioner and practitioner certificate number who is providing the service, and special instructions or notations pertinent to providing esthetic services including, but not limited to, bleeding disorders, allergies or sensitivities to chemicals or products or complications during service(s); and

(c) Medical advice, if obtained.

(2) Client records must be kept at the facility for a minimum of three years and must be made available upon request from the Office.

(3) Client records must be typed or printed in a legible format and may be stored electronically. Client records that are not readable by the Office will be treated as incomplete.

(4) If a practitioner is acting in a dual capacity and providing services outside their scope of practice, the capacity under which the person is working must be clearly documented in the client's record.

(5) If providing chemical peels or dermaplaning, the esthetician must also document:

(a) Location of procedure on the body;

(b) Special instructions or notations relating to the client's medical or skin conditions;

(c) Complete list of the client's sensitivities to medicines or topical solutions;

(d) Description of complications during procedure(s);

(e) Any referral to a health-care professional; and

(f) If providing chemical peels, the chemical used on the client, including the brand name or manufacturer, type of chemical peel, process of applying very superficial or superficial peel including number of layers of chemical peel solution, the length of time the chemical is left on the client's skin, pre- and post-treatment care.

(6) For the purpose of procedures listed in subsection (5) of this rule upon initial visit the practitioner must obtain signature from the client that they have received and understand the following information and consent to the nonablative esthetic procedure:

(a) Explanation of procedure;

(b) Risk(s) of the procedure;

(c) Description of potential complications or side effects;

(d) Adverse outcomes;

(e) Contraindications;

(f) Alternatives; and

(g) Aftercare instructions.

(7) Following initial visit referenced in subsection (6) of this rule and if for the same procedure a practitioner may have the client initial, that the client has received information listed in subsection (6) of this rule and document any refusal to initial the client record.

(8) Information listed in subsection (5), (6) and (7) of this rule may be combined with other documentation used by the practitioner.

(9) A practitioner is prohibited from providing services to a client who refuses to provide the personal information required in subsection (1)(a) of this rule unless the client signs a waiver form documenting the client's refusal to provide the required information. The signed waiver form must be retained on file in the manner required in subsection (2) of this rule.

(10) For the purpose of this rule, practitioner means an individual certified in esthetics.

Statutory/Other Authority: ORS 690.165, ORS 676.615, ORS 676.568 & ORS 690.005

Statutes/Other Implemented: ORS 690.165, ORS 676.568 & ORS 690.005

History:

[BOC 5-2019, amend filed 12/18/2019, effective 01/01/2020](#)

[BOC 1-2019, amend filed 06/28/2019, effective 07/01/2019](#)

BOC 1-2014, f. 2-27-14, cert. ef. 3-1-14

BOC 1-2008, f. 5-27-08, cert. ef. 6-1-08

BOC 1-2006, f. & cert. ef. 3-15-06

BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02



Checklist for Temporary Rulemaking

https://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx

This information comes from the Oregon Department of Justice

- ☐ Consider whether appropriate to appoint rulemaking advisory committee, or use other means to get public input.
- ☐ Draft the temporary rule
- ☐ Prepare the Statement of Need and Justification, including:
 - a. Statement of findings that prompt action needed to avoid serious prejudice with specific reasons (justification);
 - b. Citation to statutory authority and statute(s) implemented;
 - c. Statement of need;
 - d. Documents relied upon and their location;
 - e. Housing cost impact statement (certain agencies only).
- ☐ Consider whether practicable to provide abbreviated notice and hold hearing.
- ☐ Adopt, amend or suspend rule, after considering fully all written or oral submissions, if any.
- ☐ Submit temporary rule filing to Archives Division using Oregon Administrative Rules Database (OARD).
- ☐ Monitor OARD dashboard and make any necessary corrections on returned filings.
- ☐ Notify affected persons.
- ☐ Review rule and determine whether permanent adoption, amendment or repeal is necessary before temporary rule expires (at most, 180 days from effective date).
- ☐ Provide Rule Report to Legislature no later than February 1 each year regarding all rules adopted, amended, or suspended during previous 12-month period including: number of rules, list of rules, statement of need for each rule and agency's findings that failure to act promptly would result in serious prejudice to interest of public or parties concerned, and explanation why temporary rulemaking process appropriate and permanent rulemaking process not appropriate for each rule.

[illegible]