

The Nurse Who Participates in Cosmetic Procedures

Purpose: Utilizing the Oregon State Board of Nursing (Board) interpretive statement, *Scope of Practice Decision Making Guideline for All Licensed Nurses* to assist the Oregon-licensed nurse in determining whether the performance of a cosmetic procedure is within scope of practice.

Scope of Practice Decision Model: This model has been adopted by the Board to determine if a licensee is practicing within their scope of practice. The model, and instructions for using the model, are found at http://staging.apps.oregon.gov/osbn/Documents/IS_Scope_Decision_Tree.pdf

Application of the Scope of Practice Decision Making model cues a licensee to clarify or describe the specific role, intervention or activity in question. The model presents a series of specific and sequential questions to which the licensee must respond. Depending on a licensee's response to the first question, one of two things will happen:

1. Progression through the model will be stopped as it will have been determined that the role/intervention/activity is not within the scope of the Oregon licensee, or
2. The licensee will be allowed to continue to the next question.

When a licensee's response to each question allows continued progression through all questions, and includes an affirmative response to the final question, then the licensee may engage in the role, intervention, or activity to acceptable and prevailing standards of safe nursing care.

Identify, describe or clarify the role, intervention or activity under consideration.

For the purpose of this interpretive statement, cosmetics practice means nursing practice which occurs as a function of the nurse assisting a licensed independent practitioner (LIP) in implementation of the LIP-authored plan of care/treatment plan for a healthy client who seeks to enhance their appearance. In proceeding with the use of this interpretive statement, the nurse shall further clarify the LIP-ordered cosmetic treatment, procedure, or intervention.

1. Is the role, intervention or activity prohibited by the Nurse Practice Act (NPA) and Rules/Regulations or any other applicable laws, rules/regulations or accreditation standards?

Oregon's Nurse Practice Act

Oregon's Nurse Practice Act (NPA) does not regulate procedures nor does the NPA specifically prohibit the nurse's performance of cosmetic procedures. However, the NPA does limit the authority to diagnose and prescribe to the advanced practice registered nurse (APRN). As such, an RN's or LPN's role within a cosmetic practice would be as a health care team member who assists with implementation of the APRN's plan of care or other LIP's treatment plan for the client.

Oregon Medical Board

The Oregon Medical Board (OMB) has rules related to the performance of cosmetic procedures. Oregon Administrative Rules Chapter 847, Division 17, rule number 0030 (4) states that procedures or treatments

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involving the injection of a medication or substance for cosmetic purposes are the practice of medicine and must be performed as an office based surgical procedure.

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

Oregon Health Authority Public Health Division Office of Health Licensing

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

Oregon Board of Cosmetology

Pursuant to ORS 690.005 through 690.025, the Oregon Board of Cosmetology (OBC) states that persons may engage in cosmetology practices without a cosmetology license when that person is acting within the scope of their professional license and following their Board's practice standards. Based on this OBC statute, the Board interprets that the OSBN-licensee may perform a cosmetic procedure when abiding by the laws and regulations of the NPA.

Board of Certified Advanced Estheticians

Pursuant to 676.635, the Board of Certified Advanced Estheticians (BCAE) states a person may not practice advanced nonablative esthetics procedures unless the person is certified by the Board of Certified Advanced Estheticians under ORS 676.640 or the person is a licensed health care professional whose scope of practice includes the practice of advanced nonablative esthetics procedures. Based on this BCAE statute, and as the NPA does not specifically prohibit the nurse from performing advanced nonablative esthetics procedures, the Board has interpreted that the nurse may perform advanced nonablative esthetics procedures when abiding by the laws and regulations of the NPA.

The nurse who seeks to engage in a cosmetics practice is individually responsible to access the rules and regulations both within and outside of the NPA to determine if any changes have occurred since the development of this interpretive statement.

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

Professional specialty nursing organizations, such as the Dermatology Nurses' Association (DNA), provide standards and guidelines on the nurse's role in the provision of cosmetic services. The DNA's guidelines are retrievable through their website at <https://www.dnanurse.org/>

Primary literature sources containing peer-reviewed publications may be accessed via a full text database such as ProQuest, EBSCOhost, and Nursing@Ovid®. These primary literature sources are available through subscription and may be available through an employer or alma mater.

The American Nurses Association publishes professional practice and performance standards that apply to the practice of nursing in any practice role.

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

Prior to engaging in the identified cosmetics treatment, procedure, or intervention, the nurse is responsible for ensuring that policies and procedures of the setting support the nurse's engagement in the activity and that the policies and procedures are accessible in the environment of care. The nurse has a responsibility to recognize that the organizational or business policy may not compel a licensee of the Board to practice in violation of the NPA or in violation of any law or regulation. Collaborative development of these policies and procedures is recommended to ensure their functionality and appropriateness in the event the LIP is not physically present during implementation of the client's treatment plan, or for an emergent situation. The procedures should include absolute stops for when it is deemed unsafe to proceed with implementation of the LIP's treatment plan for the client.

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

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

The Board interprets the educational standard for the performance of advanced nonablative esthetic procedures to include the successful completion of at least forty hours of education in laser theory and fundamentals per the 2014 American National Standards Laser Safety Education Program.

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

Chapter 851 Division 45 standards require the nurse to ensure competency in the cognitive and technical aspects of a nursing intervention or a nursing procedure prior to its performance. These standards also require the nurse to maintain documentation of the method that competency was acquired and maintained. Evidence of this may be demonstrated by the nurse's documented completion of a formal educational program that validates attainment of competency objectives.

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Should a complaint be received by the Board, the investigation would include a request for documentation of the nurse's initial competency and continued competency validation.

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

A reasonable and prudent nurse may perform a cosmetic procedure when the procedure is: not a prohibited act; within the scope of practice for the licensee's level of licensure; appropriate to occur in the environment of care; one for which the nurse possesses the necessary education and competencies to execute safely; included within the APRN's plan of care for the client or other LIP's treatment plan for the client; supported by the LIP's order for the procedure; and delivered in adherence to Chapter 851 Division 45 Standards and Scope of Practice. The latter includes, but is not limited to, the nurse's documented engagement in nursing process as required by 851-045-0060(3)(a) through (f) for the RN, and by 851-045-0050(3)(a) through (e) for the LPN.

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

The nurse maintains responsibility for the environment of care and is accountable for nursing care provided. When all criteria of the Scope of Practice Decision Making model have been met, and the nurse is prepared to accept accountability for performance of the procedure and its outcome, then the activity is within the scope of practice and the nurse may perform the activity to acceptable and prevailing standards of safe nursing care.

If the nurse is not be willing to accept the accountability for performance of the procedure on the client and the outcome, the nurse should decline to engage in the procedure. When this decision is made by the nurse, the choice to decline is not a scope of practice issue.

Frequently Asked Questions

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

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

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

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

References:

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

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

Oregon Medical Board (October 9, 2015) *Responsibilities of Medical Directors of Medical Spas*. Retrieved from
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Oregon Medical Board (January 2002) Use of Medical Lasers. Retrieved from
www.oregon.gov/omb/board/philosophy/Pages/Medical-Use-of-Lasers.aspx

Oregon's Nurse Practice Act.

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

Oregon State Board of Nursing (April 12, 2018). *Scope of Practice Decision Making Guideline for All Licensed Nurses.*

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