



PUBLIC HEALTH  
HEALTH LICENSING OFFICE

Kate Brown, Governor

Oregon  
**Health**  
Authority

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May 1, 2018

To: Advanced Esthetics Stakeholders

From: Samie Patnode, Policy Analyst

Subject: Proposed Administrative Rules, Chapter 819

Proposed rules for the Board Certified Advanced Estheticians were filed with the Secretary of State's Office for publication in the May 2018 Oregon Bulletin. You are invited to review the proposed rules and provide written comments from, Tuesday, May 1 through Thursday, May 31, 2018 at 5 pm. A public administrative rule hearing has been scheduled for Tuesday, May 22, 2018 from 10 am to 2:30 pm at the Health Licensing Office, 1430 Tandem Ave NE, Suite 180, Salem OR 97301. Administrative rules are scheduled to become permanent and effective on June 15, 2018.

Please submit all comments to Samie Patnode at:

E-mail – [samie.patnode@state.or.us](mailto:samie.patnode@state.or.us)

Postal – Health Licensing Office, 1430 Tandem Ave NE, Suite 180, Salem OR 97301-0380

For complete information including draft proposed rules please visit the board Web site at:

<http://www.oregon.gov/OHA/PH/HLO/Pages/Board-Certified-Advanced-Estheticians-Laws-Rules.aspx>.

For alternative formats please contact Samantha Patnode at (503) 373-1917 or

[Samie.patnode@state.or.us](mailto:Samie.patnode@state.or.us)

OFFICE OF THE SECRETARY OF STATE  
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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 819  
OREGON HEALTH AUTHORITY  
HEALTH LICENSING OFFICE, BOARD OF CERTIFIED ADVANCED ESTHETICIANS

**FILED**  
04/27/2018 1:36 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Implement advanced esthetics rules including education, certification and practice standards.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/31/2018 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

CONTACT: Samie Patnode  
503-373-1917  
samie.patnode@state.or.us

1430 Tandem Ave. NE Suite 180  
Salem, OR 97301

Filed By:  
Anne Thompson  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 05/22/2018

TIME: 10:00 AM - 2:30 PM

OFFICER: Samie Patnode

ADDRESS: Health Licensing Office

1430 Tandem Ave. NE Suite 180

Salem, OR 97301-2192

NEED FOR THE RULE(S):

The rules are to provide pathways to permanent certification in advanced nonablative esthetics, renewal requirements and practice standards.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Oregon Revised Statutes 676.630 to 676.660, public comment, House Bill 2642 (2015), Food and Drug Administration information, ANSI standards and board and committee meeting minutes or recordings. All documents are available at the Health Licensing Office, 1430 Tandem Ave Suite 180, Salem, OR 97301-1287. To obtain information or copies of information please contact Samantha Patnode, Policy Analyst, at 503-373-1917, during business hours Monday through Friday between 6:00 am to 2:30 pm. Email: samie.patnode@state.or.us

FISCAL AND ECONOMIC IMPACT:

1. Impact on state agencies, units of local government and the public:

There may be an economic impact on the Oregon Board of Cosmetology which currently has approximately 22,000 certificate holders and the Higher Education Coordinating Commission which oversees approximately 40 cosmetology career schools.

The rule changes do not appear to economically affect units of local government.

Individuals seeking certification as an advanced esthetician and do not currently hold a basic esthetics certificate will be paying approximately \$6,000 for 500 hours of education.

If authorization holders are considered the public basic estheticians certified under the Board of Cosmetology may be affected if they intend to enroll in an advanced esthetics private career school. Currently there is only one advanced esthetics school located in Tigard, Oregon. Costs for training during the grandfathering period July 1, 2016 to December 31, 2017 was between \$4,000 to \$13,000 dollars. The education curriculum effective on January 1, 2018 requires more hours of theory and hands-on practical procedures which likely will increase the cost for education to potential students. There may also be travel and lodging costs for students if they don't live in the Portland and surrounding areas. They may also have time missed from work in order to obtain advanced esthetic education. Cost for permanent certification is a \$100 application fee and \$100 certification fee. The Board approved examination is \$250. There are approximately 14,632 basic estheticians

The public may experience higher prices due to education cost to the advanced esthetician and cost for Food and Drug Administration (FDA) approved devices and maintenance on devices.

Individuals considering opening an advanced esthetics private career school may have initial costs including:

- Tuition income starts at \$780 and increases based on income range;
- Application fee - \$4000 in state and \$6000 out-of-state; and
- Teacher registration fee - \$75.

Advanced estheticians may have several economic impacts both positive and negative. There are currently 335 advanced estheticians certified in Oregon.

- Two year renewal of basic esthetics– up to \$45
- Annual renewal fees for advanced esthetics - \$100
- Five hours of continuing education annually may cost from approximately \$99 to \$450
- Renewal requirement - First Aid, CPR and Blood Borne Pathogens certification cost approximately \$14 to \$95 depending if the training is taken individually or combined.
- ANSI Standards Laser Safety – Manual up to \$350, Laser Safety Officer training ranges from approximately \$450 to \$600
- Collaborative agreement – some advanced estheticians may opt to pay a licensed health care professional to enter into a collaborative agreement. Cost is unknown and would likely depend on negotiation of both parties.

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#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

There are approximately 5,000 licensed cosmetology facilities, three basic esthetic only career schools, one advanced esthetic career school and 47 total career schools under cosmetology and advanced esthetics all of which may be considered small businesses.

Cosmetology facilities including esthetics and advanced esthetics, medi-spa where medical and cosmetic services are performed.

b. Projected reporting:

Maintaining proof of continuing education for a period of five years, client records, client disclosure forms and collaborative agreement which must be developed and maintained for three years if applicable. Cost to maintain continuing education records.

Possible legal fees for developing collaborative agreement and assurance that professional liability insurance accurately reflects the need of the advanced esthetician.

c. Equipment, supplies, labor and increased administration for compliance:

Cost to maintain new lasers or other equipment registered with the FDA including calibration, safety and effectiveness of device. The cost may vary depending on the service and the sophistication of the device. There will likely be a cost for creating and printing collaborative agreements, patient disclosure forms, client records and informed consent documentation. Cost to maintain client records and provide copies of information to HLO or consumers would have a range of costs depending on the size of the advanced esthetics practice.

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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Used public comment received over the past 18 months, small business owners were specifically chosen to serve on the Rules Advisory Committee.

Other entities consulted when developing rules are as following:

- Manufacturer of FDA cleared microneedling device;
- FDA Division of Industry and Consumer Education (DICE), Center for Devices and Radiological Health;
- Private career schools in Oregon;
- Educational institution outside of Oregon; and
- Oregon Medical Board.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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RULES PROPOSED:

819-005-0005, 819-005-0015, 819-005-0020, 819-005-0025, 819-020-0100, 819-020-0110, 819-020-0120, 819-020-0130, 819-020-0150, 819-025-0000, 819-025-0010, 819-025-0020, 819-025-0030, 819-030-0005, 819-030-0010, 819-030-0020, 819-030-0025, 819-030-0060, 819-050-0010, 819-050-0020

AMEND: 819-005-0005

RULE SUMMARY: Update definitions for advanced esthetics rules.

CHANGES TO RULE:

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; and¶¶

(f) Nonablative tattoo removal.¶¶

(5) "FDA" means Food and Drug Administration.¶¶

(6) "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) "Office" means Health Licensing Office.¶¶

(8) "Wounding" means an act that damages the full thickness of the skin.

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

Statutes/Other Implemented: ORS 676.630, ORS 676.655

ADOPT: 819-005-0015

RULE SUMMARY: Procedures for electing chair and vice chairperson.

CHANGES TO RULE:

819-005-0015

Election of Chairperson and Vice Chairperson

The chairperson and vice chairperson may be elected at the request of the Board. The elected Board chairperson and vice chairperson may serve continuously until the Board elects another chairperson and vice chairperson.

Statutory/Other Authority: ORS 676.615, ORS 676.650, ORS 676.655

Statutes/Other Implemented: ORS 676.650, ORS 676.655

PROPOSED  
RULE

ADOPT: 819-005-0020

RULE SUMMARY: Requirements for filling vacancies for chair and vice chairperson.

CHANGES TO RULE:

819-005-0020

Board Officer Vacancies

If the chairperson or vice chairperson are unable to complete their term, the Board must elect another chairperson or vice chairperson.

Statutory/Other Authority: ORS 676.650, ORS 676.655, ORS 676.615

Statutes/Other Implemented: ORS 676.650, ORS 676.655

PROPOSED  
RULE

ADOPT: 819-005-0025

RULE SUMMARY: Requirements for serving as officers of the Board.

CHANGES TO RULE:

819-005-0025

Duties of Officers

(1) Except for the provision listed in subsection (2) of this rule, the chairperson must preside at all meetings. The chairperson shall confer with the Office on matters that come up between meeting dates, and matters that need to be placed on the agenda for Board meetings. The chairperson may order or reorder the agenda. ¶

(2) In the absence of the chairperson from a meeting or a portion of a meeting, the vice chairperson will preside at the meeting.¶

(3) Decisions will be made by a vote of the Board and carried out with a motion and second and a majority vote.

Statutory/Other Authority: ORS 676.615, ORS 676.650, ORS 676.655

Statutes/Other Implemented: ORS 676.650, ORS 676.655

PROPOSED  
RULE

RULE SUMMARY: Educational requirements for certification.

CHANGES TO RULE:

819-020-0100

Certified Advanced Esthetics Education Requirements

All educational curriculum for certified advanced esthetics must meet requirements set forth by the Office and the Board of Certified Advanced Estheticians. ¶

(1) A certified advanced esthetics career school curriculum must include 500 hours of theory and practical education. The education must include a minimum of 280 theory hours, 195 practical hours, 25 discretionary hours and a minimum of 110 procedures listed in the December 15, 2017 Advanced Esthetics Curriculum available on the Office Website at <http://www.oregon.gov/oha/PH/HLO/Pages/Board-Certified-Advanced-Estheticians-License.aspx>. ¶

(2) The 280 hours of theory instruction must include the following: ¶

(a) Anatomy, physiology and histology: 25 hours; ¶

(b) Diseases and disorders: 10 hours; ¶

(c) Safety, sanitation and infection control: 5 hours; ¶

(d) Oregon Revised Statutes and Oregon Administrative Rules: 5 hours; ¶

(e) First Aid, Cardiopulmonary Resuscitation and Blood Borne Pathogens: 8 hours; ¶

(f) Food and Drug Administration: 2 hours ¶

(g) American National Standard for Safe Use of Lasers (ANSI): 40 hours; and ¶

(h) Technologies: 15 hours which is inclusive of all areas as specified below: ¶

(A) Intense pulse light; ¶

(B) Lasers; ¶

(C) Plasma; ¶

(E) Nonablative fractional collagen induction; ¶

(F) Esthetic radio frequency; ¶

(G) Esthetic ultrasound; ¶

(I) Cryolipolysis; ¶

(J) Microwaves; and ¶

(K) Emerging technologies. ¶

(i) Modalities 170 hours as specified below: ¶

(A) Light energy hair removal: 25 hours; ¶

(B) Photo rejuvenation and dyschromia reduction: 25 hours; ¶

(C) Skin rejuvenation: 45 hours ¶

(D) Cellulite reduction: 25 hours; ¶

(E) Body contouring: 25 hours; and ¶

(F) Nonablative tattoo removal: 25 hours ¶

(3) The 195 hours of practical instruction includes 110 procedures as specified below: ¶

(a) Light energy hair removal: 25 hours and 20 procedures; ¶

(b) Photo rejuvenation and dyschromia reduction: 30 hours and 20 procedures; ¶

(c) Skin rejuvenation: 50 hours and 25 procedures; ¶

(d) Cellulite reduction: 35 hours and 15 procedures; ¶

(e) Body contouring: 35 hours and 15 procedures; and ¶

(f) Nonablative tattoo removal: 20 hours and 15 procedures. ¶

(4) 25 Discretionary hours may be completed within the theory or practical portion of the education. ¶

(5) Education must be conducted at a licensed career school and by a licensed teacher through the Higher Education Coordinating Commission. ¶

(6) The theory portion of the curriculum must be completed prior to the practical portion of the curriculum. ¶

(7) A teacher licensed under ORS Chapter 345 and OAR Chapter 715 must provide direct supervision when practical training is being performed by a student. Supervision must be provided within following ratios:¶¶  
(a) Four students to one teacher ratio while students are observing practical procedures; and¶¶  
(b) One student to one teacher ratio while the student is performing practical operation without assistance. ¶¶  
(c) The requirements under subsection (7)(a) and (b) of this rule does not preclude four students from observing the one student performing the practical procedures without assistance under the same teacher.  
Statutory/Other Authority: ORS 345, ORS 676.615, ORS 676.655, ORS 676.640, ORS 676.630  
Statutes/Other Implemented: ORS 676.655, ORS 676.640

PROPOSED  
RULE

ADOPT: 819-020-0110

RULE SUMMARY: Certification information

CHANGES TO RULE:

819-020-0110

Advanced Esthetician Certification

(1) A permanent certification authorizes the holder to practice advanced nonablative esthetics. ¶

(2) A permanent certification is valid for one year and becomes inactive on the last day of the month one year from the date of issuance or renewal.

Statutory/Other Authority: ORS 676.615, ORS 676.655, ORS 676.640, ORS 676.592, ORS 676.583

Statutes/Other Implemented: ORS 676.655, ORS 676.640

PROPOSED  
RULE

RULE SUMMARY: Application requirements for becoming a certified advanced esthetician.

CHANGES TO RULE:

819-020-0120

Application Requirements for Certified Advanced Esthetician

(1) An individual applying for certification to practice nonablative esthetics must meet the requirements pursuant to ORS 676.640 and must: ¶

(a) Meet the requirements of OAR 331 Division 30; ¶

(b) Submit a completed application form prescribed by the Office, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of all required fees; ¶

(c) Be at least 18 years of age and provide the Office official documentation verifying date of birth, such as a copy of the applicant's birth certificate, driver's license, or passport; ¶

(d) Hold an active esthetic certificate through the Board of Cosmetology pursuant to ORS 690.046 through 690.047 and be in good standing with no current or pending disciplinary action; and ¶

(e) Provide documentation of completing one of the following pathways: ¶

(2) PATHWAY ONE - GRADUATE OREGON SCHOOL: A graduate of an Oregon licensed career school for advanced nonablative esthetics that meets requirements pursuant to OAR 819-020-0100 must: ¶

(a) Submit official transcript from a licensed career school under ORS 345 showing proof of completion of required certified advanced esthetics curriculum approved by the Board under OAR 819-020-0100; and ¶

(b) Provide official proof of having passed a Board-approved examination listed in OAR 819-020-0130 within two years before the date of application. Examination results must be submitted to the Office directly from the examination provider and constitute proof of passage of a Board-approved examination. Examination results provided directly by the applicant are not acceptable. ¶

(3) PATHWAY TWO - NATIONAL CERTIFICATION: An individual who has a certification to use lasers or other devices for purposes related to practicing advanced nonablative esthetics procedures from a nationally recognized program that is approved by the Board must: ¶

(a) Provide official proof of having certification to use lasers or other devices for purposes related to practicing advanced nonablative esthetics procedures from a nationally recognized program that is approved by the Board; and ¶

(b) Provide official proof of having passed a Board-approved examination listed in OAR 819-020-0130 within two years before the date of application. Examination results must be submitted to the Office directly from the examination provider and constitute proof of passage of a Board-approved examination. Examination results provided directly by the applicant are not acceptable. ¶

(c) Currently there are no Board-approved nationally recognized programs. ¶

(4) PATHWAY THREE - RECIPROCITY: An individual authorized and in good standing to practice advanced nonablative esthetics procedures in a state where the requirements to practice nonablative esthetics procedures are substantially similar to the requirements to practice advanced nonablative esthetics procedures in this state must provide documentation showing substantial equivalency to Oregon including, but not limited, to the following: ¶

(a) License requirement in state; ¶

(b) Scope of practice within the state; ¶

(c) Program or course curriculum including hours; ¶

(d) Theory hours; ¶

(e) Practical hours; and ¶

(f) Teacher requirements. ¶

(5) PATHWAY FOUR - OUT OF STATE EDUCATION OR TRAINING PROGRAM: Pursuant to ORS 676.640(2)(b), if a training or education program is not located in Oregon it must be substantially equivalent to a program licensed through the Higher Education Coordinating Commission. Documentation supporting substantial

equivalence must include but is not limited to the following: ¶

(a) License requirement in state:¶

(b) Scope of practice within the state:¶

(c) Program or course curriculum including hours:¶

(d) Theory hours:¶

(e) Practical hours; and¶

(f) Teacher requirements.¶

NOTE: The applicant is responsible for payment of fees to other organizations including but not limited to examination fees.

Statutory/Other Authority: ORS 345, ORS 676.615, ORS 676.655, ORS 676.640, ORS 676.592, ORS 676.583

Statutes/Other Implemented: ORS 676.655, ORS 676.640

PROPOSED  
RULE

ADOPT: 819-020-0130

RULE SUMMARY: Required examination to obtain certification.

CHANGES TO RULE:

819-020-0130

Approved Examination

Information on the December 2017 version of the Board approved written examination can be accessed on the Office's website.

Statutory/Other Authority: ORS 676.615, ORS 676.640, ORS 676.655, ORS 676.586

Statutes/Other Implemented: ORS 676.640, ORS 676.655

PROPOSED  
RULE

ADOPT: 819-020-0150

RULE SUMMARY: Retake examination requirements.

CHANGES TO RULE:

819-020-0150

Examination Retake Requirements

Pursuant to ORS 676.655(1)(a) an applicant must meet the following requirements for retaking an examination:¶

(1) After third failed attempt - must submit an official transcript certifying additional training determined by an educational institution on a form prescribed by the Office; ¶

(2) After sixth failed attempt - must submit an official transcript certifying additional training determined by an educational institution on a form prescribed by the Office; ¶

(3) After seventh failed attempt - requirements for retake examination will be determined by the Board on a case-by-case basis.

Statutory/Other Authority: ORS 676.615, ORS 676.640, ORS 676.655, ORS 676.586

Statutes/Other Implemented: ORS 676.640, ORS 676.655

PROPOSED  
RULE

ADOPT: 819-025-0000

RULE SUMMARY: Requirements for posting of certification for certified advanced estheticians.

CHANGES TO RULE:

819-025-0000

Authorization Display and Posting Requirements

(1) Advanced esthetic certificates must be posted in public view.¶

(2) A certification holder may temporarily conceal the address printed on the certification document with a covering that is removable.

Statutory/Other Authority: ORS 676.615, ORS 676.655

Statutes/Other Implemented: ORS 676.655

PROPOSED  
RULE

RULE SUMMARY: Renewal requirements for certified advanced estheticians.

CHANGES TO RULE:

819-025-0010

Certification Issuance and Renewal

(1) A certification holder is subject to the provisions of OAR Chapter 331, Division 30 regarding the renewal of a certification, and provisions regarding authorization to practice, identification, and requirements for issuance of a duplicate certification.¶

(2) Certification renewal under this rule is valid for one year and becomes inactive on the last day of the month one year from the date of issuance or renewal. ¶

(3) CERTIFICATION RENEWAL: To avoid delinquency penalties, a certification holder must renew prior to the certification entering inactive status. The certification holder must submit the following: ¶

(a) Renewal application form; ¶

(b) Payment of required renewal fees pursuant to OAR 819-040-0005; ¶

(c) Attestation of having obtained required annual continuing education under OAR 819-025-0020 and 819-020-0030, on a form prescribed by the Office, whether certification is current or inactive; ¶

(d) Attestation of current certification in cardiopulmonary resuscitation from an Office-approved provider; ¶

(e) Attestation of current first-aid training by an Office-approved provider; ¶

(f) Attestation of current certification in blood-borne pathogens training from an Office-approved provider; ¶

(g) Attestation of having a collaborative agreement with a health-care provider pursuant to OAR 819-030-0020; and¶

(h) Provide proof of having an active esthetic certificate through the Board of Cosmetology pursuant to ORS 690.046 and be in good standing with no current or pending disciplinary action.¶

(4) INACTIVE CERTIFICATION RENEWAL: A license becomes inactive if it is not renewed before its "active through" date. A certificate may be inactive for up to three years, but an inactive certificate does not authorize its holder to practice advanced esthetics. To renew an inactive license, the licensee must:¶

(a) Renewal application form; ¶

(b) Payment of delinquency and certification fees pursuant to OAR 819-040-0005; ¶

(c) Attestation of having obtained required annual continuing education under OAR 819-025-0020 and 819-020-0030, on a form prescribed by the Office; ¶

(d) Attestation of current certification in cardiopulmonary resuscitation from an Office-approved provider; ¶

(e) Attestation of current first aid training by an Office-approved provider; ¶

(f) Attestation of current certification in blood-borne pathogens training from an Office-approved provider;¶

(g) Attestation of having a collaborative agreement with a health-care provider pursuant to OAR 819-030-0020; ¶

(h) Provide proof of having an active esthetic certificate through the Board of Cosmetology pursuant to ORS 690.046 and be in good standing with no current or pending disciplinary action.¶

(5) EXPIRED CERTIFICATION: A certification that has been inactive for more than three years is expired and the certification holder must reapply for certification and meet the requirements listed in OAR 819-020-0110 and 819-020-0120.

Statutory/Other Authority: ORS 676.615, ORS 676.645, ORS 676.655, ORS 676.586

Statutes/Other Implemented: ORS 676.645, ORS 676.655

ADOPT: 819-025-0020

RULE SUMMARY: Continuing education requirements for certified advanced estheticians.

CHANGES TO RULE:

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 esthetic 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. ¶

(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 two 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.

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

Statutes/Other Implemented: ORS 676.655

ADOPT: 819-025-0030

RULE SUMMARY: Continuing education audit requirements.

CHANGES TO RULE:

819-025-0030

Continuing Education: Audit, Required Documentation and Sanctions

(1) The Office will audit a select percentage of certificate holders to verify compliance with continuing education requirements.

(2) Certificate holders notified of selection for audit of continuing education attestation must submit to the Office, within 30 calendar days from the date of issuance of the notification, satisfactory evidence of participation in required continuing education in accordance with OAR 819-025-0030.

(3) Evidence of successful completion of the required continuing education may include the following:

(a) Name of continuing education sponsor/provider;

(b) Course agenda - including the date of the training and breakdown of hours for each agenda item, lunch and breaks;

(c) Course outline - including a detailed summary of each topic discussed and the learning objective or training goal of each agenda item. The content of the course must have a direct relationship between the course training and subject matter related to requirements listed in OAR 819-025-0020;

(d) Background resume of speakers or instructors; and

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

(4) Evidence of self-study, research, authorship or teaching successful completion of the required continuing education may include the following:

(a) Name of sponsor or source, type of study, description of content, date of completion, and duration in hours in accordance with OAR 819-025-0020(1);

(b) Name of approved correspondence courses or national home study issues;

(c) Name of publications, textbooks, printed material or audio cassettes, including date of publication, publisher, and ISBN identifier; and

(d) Name of films, videos, or slides, including date of production, name of sponsor or producer and catalog number.

(5) If documentation of continuing education is incomplete, the certificate holder has 30 calendar days from the date of the deficiency notice to correct the deficiency and submit further documentation of completion of the required continuing education.

(6) Misrepresentations of continuing education or failure to complete continuing education requirements may result in disciplinary action, which may include, but is not limited to assessment of a civil penalty and suspension or revocation of the certificate.

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

Statutes/Other Implemented: ORS 676.655

ADOPT: 819-030-0005

RULE SUMMARY: General practice standards for certified advanced estheticians.

CHANGES TO RULE:

819-030-0005

General Practice Standards

(1) A certified advanced esthetician must disclose to each client if they are working outside their scope of practice.

Disclosure to the client includes, but is not limited to:

(a) Name tags that state the individual's name and the capacity the individual is working; or

(b) Designation in a client's treatment log documenting who performed service and in what capacity they are working under including but not limited to medical assistant or registered nurse.

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

(a) Ablative services; and

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

(3) Procedures performed without using a laser or other device registered with the FDA are not considered advanced nonablative esthetics services pursuant to ORS 676.630(1).

(4) Services provided by an certified advance esthetician that are prohibited, unsafe, dangerous or cause serious harm to a client may be considered incompetence or negligence pursuant to ORS 676.612(2)(j) or OAR 331-020-0008.

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

Statutes/Other Implemented: 676.630, 676.655

PROPOSED  
RULE

ADOPT: 819-030-0010

RULE SUMMARY: Client disclosure form requirements for certified advanced estheticians.

CHANGES TO RULE:

819-030-0010

Client Disclosure of 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

PROPOSED  
RULE

ADOPT: 819-030-0020

RULE SUMMARY: Collaborative agreement requirements for certified advanced estheticians.

CHANGES TO RULE:

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 that is 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 collaborative agreements must be kept current by the certified advanced esthetician on the facility premises for a minimum of two years and if stored offsite must be made immediately available to the Office upon request. ¶¶

(3) Collaborative agreements that are no longer valid must be kept for two years on the facility premises and if stored offsite must be made immediately available to the Office upon request.¶¶

(4) All collaborative agreements may 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 for the licensed health-care professional, and ¶¶

(f) Effective date of agreement.¶¶

(5) Multiple advanced certified estheticians can enter into a collaborative agreement with 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.

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

Statutes/Other Implemented: ORS 676.630, ORS 676.655

ADOPT: 819-030-0025

RULE SUMMARY: Client record information for advanced estheticians.

CHANGES TO RULE:

819-030-0025

Client Record and Informed Consent

(1) A certified advanced esthetician is responsible for maintaining all client records. The record must include the following for each client: ¶

(a) Name of the certified advanced esthetician providing service; ¶

(b) Name, address, telephone number and date of birth of client; ¶

(c) Date of each service; ¶

(d) Type of service provided pursuant to OAR 819-005-0005(4) and type of technology or device listed in OAR 819-020-0100(2)(h); ¶

(e) Location of procedure on the body; ¶

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

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

(h) Description of complications during procedure(s). ¶

(i) Any referral to a health-care professional pursuant to 819-030-0020 and the client's response to the referral. ¶

(2) Upon initial visit, the certified advanced esthetician 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. ¶

(3) Following initial visit referenced in subsection (2) of this rule and if for the same procedure a certified advanced esthetician have the client initial they have received information listed in subsection (2) of this rule and document any refusal to initial the client record. ¶

(4) Information listed in subsection (2) of this rule may be combined with other documentation used by the certified advanced esthetician. ¶

(5) For the purpose of this rule, records must be maintained on the facility premises for 90 days and must be made available immediately upon request. Records older than 90 days must be made available to the Office upon request within 20 business days. Records must be kept for a minimum of three years and may be stored electronically. ¶

(6) Client records must be typed or printed in a legible format. Client records that are not readable by the Office will be treated as incomplete. ¶

(7) If a certified advanced esthetician 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.

Statutory/Other Authority: ORS 676.615

Statutes/Other Implemented: ORS 676.568, ORS 676.655

ADOPT: 819-030-0060

RULE SUMMARY: Practice standards for safety and infection control.

CHANGES TO RULE:

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 devices registered with the FDA for nonablative procedures pursuant to ORS 676.630;

(d) Use laser or other device registered with the FDA in a manner described in the manufacturer's instructions and consistent with the manufacturer's intended use of the device by the FDA;

(e) Maintain FDA registration documentation on each laser or 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 the standards pursuant to the 2014 American National Standard Z136.1 and the 2011 American National Standards Laser Safety Education Program Z136.3; and

(h) Adhere to all Centers for Disease Control and Prevention standards;

(2) Tools, instruments, equipment or devices that come 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 676.615

Statutes/Other Implemented: ORS 676.655, ORS 676.568

PROPOSED RULE

ADOPT: 819-050-0010

RULE SUMMARY: Civil penalty schedule for certificate holders.

CHANGES TO RULE:

819-050-0010

Schedule of Penalties for Certified Advanced Estheticians Violations

The Office, in consultation with the Board, has adopted the following presumptive penalty schedule for certain violations. Any violation of statute or rule will be handled at the discretion of the Office and Board.

(1) Performing, attempting to perform, or purporting to perform nonablative esthetics services without proper certification is a violation of ORS 676.635(1):

(a) Never held or expired:

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

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

(C) 3rd offense \$5,000;

(D) 4th offense: Monetary penalty and any other actions allowed by law including revocation or suspension of authorization to practice and refusal to issue a new authorization.

(b) Inactive:

(A) 1st offense: \$200;

(B) 2nd offense: \$500;

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

(D) 4th offense: Monetary penalty and any other actions allowed by law including revocation or suspended authorization to practice and refusal to issue a new authorization to practice to a revoked authorization holder.

(c) Suspended or revoked:

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

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

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

Statutory/Other Authority: ORS 676.615, ORS 676.586, ORS 676.608, ORS 676.612

Statutes/Other Implemented: ORS 676.586, ORS 676.608

ADOPT: 819-050-0020

RULE SUMMARY: Civil penalties for falsifying or failure to post certificate.

CHANGES TO RULE:

819-050-0020

Schedule of Penalties for Falsifying or Failure to Post Certificate

The Office, in consultation with the Board, has adopted the following presumptive penalty schedule for certain violations. Any violation of statute or rule will be handled at the discretion of the Office and Board.¶

(1) Altering with fraudulent intent or fraudulent use, attempted use, obtainment, or counterfeiting of a certificate issued by the Office is a violation of ORS 676.635(1): ¶

(a) 1st offense: \$1,500; ¶

(b) 2nd offense: \$3,500; and¶

(c) 3rd offense: \$5,000. ¶

(2) Failing to post a valid certificate issued by the Office in public view is a violation of OAR 819-025-0000: ¶

(a) 1st offense: \$200; ¶

(b) 2nd offense: \$500; ¶

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

Statutory/Other Authority: ORS 676.615, ORS 676.612, ORS 676.608, ORS 676.586, ORS 676.655

Statutes/Other Implemented: ORS 676.586, ORS 676.655

PROPOSED  
RULE