

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE
AND TRIBAL LIAISON



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

PERMANENT ADMINISTRATIVE ORDER

BOC 1-2024

CHAPTER 817

OREGON HEALTH AUTHORITY

HEALTH LICENSING OFFICE, BOARD OF COSMETOLOGY

FILED

01/21/2024 6:00 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Definition of esthetics device.

EFFECTIVE DATE: 01/26/2024

AGENCY APPROVED DATE: 10/23/2023

CONTACT: Carrie Edwards
503-373-1902
carrie.edwards@oha.oregon.gov

1430 Tandem Ave NE
320
Salem, OR 97301

Filed By:
Samantha Patnode
Rules Coordinator

RULES:

817-005-0005, 817-015-0040

AMEND: 817-005-0005

RULE TITLE: Definitions

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Align definitions with changes from HB 2970 (2021).

RULE TEXT:

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, an Oregon career school licensed under ORS 345 or an Oregon community college licensed under ORS 341.
- (13) "EPA" means the United States Environmental Protection Agency.
- (14) "Epidermis" has the definition set forth under OAR 817-015-0045.
- (15) "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.
- (16) "Esthetics" has the definition set forth in ORS 690.005.
- (17) "Esthetics device" has the definition set forth under OAR 817-015-0040.
- (18) "Facility" has the definition set forth in ORS 690.005.
- (19) "FDA" means the United States Food and Drug Administration.
- (20) "Field of practice" has the definition set forth in ORS 690.005.
- (21) "Fire-retardant container" means an airtight metal container for disposing of chemical waste or storing linens with chemical residue.
- (22) "Freelance authorization" has the definition set forth in ORS 690.005.
- (23) "Hair design" has the definition set forth in ORS 690.005.
- (24) "HECC" means Higher Education Coordinating Commission.
- (25) "High-level disinfectant" means a chemical agent, that has demonstrated tuberculocidal activity and is registered with the EPA.
- (26) "Independent contractor" has the definition set forth in ORS 690.005.
- (27) "Low-level disinfectant" means a chemical agent that has demonstrated bactericidal, germicidal, fungicidal, and limited virucidal activity and is registered with the EPA.
- (28) "Materials and supplies" means those items that 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.
- (29) "Mechanical or electrical apparatus, appliance, or device" has the definition set forth in ORS 690.005.
- (30) "Nail technology" has the definition set forth in ORS 690.005.
- (31) "Natural hair care" has the definition set forth in ORS 690.005.
- (32) "Natural person" means a living, individual, human being.
- (33) "Natural physiological effect" has the definition set forth in OAR 817-015-0045.
- (34) "Office" means the Health Licensing Office.
- (35) "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.
- (36) "Practitioner" has the definition set forth in ORS 690.005.
- (37) "Premises" means the entire area of a facility, licensed by the Office as a facility defined under ORS 690.005.
- (38) "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 blades with handles, lancets, razors, cuticle nippers, cuticle pushers, nail clippers, tweezers, comedone extractors, shears, and

metal nail files.

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

(40) "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.

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

(42) "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.

(43) "Work area" means an area where services are performed, and preparations are conducted, including, but not limited to, shampoo areas, workstations, and dispensing areas.

STATUTORY/OTHER AUTHORITY: ORS 690.005, ORS 345, ORS 690.165, ORS 676.615, ORS 676.630

STATUTES/OTHER IMPLEMENTED: ORS 690.005, ORS 345, ORS 690.165

ADOPT: 817-015-0040

RULE TITLE: Definition of Esthetics Device

NOTICE FILED DATE: 08/31/2023

RULE SUMMARY: Define esthetics device.

RULE TEXT:

Pursuant to ORS 690.005(12), the Board and the Board of Certified Advanced Estheticians collaboratively developed this definition of "Device" (esthetics device). This rule sets forth the specific characteristics of an esthetics device.

(1) An esthetician is limited to performing services with mechanical or electric apparatuses, appliances, or devices that do not penetrate beyond the epidermis except through natural physiological effects as defined in OAR 817-015-0045.

(2) An esthetician may use mechanical or electrical apparatuses, appliances, or devices that include, but are not limited to, the following:

(a) Galvanic current;

(b) High-frequency;

(c) Microcurrents;

(d) Light-emitting diode therapy;

(e) Microdermabrasion; and

(f) Mechanical or electrical apparatuses, appliances, or devices used for nanoneedling, microneedling, and similar procedures; and

(g) Esthetics devices.

(3) An esthetic device must:

(a) Be either mechanical or electrical.

(b) Be capable of, and used for, performing the following skin care or facial care services pursuant to ORS 690.005(5):

(A) Cleansing;

(B) Stimulating;

(C) Manipulating;

(D) Exfoliating;

(E) Applying lotions or creams.

(c) Have the same risk and safety qualifications as galvanic current, high-frequency, microcurrents, light-emitting diode therapy, and microdermabrasion.

(4) An esthetic device is not a:

(a) Laser;

(b) Intense pulse light;

(c) Other advanced esthetics devices as specified in OAR 819-030-0000(3);

(d) Needle-free device for injection of dermal fillers or fillers.

(5) An esthetician may not perform skin care or facial care practices or use a mechanical or electrical apparatus, appliance, or device for medical diagnosis or treatment of disease or physical or mental ailments.

(6) OAR 817-010-0065 applies to an esthetician using mechanical or electrical apparatuses, appliances, and devices. It is the responsibility of the esthetician to be trained and educated on mechanical or electrical apparatuses, appliances, and devices used and procedures used in the practice of esthetics pursuant to OAR 817-010-0065.

(7) An esthetician is responsible for determining if any services or mechanical or electrical apparatuses, appliances, or devices to be used on clients are prohibited by law.

(8) Services provided and mechanical or electrical apparatuses, appliances, or devices used by estheticians that are prohibited, unsafe, dangerous, or cause harm may result in a violation of incompetence, negligence, or unprofessional conduct pursuant to ORS 676.612(2)(j) and under Office or Board rules.

(9) An esthetician is responsible for performing services with mechanical or electrical apparatuses, appliances, or devices within the esthetics scope of practice as defined in this rule and ORS 690.005.

(10) An esthetician must practice esthetics safely and in a manner that safeguards the public's health, safety, and welfare.

(11) An individual certified in esthetics is prohibited from using devices listed in subsection (4) of this rule.

STATUTORY/OTHER AUTHORITY: ORS 690.005, ORS 690.065, ORS 676.615, ORS 676.630

STATUTES/OTHER IMPLEMENTED: ORS 690.005, ORS 676.630