

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

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 817
OREGON HEALTH AUTHORITY
HEALTH LICENSING OFFICE, BOARD OF COSMETOLOGY

FILED

04/30/2024 4:02 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Cosmetology school curriculum and practitioner application requirements and general housekeeping.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/28/2024 12:00 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@oha.oregon.gov

1430 Tandem Ave. NE Suite 180
Salem, OR 97301

Filed By:
Samantha Patnode
Rules Coordinator

HEARING(S)

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

DATE: 05/22/2024

TIME: 10:00 AM - 12:00 PM

OFFICER: Health Licensing Office

IN-PERSON HEARING DETAILS

ADDRESS: Health Licensing Office, 1430 Tandem Ave. NE Suite 180, Salem, OR 97301

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 971-277-2343

CONFERENCE ID: 407243061

SPECIAL INSTRUCTIONS:

For video using the link above:

Meeting ID: 284 179 585 87

Passcode: AaaTdv

NEED FOR THE RULE(S)

Rules are necessary to implement the requirements of SB 217 (2023) including the Board of Cosmetology (Board) adopting education and curriculum requirements for barbering, esthetics, hair design, and nail technology (field of practice) and creating processes and procedures for approving a school's curriculum. The bill also requires the Board redefine the certification pathways including adding a pathway to certification for applicants who do not hold an authorization in another state or country but who have education or training in a field of practice. Proposed rules adopt the definition of "natural physiological effects" in relation to "esthetics devices which was inadvertently left out of previous rule filings and aligns other rules with the definition of "esthetics device". Rules also remove barriers for

individuals retaking written examinations, eliminate the Oregon Laws and Rules Examination for freelance authorization applicants and individuals renewing their freelance authorization, add a requirement that practitioners attest to having current blood borne pathogens trainings at time of renewal. Other amendments reorganize rules to appropriate divisions and provide for general housekeeping changes including adding definitions from SB 217 (2023). The Health Licensing Office (HLO) is also proposing to implement a \$45 written examination fee for natural hair care applicants.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

SB 217 (2023), HB 2970 (2021), Rules Advisory Committee (RAC) reports, forms, processes procedures, statutes, and rules for cosmetology and HLO. Cosmetology. Board of Certified Advanced Estheticians statutes and rules. Higher Education Coordinating Commission, Private Career School statutes, rules, written processes, and procedures, HLO statistical information including examination and certification as well as financial information. Documentation from cosmetology schools including forms and costs to administer a practical examination.

All documents are available at the HLO, 1430 Tandem Ave Suite 180, Salem, OR 97301-1287. To obtain information or copies of information please contact Samie Patnode, Policy Analyst, at 503-373-1917 or by email at samie.patnode@oha.oregon.gov, during normal business hours Monday through Friday between 7 am to 2:30 pm.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The statutes require that all applicants meet minimum qualifications for certification as determined by the Board. This law is carried out equally, fairly, and justly for anyone who applies for a cosmetology authorization in Oregon without bias treatment of people of different races.

FISCAL AND ECONOMIC IMPACT:

There will likely be a fiscal impact on the public, applicants for a cosmetology authorization from Oregon, and current authorization holders. There will likely be a financial impact on Oregon businesses including small businesses including cosmetology schools, several state agencies including the Board of Cosmetology, HLO, HECC, Oregon Youth Authority and Department of Education.

If individuals who apply for an authorization are considered the public the following fiscal impact may apply:

For individuals applying for a practitioner certificate in a field of practice who do not pass a written examination there may be a cost savings. Currently applicant may wait up to 30-days to retake an examination and if applicable may be required to obtain additional education and training or be required to have Board approval to retake any additional written examinations after the sixth failed attempt. The amendment proposes to allow an applicant to retake written examinations the next business day and after the 10th failed attempt the Board would determine further requirements to take written examinations. Reducing the number of days an applicant must wait to retake a written examination will likely save on travel expenses including food, gas and often overnight stays and reduce the loss of wages for individuals coming from rural parts of Oregon or parts of Oregon not in the Portland Metropolitan Area or the Willamette Valley. For all applicants the ability to take the written examinations the next business day reduces barriers and puts Oregonians to work faster allowing them to provide for themselves and their families and to contribute to the overall success of the profession.

Individuals applying for a practitioner certificate in a field of practice who do not obtain a certificate within two-years from the date of application must retake all written examinations, including written examinations they previously passed. The proposed rule would change the requirement from two-years to five-years saving each applicant \$45 per

examination.

There is no way to know how many written examinations will be taken in the future. However, from July 1, 2021, to January 1, 2024, HLO administered a total of 19,731 written examinations for the cosmetology profession. Of those 8,132 written examinations did not receive a passing score.

Individuals applying for a practitioner certificate in a field of practice who do not obtain a certificate within two-years from the date they passed the school administered practical examination must retake the practical examinations, including practical examinations they previously passed. The proposed rule would change the requirement from two-years to five-years. The savings is unknown and would depend on whether a school would charge the applicant to retake the practical examination. An inquiry made to cosmetology schools who charge a fee to administer an additional practical examination was made. Cost for the practical examination ranged from \$450 to \$1000 depending on if the applicant is taking a practical examination for a single field of practice or a combination of fields of practice.

As of July 1, 2024, HLO is proposing to charge a \$45 examination fee for individuals applying for a natural hair care certificate. Currently there is no charge for HLO to administer the examination. The fee is to maintain testing systems, study materials and guides for the natural hair care examination. Originally the examination consisted of 25 questions since its inception the examination is more comprehensive and has a total of 100 questions.

Individuals applying for a freelance authorization will no longer be required to pass the written Oregon Laws and Rules examination as part of the application requirement. The cost for a written examination is \$45. There is no way to know how many individuals will apply for a freelance authorization in the future. However, from July 1, 2021, to January 1, 2024, HLO issued 701 freelance authorizations.

If individuals who currently hold an authorization to practice are considered the public the following fiscal impact may apply:

Proposed rules require individuals certified in one or more fields of practice to "attest" to having current blood borne pathogens training upon renewal. The training is not specific and may be obtained online or in-person. The individual would be required to maintain documentation proving they had current blood borne pathogens training during the designated renewal period. By attesting to having and maintaining current blood borne pathogens training the individual may be subject to an audit. If chosen for an audit documentation would need to be provided to HLO.

Currently freelance authorization holders are required to take the Oregon Laws and Rules examination every three years in order to renew. The proposed rule would remove the requirement and providing a savings of \$45 every three years. From July 1, 2021, to January 1, 2024, 615 freelance authorization holders renewed.

For certified estheticians the proposed rule defines "natural physiological effects" used in ORS 690.005 in terms of defining an "esthetics device". The text of the definition for "natural physiological effects" was inadvertently removed of the Notice of Proposed Rulemaking (Notice) published in the Secretary of State, September 2023, Oregon Bulletin. The Notice provided the fiscal impact on state agencies, units of local government and the public. The notice can be located at: <https://records.sos.state.or.us/ORSOSWebDrawer/Recordhtml/9657717>.

For state agencies the following fiscal impact may apply:

The Board's revenues will decrease as it relates to removing the requirement for freelance authorization holders to pass the Oregon Laws and Rules examination at the time of application and every three years after initial authorization is

issued. See number of issued and renewed freelance authorizations above.

The Board's revenue will increase by requiring applicants for a natural hair care certification pay \$45 for the examination. Prior to July 1, 2024, the examination had been administered free of charge. See number of natural hair care authorizations issued above.

The HLO will see an increased workload and therefore may have a negative fiscal impact due to the proposed rules requiring the HLO to maintain the Board's approved curriculum. SB 217 (2023) transferred the authority to approve the education and curriculum to the Board which is currently under HECC. HLO will be required to create processes and procedures for approving a school's curriculum as well as developing forms including applications and the detailed curriculum documents for each field of practice.

HLO will also be negatively impacted financially because SB 217 (2023) transferred from HECC to the HLO the authority to waive all or part of the education or training for an individual from another state or territory of the United States or another country. HLO must develop forms, procedures, and processes to implement the additional workload.

The HLO will see a decrease in workload and therefore may a positive fiscal impact due to changes in the retake examination process. Currently the HLO allows applicants who have failed a written examination more than three times be allowed to review the missed or failed examination questions. This requires staff time to sort the missed or failed questions and time to oversee the review. The proposed rule will allow an individual to take a failed written examination the next business day making the "examination review" unnecessary. After the 10th failed attempt, the Board may require an applicant have an HLO administered "study review" to retake the examination for an 11th time. HLO is currently developing a way for applicants to see missed or failed examination questions at the time the examination is taken. The financial impact on HLO is likely minimal.

SB 217 (2023) transferred from HECC to the Board the requirement to approve the cosmetology education and curriculum in each field of practice. The also transferred from HECC to HLO the requirement to approve each school's individual curriculum. Finally, the bill transferred from HECC to HLO the requirement to determine if an applicant's education or training in a field of practice is substantially equivalent to Oregon's if the applicant is from another state or territory of the United States or another country but does not hold an active authorization. Since SB 217 (2023) transferred these responsibilities HECC will no longer maintain forms, processes, or procedures for these functions and therefore should see a positive fiscal impact. There are currently more than 40 licensed cosmetology career schools in Oregon.

Other state agencies including Oregon Department of Education, Oregon Youth Authority (OYA) and Oregon Department of Corrections who have cosmetology programs in one or more fields of practice will see a cost benefit since the Board is approving the curriculum and HLO is approving the individual school's curriculum. Currently there is not a set process for having curriculum approved if the school is not required to be licensed by HECC. In some cases, HLO has entered into a Mutual Letter of Agreement or in the case of OYA they were issued a cosmetology career school license through HECC. The transfer will allow the process to be streamlined and provide direction to those schools not licensed through HECC.

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:

For cosmetology career schools licensed through HECC which are likely considered small businesses there may be costs to comply with requirements regarding the Board approved curriculum and any new procedures put in place to implement the change. There are currently 37 cosmetology career schools in Oregon that may be impacted.

Types of industries include barbering esthetics, hair design and nail technology.

b. Projected reporting:

There may be a minimal fiscal impact for cosmetology career schools to provide HLO with copies of their current curriculum by December 31, 2024.

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

Cosmetology career schools will have to update all forms including but not limited to official transcripts, practitioner applications and the written examination retake policy.

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

Small business owners serve on the Board and the Rules Advisory Committee.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

817-005-0005, 817-006-0002, 817-006-0007, 817-006-0025, 817-006-0050, 817-006-0075, 817-006-0100, 817-006-0125, 817-007-0175, 817-007-0250, 817-008-0000, 817-010-0008, 817-010-0065, 817-010-0067, 817-015-0025, 817-015-0030, 817-015-0045, 817-015-0055, 817-015-0065, 817-040-0003

AMEND: 817-005-0005

RULE SUMMARY: Definitions for the Board of Cosmetology.

CHANGES TO RULE:

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 implements, mechanical or electrical apparatuses, appliances, devices 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.¶
- (143) "Epidermis" has the definition set forth under OAR 817-015-0045.¶
- (154) "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.¶
- (165) "Esthetics" has the definition set forth in ORS 690.005.¶
- (176) "Esthetics device" has the definition set forth under OAR 817-015-0040.¶
- (187) "Facility" has the definition set forth in ORS 690.005.¶
- (198) "FDA" means the United States Food and Drug Administration.¶
- ~~(2019)~~ "Field of practice" has the definition set forth in ORS 690.005.¶
- (210) "Fire-retardant container" means an airtight metal container for disposing of chemical waste or storing linens with chemical residue.¶
- (221) "Freelance authorization" has the definition set forth in ORS 690.005.¶
- ~~(232)~~ "Hair design" has the definition set forth in ORS 690.005.¶
- (243) "HECC" means Higher Education Coordinating Commission.¶
- (254) "High-level disinfectant" means a chemical agent, that has demonstrated tuberculocidal activity and is registered with the EPA.¶
- (265) "Independent contractor" has the definition set forth in ORS 690.005.¶
- (276) "Low-level disinfectant" means a chemical agent that has demonstrated bactericidal, germicidal, fungicidal, and limited virucidal activity and is registered with the EPA.¶
- (287) "Materials and supplies" means those items that complement the use of tools and implements, mechanical or electrical apparatuses, appliances or devices, including but not limited to hair tints, bleaches, permanent wave solutions, hair oils, shampoos, wax, rinses, disinfectants, and chemicals.¶
- (298) "Mechanical or electrical apparatus, appliance, or device" has the definition set forth in ORS 690.005.¶
- ~~(3029)~~ "Nail technology" has the definition set forth in ORS 690.005.¶
- (310) "Natural hair care" has the definition set forth in ORS 690.005.¶
- (321) "Natural person" means a living, individual, human being.¶
- ~~(332)~~ "Natural physiological effect" has the definition set forth in OAR 817-015-0045.¶
- (343) "Office" means the Health Licensing Office.¶
- (354) "Official transcript" means a document authored prescribed 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 Office showing proof that an applicant has completed all curriculum requirements adopted by the Board for each field of practice the applicant is enrolled under. An official transcript must be submitted directly to the Office from a school by mail, email, or fax. An official transcript must include but is not limited to:¶
- (a) Applicant identity information including first and last name and date of birth.¶
- (b) Enrollment information including date of enrollment, last date of attendance, withdrawal date if applicable, and graduation date.¶
- (c) Each field of practice the applicant has completed.¶
- (d) Specific hours and number of practical operations completed for each field of practice if applicable, f.¶
- (e) 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 and the date each practical examination was administered and passed.¶

(f) A signature from an authorized representative on file with the Office.¶

(g) School name and location.¶

(h) Type of school.¶

(i) School authorization, stamp, school seal, or notarization.¶

(365) "Practitioner" has the definition set forth in ORS 690.005.¶

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

(37) "School" means an educational establishment that offers a cosmetology program of study in one or more fields of practice other than natural hair care, including, but not limited to, a career school licensed under ORS 345.010 to 345.450 including a proficiency-based career school, a community college, an educational establishment operated by a school district, Oregon Youth Authority, or Department of Corrections.¶

(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. Tools and implements do not include mechanical or electrical apparatuses, appliances, or devices.¶

(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

RULE SUMMARY: Board approved curriculum.

CHANGES TO RULE:

817-006-0002

Board Approved Curriculum

- (1) Pursuant to SB 217 (2023) a school that teaches the HECC approved curriculum in a field of practice before July 1, 2024, may continue to teach the curriculum after July 1, 2024, unless the Office determines that the curriculum must be approved. The curriculum in place prior to July 1, 2024, is available upon request to the Office or HECC.¶
- (2) Beginning July 1, 2024, the Board has adopted and implemented the following curriculum requirements for each field of practice. ¶
 - (a) Hour-based schools- hours and practical operations for each field of practice are as follows:¶
 - (A) Barbering: 746 hours and 465 practical operations.¶
 - (B) Esthetics: 444 hours and 220 practical operations.¶
 - (C) Hair design: 1110 hours and 455 practical operations.¶
 - (D) Nail technology: 241 hours and 70 practical operations.¶
 - (b) Proficiency-based schools - practical operations for each field of practice are as follows:¶
 - (A) Barbering: 465 practical operations.¶
 - (B) Esthetics: 220 practical operations.¶
 - (C) Hair design: 455 practical operations.¶
 - (D) Nail technology: 70 practical operations.¶
- (3) Safety, infection control and blood borne pathogens education and training must be incorporated in each practical operation identified in subsection (2) of this rule.¶
- (4) In addition to the requirements listed in subsection (2) and (3) of this rule, a student must successfully complete 20 hours of career development and 20 hours of Oregon laws and rules, for a total of 40 additional hours. ¶
- (5) Completion of required hours for career development and Oregon laws and rules listed in subsection (4) of this rule is required once regardless of the number of fields of practice the student completes. ¶
- (6) A person teaching and supervising the education and curriculum required under subsection (2), (3) and (4) of this rule, must hold an active certification issued by HLO in the field of practice in which they are teaching and supervising. ¶
- (7) All practical operations must be performed under the supervision of a person listed under subsection (6) of this rule. ¶
- (8) A student may not perform a practical operation until the school determines the student has met all competencies for the practical operation. For example, if a student has completed the theory portion of learning a "facial" and the school determines the student is competent the student may begin performing "facials". ¶
- (9) The student to teacher ratio while practical operations are being performed is as follows:¶
 - (a) 1-15 students present - one registered teacher.¶
 - (b) 16-30 students present - two registered teachers. ¶
 - (c) One additional registered teacher for each additional 20 students or part thereof. ¶
- (10) For purposes of this rule, a "practical operation" is the demonstration and hands-on application of a relevant skill or group of skills necessary for work in a field of practice. ¶
- (11) A school must meet all requirements set forth by the school's regulatory authority including but not limited to student record keeping, instructional design, and authorization to teach.¶
- (12) Upon request by the Office a school must provide the curriculum currently in use at the school.¶
- (13) Each school must submit a copy of their current curriculum, to the Office, by December 31, 2024. The purpose of the school submitting their current curriculum under this subsection is for Office record keeping only.¶
- (14) A school may be required to submit additional information upon request from the Office.¶
- (15) A school must have their current curriculum on file at the school at all times the school is open and available upon request.¶
- (16) HLO may at any time review a school, curriculum in a field of practice against the requirements listed in this rule and will notify each school requiring they submit their curriculum for approval. ¶
- (17) The Office may require a school apply to have their curriculum, in a one or more fields of practice, reviewed and approved for the following circumstances including but not limited to if:¶
 - (a) The Office receives information that a school's curriculum in a field of practice does not meet the Board's requirements.¶
 - (b) The Office performs an audit of school curriculum in a field of practice.¶
 - (c) The Board revises the curriculum in a field of practice.¶

(18) For the purpose of this rule field of practice does not include natural hair care.

Statutory/Other Authority: SB 217 (2023), ORS 690.046, ORS 690.161, ORS 690.165

Statutes/Other Implemented: SB 217 (2023), ORS 690.005, ORS 690.046, ORS 690.161, ORS 690.165

ADOPT: 817-006-0007

RULE SUMMARY: Application requirements for schools.

CHANGES TO RULE:

817-006-0007

School Curriculum Application Requirements

(1) A new school or a school the Office determines must have their curriculum, in a one or more fields of practice, reviewed and approved must fulfill the requirements of this rule. ¶

(2) The applicant must be a natural person.¶

(3) When applying for approval of a curriculum, the applicant must provide the following information on a form prescribed by the Office:¶

(a) Name of school.¶

(b) Type of school as defined under OAR 817-005-0005.¶

(c) Physical and mailing address of school.¶

(d) Name of person responsible for the school program and the curriculum in a field of practice.¶

(e) Contact information including phone number and email address for a person listed in (3)(d) of this rule.¶

(f) Fields of practice being taught.¶

(g) Whether the school is an hour or proficiency-based school.¶

(4) An applicant for a new school teaching one or more fields of practice must provide proof that the school has started the process of becoming a school, or part of a school program, or being authorized to teach a curriculum in a field of practice under the school's regulatory authority. Proof may include but is not limited to, written notification from the regulatory authority, or receipt of having submitted application or fees paid to the regulatory authority. Examples of regulatory authorities are as follows:¶

(a) Department of Corrections.¶

(b) Community Colleges.¶

(c) Oregon Department of Education.¶

(d) Oregon Youth Authority.¶

(e) HECC.¶

(5) The applicant must submit the school's proposed curriculum for each field of practice that the school will offer. The proposed curriculum must meet the requirements listed in OAR 817-006-0002, including hours and practical operations. Examples of proposed curriculum may include, but are not limited to, syllabus or program map for each field of practice.¶

(6) Notwithstanding subsection (3), if a school is revising a previously approved curriculum, the applicant may submit a summary of revisions, including revisions in hours or practical operations.

Statutory/Other Authority: SB 217 (2023), ORS 690.046, ORS 690.165

Statutes/Other Implemented: SB 217 (2023), ORS 690.005, ORS 690.046, ORS 690.165

AMEND: 817-006-0025

RULE SUMMARY: Application requirements for practitioners.

CHANGES TO RULE:

817-006-0025

Practitioner Certificate Application Requirements for Hair Design, Barbering, Nail Technology, and Esthetics

An individual applying for a certification in a field of practice must:

(1) Meet the requirements of OAR 331 Division 30;

(2) 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 the all required application and examination fees; and fees.

(3) Meet all education, examination and training requirements in effect at the time of application through one of the following pathways;

~~(a) Certification Pathway 1 - Graduation from an e and on forms prescribed by the Office if applicable;~~

(a) Pathway 1 - An applicant applying for certification and who graduated from an Oregon school must:

(A) Submit an official transcript from an educational institution showing proof of hours school showing proof the applicant has completed a Board approved curriculum listed in OAR 817-006-0002 for each field of practice as required by the HECC pursuant to ORS 345.400 and OAR 715-045-0200; If an applicant has completed multiple fields of practice, then one official transcript may be used.

(B) Submit a passing score of a Board-approved practical examination listed under OAR 817-006-0075. Practical examination scores are valid for ~~two~~ five years from the date the practical examination was completed and passed.

(C) Passage of a the applicable Board-approved written examination within ~~two~~ two listed in OAR 817-006-0075 for each field of practice in which certification is sought within five years of the date of application including the Oregon laws and rules examination. An applicant with a current certification who is seeking to add a field of practice must pass the Oregon laws and rules examination within ~~two~~ five years of applying for the additional field of practice.

(D) An applicant is not required to ~~provide proof of~~ submit an official transcripts in a for each field of practice required in pathway 1 of this rule if the applicant was previously certified in Oregon; and.

(E) Pathway 2 - An applicant coming from a proficiency-based educational institution under ORS 345.400 may be required to submit additional information to the Office.

(b) Certification Pathway 2 - Reciprocity applying for a certification through reciprocity may have all or part of the requirements described in pathway 1 of this rule waived by the Office if the applicant has an active authorization issued in another state or territory of the United States or another country and the authorization is substantially equivalent to Oregon's certification requirements. An applicant must:

(A) Submit an affidavit of licensure pursuant to OAR 331-030-0040 from another state, and the license or territory of the United States or another country, showing the authorization is active with no current or pending disciplinary action and.

(B) Have education or training, including education or training obtained in the military, that is substantially equivalent to Oregon's certification requirements pursuant to ORS 690.047; and listed in pathway 1 of this rule.

(BC) Passage of a the applicable Board-approved written examination within ~~two~~ two listed in OAR 817-006-0075 for each field of practice in which certification is sought within five years of the date of application including the Oregon laws and rules examination. An applicant with a current certification who is seeking to add a field of practice must pass the Oregon laws and rules examination within.

(c) Pathway 3 - An applicant applying for a certification through the non-credentialed process may have all or part of the requirements described in pathway 1 of this rule waived by the Office if the applicant received their education or training outside of Oregon, does not hold an active authorization issued by another jurisdiction and the education or training is substantially equivalent two years of applying for the additional field of practice.

(e) Certification Pathway 3 - HECC Review of E Oregon's certification requirements. An applicant must:

(A) Submit documentation demonstrating education or training, including education or training obtained in the military, that is substantially equivalent to Oregon's certification requirements listed in pathway 1 of this rule.

(B) If the Office determines that the education, or training and Experience:

(A) Submit document in (3)(c)(A) is not substantiation from the HECC confirming the applicant is qualified to take the Board-approved qualifying examination pursuant to ORS 345.430; and ally equivalent, then the applicant must submit proof that a school has verified the applicant's prior education or training.

(C) Submit proof from a school that the applicant passed the skills and practical assessment and evaluation.

(BD) Submit a passing score of a Board-approved practical examination. Practical examination scores are valid for

~~two~~ five years from the date the practical examination was completed and passed.¶

~~(E) Completion and passage of a~~ Pass the applicable Board-approved written examination ~~within two~~ listed in OAR 817-006-0075 for each field of practice in which certification is sought within five years before of the date of application including the Oregon laws and rules examination.¶

(4) Upon passage of all required examinations and before receipt of certificate, the applicant must pay all certification fees.¶

(5) If an applicant has not passed all required written examinations within two years of the date of initial application, the applicant must reapply and pay all required fees.

Statutory/Other Authority: ORS 345, ORS 676.615, ORS 690.046, ORS 690.165, ~~ORS 690.035~~

Statutes/Other Implemented: ORS 690.046, ORS 690.0365

AMEND: 817-006-0050

RULE SUMMARY: Application requirements for a certification in natural hair care.

CHANGES TO RULE:

817-006-0050

Practitioner Certificate Application Requirements for Natural Hair Care

An individual applying for a certification in natural hair care must:^{¶¶}

- (1) Meet the requirements of OAR 331 Division 30;^{¶¶}
- (2) 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 the required fees;^{¶¶}
- (3) Submit proof of having completed the informational training modules regarding natural hair care available on the Office Web-site;^{and¶¶}
- ~~(4) Submit proof of having completed and passed a Board-approved written.^{¶¶}~~
- (4) Pass the Board-approved written natural hair care examination within five years of the date of application.^{¶¶}
- (5) If an applicant has not passed all required examinations within two years before of the date of initial application, the applicant must reapply and pay all required fees.

Statutory/Other Authority: ORS 676.615, ORS 690.046, ORS 690.035, ORS 690.165, ORS 690.065

Statutes/Other Implemented: ORS 690.046, ORS 690.035, ORS 690.065

AMEND: 817-006-0075

RULE SUMMARY: General examination requirements.

CHANGES TO RULE:

817-006-0075

General Examination Information

(1) Practical examination: The Board recognizes and sanctions the practical examination ~~conducted by an educational institution defined under OAR 817-005-0005.~~ administered by a school. ¶

(2) Written examination: The Board-approved written examination consists of one or more fields of practice examinations and the Oregon laws and rules examination. ¶

~~(3) Written examination applicants may be electronically monitored during testing. ¶~~

~~(4) Each section of the~~ Each written examination will be scored individually. The passing score for each section examination, including natural hair care, is 75 percent or better. ¶

~~(54) The Board will establish a~~ Examination candidates must adhere to the maximum time allowance for each section of the written examination, as established by the Office. ¶

~~(5) Written examination applicants may be electronically monitored during testing. ¶~~

(6) An applicant may not take notes or bring textbooks or notebooks into the written examination area. ¶

(7) No electronic equipment or communication devices, such as personal computers, pagers or cellular telephones or any other devices deemed inappropriate by the Office, are allowed in the written examination area. ¶

(8) An applicant may be immediately disqualified during or after the examination for conduct that interferes with the written examination. The examination may be invalidated, and written examination fees may be forfeited.

Such conduct includes, but is not limited to: ¶

(a) Directly or indirectly giving, receiving, soliciting, or attempting to give, receive or solicit aid during the written examination process; ¶

(b) Taking items, including, but not limited to items listed in subsection (6) and (7) of this rule into the written examination area; ¶

(c) Removing or attempting to remove any examination-related information, notes or materials from the written examination site; ¶

(d) Failing to follow directions relative to the conduct of the written examination; and ¶

(e) Exhibiting behavior that impedes the normal progress of the written examination. ¶

(9) The applicant may be required to reapply, submit additional examination fees, and request in writing to schedule another examination if applicant is disqualified from taking the examination for reasons under subsection (6), (7) and (8) of this rule.

Statutory/Other Authority: ORS 690.046, ORS 690.065, ORS 690.165, ORS 676.615, ORS 690.065

Statutes/Other Implemented: ORS 690.046, ORS 690.065, ORS 690.065

AMEND: 817-006-0100

RULE SUMMARY: Written examination retake requirements.

CHANGES TO RULE:

817-006-0100

Written Examination Retake Requirements

~~(1) Failed sections of a written examination~~ An applicant may be retaken as follows:

~~(a) After first failed attempt – the applicant may not retake an examination until on or after failed examination the next business day up to the 8¹⁰th calendar day;~~

~~(b) After second failed attempt – the applicant may not retake an examination until on or after the 8th calendar day; failed attempt.~~

~~(c) After thirde 10th failed attempt–, the applicant may not retake an examination until on or after the 30th calendar day and must submit an official transcript certifying additional training from an educational institution on a form prescribed by the Office or complete an Office administered examination study review;~~

~~(d) After fourth failed attempt – the applicant may not retake an examination until on or after the 8th calendar day;~~

~~(e) After fifth failed attempt – the applicant may not retake an examination until on or after the 8th calendar day;~~

~~(f) After the sixth failed attempt the ability to retake an examination, requirements for retake, or both will be determined by the Board on a case-by-case basis. Board may determine qualifications before retaking the failed exam, including but not limited to additional hours and practical operations from a school.~~

~~(2) An applicant retaking the examination must meet the requirements under OAR 331-030-0000.~~

~~(3) If an applicant has not passed all required examinations within two years of the date of initial application, the applicant must reapply and pay all required fees.~~

~~(4) For natural hair care certification, the first two failed attempts may be retaken on the same day. After the second failed attempt and each subsequent attempt the applicant must wait until on or after the 8th calendar day.~~

Statutory/Other Authority: ORS 690.065, ORS 690.165, ORS 690.046, ORS 676.615

Statutes/Other Implemented: ORS 690.065, ORS 690.046

REPEAL: 817-006-0125

RULE SUMMARY: Repeal rule for practical evaluations

CHANGES TO RULE:

~~817-006-0125~~

~~Practical Examination Evaluation~~

~~The purposes of the practical examination evaluation are to allow the Board to decide which practical examinations it will approve as certifying examinations and how the Board will be able to determine whether or not an individual practical examination is one the Board approves.¶~~

~~(1) In accordance with ORS 690.046 all educational institutions may submit to a practical examination evaluation once every two years in at least one field of practice under ORS 690.005 to have the practical examination approved by the Board.¶~~

~~(2) A practical examination being evaluated for approval must be performed in a continuous eight-hour period.¶~~

~~(3) If the educational institution fails the practical examination evaluation, the educational institution must correct the deficiencies, in accordance with HECC, before the practical examination is approved by the Board.¶~~

~~(4) To correct a practical examination, the educational institution must schedule a new practical examination evaluation and meet the HECC evaluation standards within 30 days from the date of the initial practical examination evaluation.¶~~

~~(5) A student whose educational institution's practical examination has not been approved may take the practical examination at another educational institution.¶~~

~~(6) A student is responsible for any charges or fees for a practical examination administered by another educational institution.~~

~~Statutory/Other Authority: ORS 690.046, ORS 690.065, ORS 690.165, ORS 676.615~~

~~Statutes/Other Implemented: ORS 690.046, ORS 690.065~~

AMEND: 817-007-0175

RULE SUMMARY: Application requirements for freelance authorizations.

CHANGES TO RULE:

817-007-0175

Application Requirements for Freelance Authorization

To obtain a freelance authorization a practitioner must meet the requirements of OAR 331 Division 30 and submit:

(1) 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 the required fees;

(2) ~~A passing score on the Oregon Laws and Rules examination within two years before the date of application.~~ Proof of holding an active practitioner certification.

(3) A current copy of the Assumed Business Name (ABN) filing if applicant is operating under an assumed business name when applying for a freelance authorization. An ABN is not required if business includes the real and true name of the owner. Refer to Secretary of State, Corporations Division under ORS 648.

Statutory/Other Authority: ORS 690.165, ORS 676.615, ORS 690.123

Statutes/Other Implemented: ORS 690.123

AMEND: 817-007-0250

RULE SUMMARY: Application requirements for an independent contractor registration.

CHANGES TO RULE:

817-007-0250

Application Requirements for Independent Contractor Registration

(1) To obtain an independent contractor registration, a practitioner must meet the requirements of OAR Chapter 331 Division 30 ~~and. An applicant must~~ submit:¶

(1a) 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 the required fees;¶

(2b) Proof of being at least 18 years of age. Documentation may include identification listed under OAR 331-030-0000;¶

(3c) Proof of holding a current, valid practitioner certificate that is active and has no current ~~or pending~~ disciplinary action;¶

(42) An applicant must provide a current copy of the Assumed Business Name (ABN) filing if the applicant is operating under an assumed business name when applying for an independent contractor registration. An ABN is not required if business includes the real and true name of the owner. Refer to Secretary of State, Corporations Division under ORS 648.

Statutory/Other Authority: ORS 690.057, ORS 690.165, ORS 676.615

Statutes/Other Implemented: ORS 690.057

AMEND: 817-008-0000

RULE SUMMARY: Renewal requirements for authorization holders.

CHANGES TO RULE:

817-008-0000

Issuance and Renewal of Authorizations

(1) An individual holding an authorization as defined in OAR 331-010-0000 is subject to the provisions of OAR Chapter 331, Division 30 regarding the issuance and renewal of an authorization and provisions regarding authorization to practice, identification, and requirements for issuance of a duplicate authorization.¶

(2) An individual holding an authorization as defined in OAR 331-010-0000 is subject to the provisions of ORS 690.046, 690.055, 690.057, 690.105 and 690.123 for issuance and renewal of an authorization.¶

(3) AUTHORIZATION RENEWAL: Authorization renewal, with the exception of independent contractor registration or freelance license, must be made prior to the authorization entering inactive status. The authorization holder must submit the following for renewal:¶

(a) Renewal application form;¶

(b) Attest to having current blood borne pathogens training.¶

~~(c) Payment of required renewal fee pursuant to OAR 817-040-0003; and.~~¶

(4) INACTIVE AUTHORIZATION RENEWAL: An authorization, with the exception of independent contractor registration or freelance license may be inactive for up to three years. The authorization holder must submit the following for renewal:¶

(a) Renewal application form; ~~and.~~¶

(b) Attest to having current blood borne pathogens training.¶

~~(c) Payment of delinquency and authorization fees pursuant to OAR 817-040-0003. and.~~¶

(5) EXPIRED AUTHORIZATION: An authorization, with the exception of independent contractor registration or freelance license, that has been inactive for more than three years, is expired and the authorization holder must meet the requirements listed in OAR 817-007-0025 for facility license holders and OAR 817-008-0006-0025 or 817-006-0050 for practitioners.¶

~~(6) For freelance authorization renewal or reactivation, the freelance authorization holder must submit:¶~~

~~(a) Proof of having passed the Board-approved Oregon Laws and Rules examination every three years; or~~¶

~~(b) Proof of having passed the Board-approved Oregon Laws and Rules examination within three years before the date of reactivating a dormant freelance authorization.~~¶

~~(7) Independent contractor registrations and freelance authorization that are not renewed become dormant; they do not become inactive and do not expire.~~¶

~~(8) To reactivate a dormant independent contractor registration or freelance authorization, the authorization holder must complete required qualifications, submit a form prescribed by the Office, and pay the required renewal fees.~~¶

~~(9) Independent contractor registrations and freelance authorizations that are in dormant status are not valid.~~¶

~~(10) For the purpose of this rule, reactivation means to renew an independent contractor or freelance license registration that has been placed in dormant status.~~¶

(10) If an authorization holder under (3) and (4) of this rule provided required attestation to having current blood borne pathogens training is selected for an audit of their current blood borne pathogens training, they must submit proof to the Office, within 30 calendar days from the date of notification:¶

(a) Satisfactory evidence documentation of having current blood borne pathogens training during the renewal cycle in which the authorization holder attested.¶

(b) Documentation listed in this subsection must be kept and maintained for five years.¶

(c) Documentation listed in this subsection must be available to the Office upon request.

Statutory/Other Authority: ORS 676.572, ORS 676.568, ORS 690.165, ORS 676.615

Statutes/Other Implemented: ORS 676.572, ORS 676.568

ADOPT: 817-010-0008

RULE SUMMARY: Moved and renumbered rule.

CHANGES TO RULE:

817-010-0008

Servicing Clients

When providing services in a field of practice an authorization holder must:

(1) Perform thorough hand washing with soap and water or other alternative hand-washing products, such as gel, aerosol spray, foam, or packaged hand wipes, immediately before and after serving each client to prevent cross contamination and exposure to blood or other potentially infectious materials.

(2) Wear single-use disposable protective gloves when performing a service or procedure that routinely involves exposure to blood or other potentially infectious materials.

(3) Wear eye goggles, shields or a mask if spattering is likely to occur while services are being performed.

(4) Dispose of refuse and waste materials that come in contact with blood or other potentially infectious materials according to provisions of OAR 817-010-0060.

Statutory/Other Authority: ORS 690.165, ORS 690.225, ORS 690.205

Statutes/Other Implemented: ORS 690.165, ORS 690.225, ORS 690.205

REPEAL: 817-010-0065

RULE SUMMARY: Repeal and renumber to different division.

CHANGES TO RULE:

817-010-0065

~~Requirements and Standards ¶¶~~

~~(1) Any product or manual, mechanical or electrical appliance or apparatus used in a field of practice must meet all product registration requirements imposed by any federal, state, county, city or other regulating authority. ¶¶~~

~~(2) The following applies to any service, product, chemical, materials and supplies, tools and implements, including sharp-edged or pointed non-electrical tools and implements, or manual, mechanical or electric apparatuses or appliances that an authorization holder uses in a field of practice: ¶¶~~

~~(a) An item listed in (2) is subject to Office inspection. ¶¶~~

~~(b) The authorization holder must maintain and make available to the Office upon request all manufacturer operation and usage documentation for an item listed in (2). ¶¶~~

~~(c) The authorization holder is responsible for using an item listed in (2) in a manner that is consistent with the manufacturer's intended use. ¶¶~~

~~(d) The authorization holder must obtain education or training before providing services or using items listed in (2). ¶¶~~

~~(3) The following requirements pertain to the education or training listed in section (2)(d) of this rule: ¶¶~~

~~(a) The education or training listed in section (2)(d) of this rule may be obtained through schools, institutions, vendors, manufacturers, formal seminars, online courses, practitioners certified in a field of practice, a licensed health care provider or self-study. ¶¶~~

~~(b) Based on how the education or training was obtained, the authorization holder must maintain the following records of education or training listed in section (2)(d) of this rule: ¶¶~~

~~(A) For self-study: A completed self-study form. The self-study form is prescribed by the Office. ¶¶~~

~~(B) Schools, institutions, vendors, manufacturers, formal seminars, or online courses: ¶¶~~

~~(i) Name of education or training sponsor or provider; ¶¶~~

~~(ii) Documentation from the education or training sponsor that expressly shows that the education or training is related to an item in section (2) of this rule; ¶¶~~

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

~~(C) Certified practitioner or licensed health care provider: ¶¶~~

~~(i) Documentation of the content and hours; and ¶¶~~

~~(ii) Proof of the certified practitioner's or licensed health care provider's education or training. ¶¶~~

~~(c) The authorization holder must maintain records of education or training for as long as the authorization holder provides services. ¶¶~~

~~(d) If an authorization holder has not provided services or used items listed in (2)(d) of this rule within two years then the authorization holder must obtain additional education or training.~~

~~Statutory/Other Authority: ORS 690.165, ORS 676.615~~

~~Statutes/Other Implemented: ORS 690.165, ORS 690.005~~

REPEAL: 817-010-0067

RULE SUMMARY: Repeal and move to new division.

CHANGES TO RULE:

~~817-010-0067~~

~~Requirements, Standards and Prohibitions – Esthetics~~

~~(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 a laser or other device registered with the FDA for nonablative procedures performed on hair or skin. ¶¶~~

~~(3) ORS 676.630 refers to devices registered with the United States Food and Drug Administration (FDA) when describing the scope of advanced nonablative esthetics. "Device" is defined under the federal law that governs the FDA. For purposes of this rule, HLO deferred to guidance on the FDA's website, including the FDA Federal Food, Drug and Cosmetic Act, ch. II, s. 201(h) and~~

~~<https://www.fda.gov/downloads/medicaldevices/deviceregulationandguidance/guidancedocuments/ucm575923.pdf>.~~

~~As described by the FDA, a device is a product intended to cure, mitigate, treat or prevent disease or affect the structure or function of the body. The FDA considers claims that indicate penetration or some effect beyond the stratum corneum into living layers of skin by such products to be evidence of a firm's intent to affect the structure or function of the body. The FDA does not consider a chemical product to be a device. Section (4) of this rule sets forth the meaning of "device" in accordance with the federal law and the FDA's interpretation of that law. ¶¶~~

~~(4) A device is a product intended to cure, mitigate, treat or prevent disease or affect the structure or function of the body. Claims that indicate product penetration or some effect beyond the stratum corneum into living layers of skin is evidence of a firm's intent to affect the structure or function of the body. ¶¶~~

~~(a) Chemical products are not devices. ¶¶~~

~~(b) Non-chemical products that do not penetrate into living skin (e.g., epidermal and dermal layers of the skin) and claim only to do the following are not devices: ¶¶~~

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

~~(ii) Improvement of appearance of the skin; ¶¶~~

~~(iii) Give skin a smoother look and feel; or ¶¶~~

~~(iv) Give skin a luminous look. ¶¶~~

~~(5) An individual certified in esthetics is prohibited from using devices as defined in subsection (4) in this rule. ¶¶~~

~~(6) A person who does not hold a valid practitioner certificate from the Board is prohibited from providing esthetic services using any type of device defined under this rule unless otherwise authorized to do so by statute. ¶¶~~

~~(7) An individual certified in esthetics is responsible for determining if any services provided to clients would be prohibited by law. ¶¶~~

~~(8) 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.~~

~~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~~

ADOPT: 817-015-0025

RULE SUMMARY: Requirements and standards for additional education or training.

CHANGES TO RULE:

817-015-0025

Requirements and Standards

(1) Any product or manual, mechanical or electrical apparatus, appliance or device used in a field of practice must meet all product registration requirements imposed by any federal, state, county, city or other regulating authority. ¶

(2) The following applies to any service, product, chemical, materials and supplies, tools and implements, including sharp edged or pointed non-electrical tools and implements, or manual, mechanical or electrical apparatus, appliance, or device that an authorization holder uses in a field of practice:¶

(a) An item listed in subsection (2) of this rule is subject to Office inspection.¶

(b) The authorization holder must maintain and make available to the Office upon request all manufacturer operation and usage documentation for an item listed in subsection (2) of this rule.¶

(c) The authorization holder is responsible for using an item listed in (2) in a manner that is consistent with the manufacturer's intended use. ¶

(d) The authorization holder must obtain education or training before providing services or using items listed in subsection (2) of this rule.¶

(3) The following requirements pertain to the education or training listed in subsection (2)(d) of this rule:¶

(a) The education or training listed in subsection (2)(d) of this rule may be obtained through schools, institutions, vendors, manufacturers, formal seminars, online courses, practitioners certified in a field of practice, a licensed health-care provider or self-study. ¶

(b) Based on how the education or training was obtained, the authorization holder must maintain the following records of education or training listed in subsection (2)(d) of this rule:¶

(A) For self-study: A completed self-study form. The self-study form is prescribed by the Office. ¶

(B) Schools, institutions, vendors, manufacturers, formal seminars, or online courses: ¶

(i) Name of education or training sponsor or provider.¶

(ii) Documentation from the education or training sponsor that expressly shows that the education or training is related to an item in section (2) of this rule.¶

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

(C) Certified practitioner or licensed health care provider:¶

(i) Documentation of the content and hours.¶

(ii) Proof of the certified practitioner's or licensed health-care provider's education or training.¶

(c) The authorization holder must maintain records of education or training for as long as the authorization holder provides services.¶

(d) If an authorization holder has not provided services or used items listed in (2)(d) of this rule within two-years then the authorization holder must obtain additional education or training.

Statutory/Other Authority: ORS 690.165

Statutes/Other Implemented: ORS 690.165

REPEAL: 817-015-0030

RULE SUMMARY: Repeal and move to different division.

CHANGES TO RULE:

~~817-015-0030~~

~~Serving Clients ¶¶~~

~~When providing services in a field of practice an authorization holder must:¶¶~~

~~(1) Observe and follow thorough hand washing with soap and water or other alternative hand-washing products, such as gel, aerosol spray, foam, or packaged hand wipes, immediately before and after serving each client to prevent cross-contamination and exposure to blood or other potentially infectious materials.¶¶~~

~~(2) Wear single-use disposable protective gloves when performing a service or procedure that routinely involves exposure to blood or other potentially infectious materials.¶¶~~

~~(3) Wear eye goggles, shields or a mask if spattering is likely to occur while services are being performed.¶¶~~

~~(4) Dispose of refuse and waste materials that come in contact with blood or other potentially infectious materials according to provisions of OAR 817-010-0060.~~

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

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

ADOPT: 817-015-0045

RULE SUMMARY: Definition of natural physiological effects in terms of esthetics device.

CHANGES TO RULE:

817-015-0045

Esthetics - Natural Physiological Effects

(1) Per ORS 690.005(5)(a) and (12)(a), an esthetician may use a "mechanical or electrical apparatus, appliance, or device" that does not penetrate beyond the epidermis except through natural physiological effects for 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: cleansing, stimulating, manipulating, exfoliating, or applying lotions or creams. ¶

(2) "Natural physiological effects" means a natural biological response produced by, or that follows immediately from, and in accordance with, a person's normal biological functioning. ¶

(3) "Epidermis" means the outermost layer of the skin. The epidermis does not include any layers of the skin below the epidermis, including, but not limited to, the dermis and muscle. ¶

(4) An esthetician may not use a "mechanical or electrical apparatus, appliance, or device" beyond the epidermis. An esthetician is presumed to be using a "mechanical or electrical apparatus, appliance, or device" below the epidermis when: ¶

(a) The esthetician exfoliates or removes the skin below the epidermal layer. ¶

(b) The esthetician destroys or damages the dermis or muscle. ¶

(5) An esthetician using a "mechanical or electrical apparatus, appliance, or device" can only use the device within the epidermis. The esthetician's use of the "mechanical or electrical apparatus, appliance, or device" within the client's epidermal skin layer may create a natural body response that may go deeper than the epidermis. For example, an esthetician can use microcurrent to stimulate the skin within the epidermis. Any increased cellular metabolism, activity, or exchange below the epidermis from stimulating the epidermal skin would be the natural physiological effect from the use of the esthetics device.

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

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

AMEND: 817-015-0055

RULE SUMMARY: Requirements for estheticians providing certain chemical peels.

CHANGES TO RULE:

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~~
An esthetician must obtain five hours of training or education in each of the following peels prior to performing either of the chemical peels when the five hours of required education or training is completed. services.¶

(a) Very superficial chemical peels.¶

(b) Superficial chemical peels.¶

(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

AMEND: 817-015-0065

RULE SUMMARY: Client record requirements for estheticians.

CHANGES TO RULE:

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

AMEND: 817-040-0003

RULE SUMMARY: Fees for cosmetology authorization holders and applicants.

CHANGES TO RULE:

817-040-0003

Fees ¶

(1) Applicants and authorization holders are subject to provisions of OAR 331-010-0010 and 331-010-0020 regarding payment of fees, penalties and charges. ¶

(2) Fees established by the Office, in consultation with the Board, are as follows: ¶

(a) Application: ¶

(A) Practitioner certificate: \$30 per field of practice. ¶

(B) Practitioner certificate by reciprocity: \$100 per field of practice. ¶

(C) Independent contractor registration: \$70. ¶

(D) Freelance authorization: \$35. ¶

(E) Facility license: \$140. ¶

(F) Temporary facility permit: \$70. ¶

(G) Demonstration permit: \$25. ¶

(b) Examination: ¶

(A) Oregon laws & rules: \$45. ¶

(B) Barbering: \$45. ¶

(C) Hair design: \$45. ¶

(D) Esthetics: \$45. ¶

(E) Nail technology: \$45. ¶

(F) Natural Hair Care: \$45. ¶

(c) Original issuance of authorization to practice: ¶

(A) Practitioner certificate: \$35 for two years. ¶

(B) Practitioner certificate by reciprocity: \$65 for two years. ¶

(C) Independent contractor registration: \$140 for one year. ¶

(D) Freelance authorization: \$140 for one year. ¶

(E) Facility license: \$155 for one year. ¶

(d) Permits: ¶

(A) Temporary facility: \$140. ¶

(B) Demonstration: \$50. ¶

(e) Renewal of authorization to practice: ¶

(A) Practitioner certificate: \$65 for two years. Fee applies to each two-year renewal cycle even while in inactive status for up to three years. ¶

(B) Independent contractor registration: \$140 for one year. ¶

(C) Freelance authorization: \$140 for one year. ¶

(D) Facility license: \$155 for one year. Fee applies to each renewal cycle even while in inactive status. ¶

(f) Other administrative fees: ¶

(A) Delinquency fee: \$50 for each year in inactive status up to three years. ¶

(B) Replacement of freelance authorization, certificate, license or registration, including name change: \$35. ¶

(C) Duplicate freelance authorization, certificate, license or registration document: \$25 per copy with maximum of three. ¶

(D) Affidavit of licensure: \$50. ¶

(E) An additional \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010. ¶

(F) Information packets: \$10.

Statutory/Other Authority: ORS 676.576, ORS 676.615, ORS 690.046

Statutes/Other Implemented: ORS 676.576, ORS 690.046