

Chapter 817 Oregon Health Licensing Agency, Board of Cosmetology

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DIVISION 5

DEFINITIONS

817-005-0005

Definitions

The following definitions apply to OAR chapter 817, divisions 1 through 120.

(1) “Acceptable” means satisfactory or adequate; fulfilling the needs or requirements of a specified rule or provision.

(2) “Adequate ventilation” means ventilation by natural or mechanical methods which removes or exhausts fumes, vapors, or dust to prevent hazardous conditions from occurring in accordance with OAR 437, Division 2 and/or to allow the free flow of air in a room in proportion to the size of the room and the capacity of the room.

(3) “Affidavit of Licensure” means an original document verifying licensing history and status, including information disclosing all unresolved or outstanding penalties and/or disciplinary actions. The document is issued and signed by the regulatory authority in the state which issued the license with an official seal or stamp affixed to the document; it is not the certificate or license form issued which authorizes the holder to practice.

(4) “Agency” means the Oregon Health Licensing Agency. The agency is responsible for the budget, personnel, performance-based outcomes, consumer protection, fee collection, mediation, complaint resolution, discipline, rulemaking and record keeping.

(5) “Approved” means accepted by the Agency, Board of Cosmetology or to the appropriate entity.

(6) “Article” means those items which compliment services provided in the practice of barbering, hair design, esthetics or nail technology, including but not limited to neck-strips, neck dusters, towels or linens, and cloth or plastic capes.

(7) “Barbering” has the definition set forth in ORS Chapter 690.005.

(8) “Board” means, pursuant to ORS 690.155 and 690.165, the entity that determines practice standards, education and training, and provides consultation to the agency on all disciplinary actions in accordance with ORS 690.167.

(9) “Career school” means, pursuant to ORS 345.010(4), an establishment licensed under ORS Chapter 345, to teach barbering, hair design, esthetics or nail technology, or any combination thereof

(10) “Certificate” means the document authorizing the holder to perform services in a field of practice, i.e. barbering, hair design, esthetics or nail technology (see, respectively, sections (7), (26), (33) and (44) of this rule).

(11) “Certificate of Identification” means authorization allowing a practitioner to perform services of barbering hair design, esthetics or nail technology outside of a licensed facility and in a client's residence or place of business.

(12) “Chemical service” means the use of any product which restructures or removes hair or changes the shape or appearance of skin, hair or nails.

(13) “Clean” means the absence of soil or dirt, or the removal of soil or dirt by washing, sweeping, clearing away, or any other appropriate method used as a preliminary process in rendering a sanitary condition as defined in subsection (62) of this rule.

(14) “Cleanable” means a surface that can be made clean as defined in subsection (13) of this rule.

(15) “Common area” means an area of a facility which is used by all practitioners performing services, including, but not limited to reception areas, dispensing areas, sinks, shampoo bowls, hair dryers and hair dryer areas, and employee lounge areas.

(16) “Communicable disease or condition” means diseases or conditions diagnosed by a licensed physician as being contagious or transmittable which include but are not limited to the following:

- (a) Chickenpox;
- (b) Diphtheria;
- (c) Measles;
- (d) Meningococcal Disease;
- (e) Mumps;
- (f) Pertussis (whooping cough);

- (g) Plague;
- (h) Poison oak (a transmittable form of contact dermatitis);
- (i) Rubella;
- (j) Scabies;
- (k) Staphylococcal skin infection (boils, infected wounds);
- (l) Streptococcal infections (Strep throat);
- (m) Tinea (ring worm);
- (n) Tuberculosis.

(17) “Demonstration permit” means an authorization as defined in ORS 690.005 to practice on a limited basis for a maximum of 30 consecutive days.

(18) “Dermis” means the underlying or inner layer of the skin; the layer below the epidermis; the corium or true skin, including papillary layer, capillaries, tactile corpuscles, melanin (pigment), subcutaneous tissue, adipose or subcutis tissue, arteries and lymphatics.

(19) “Director” means the individual who is responsible for the performance of the agency as defined in ORS 676.610. The director appoints all subordinate officers and employees to carry out the duties of the agency.

(20) “Disinfect” means to use a process to destroy harmful organisms, including bacteria, viruses, germs and fungi.

(21) “Dispensing area” means an area having non-porous surfaces and a sink with hot and cold running water where service preparations are conducted, such as mixing of chemicals, cleaning of tools and equipment, disposing of residues and rinsing parts of the body exposed to chemicals.

(22) “Disposable towels” means single-use paper towels or roller-type cloth towels furnished by laundries.

(23) “EPA” means Environmental Protection Agency, a branch of the Federal Government, which approves and registers chemical compounds and agents.

(24) “Epidermis” means the outermost layer of the skin; the outer epithelial portion of the skin, including stratum corneous, stratum lucidum, stratum granulosum, stratum spinosum (prickle cell layer), stratum mucosum and stratum germinativum.

(25) “Equipment” means those items needed to run a facility which includes but is not limited to waiting chairs, barber or style chairs, shampoo chairs, cabinets, sinks, shampoo bowls, stationary dryers, pedi bins or whirlpool foot spas, paraffin wax containers, and nail technology tables.

(26) “Esthetics” has the definition set forth in ORS 690.005.

(27) “Ethical” means conforming to professional standards of conduct in all occupational practices and in accordance with OAR 817, Division 120.

(28) “Exfoliate or exfoliation” means the process of sloughing off, removing, or peeling dead skin cells of the epidermis.

(29) “Facility” has the definition set forth in ORS 690.005.

(30) “Field of practice” means any of these disciplines: barbering, hair design, esthetics and/or nail technology.

(31) “Fire retardant container” means an air-tight metal or other approved container recognized by a national testing lab for the use of disposing of chemical waste or storing linens with chemical residue.

(32) “Fraud” means the intentional act of deceiving or cheating; a willful violation (refer to ORS 646 “Trade Regulations and Practice”).

(33) “Hair design” has the definition set forth in ORS 690.005, which includes the braiding of hair.

(34) “High-level disinfectant” means a chemical agent, which has demonstrated tuberculocidal activity and is registered with the EPA.

(35) “Incompetency” means performance from which it may be concluded that the person either lacks or did not employ the knowledge and skill necessary to practice in an acceptable manner.

(36) “Independent Contractor” means an individual defined in ORS 690.005 who qualifies for a recognized business status under the provisions of ORS 670.600.

(37) “License” has the definition set forth in ORS 690.005.

(38) “Licensed health care facility” means a facility as defined by ORS 442.015(16), such as a hospital, special inpatient care facility, rehabilitation center, center for the treatment of alcoholism or

drug abuse, assisted living care or nursing facility, or psychiatric hospital, which is licensed by a state regulatory agency or local governmental unit for the purpose of providing health care services.

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

(40) "Manicuring" means services performed upon the nails of the hands as part of nail technology defined in ORS 690.005.

(41) "Manipulating" means, as referred to in ORS 690.005 articulation or massage, pressure, friction, stroking, tapping or kneading by manual or mechanical means, with or without lubricants such as salts, powders, liquids or creams, for the purpose of providing skin care.

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

(43) "Misconduct" means performing in an unethical, unprofessional or dishonest manner; or, acts involving violence against persons.

(44) "Nail Technology" has the definition set forth in ORS 690.005, which includes the following:

(a) The application and removal of artificial nails;

(b) The application of mini-art work, etching or imprinting on nails.

(45) "Negligence" means failure to exercise care in the safety and sanitary methods relating to ORS Chapter 690.

(46) "Non-absorbent" means incapable of absorbing or entrapping water or other liquids.

(47) "Official transcript" means an original document certified by the career school indicating hours and types of course work, examinations and scores that the student has completed, which has been mailed by USPS or other recognized mail service provider directly to the agency by the career school in a sealed envelope, or authorized transcript transmitted directly to the agency in a manner approved by the board.

(48) "Pedicuring" means services performed upon the nails of the feet as part of nail technology defined in ORS 690.005.

(49) "Permit" means either a demonstration permit as defined in subsection (17) or a temporary facility permit as defined in subsection (62) of this rule.

(50) "Practitioner" means any person whom the agency has certified to perform services on the public in any field of practice as defined in subsection (30) of this rule.

(51) "Premises" means the entire area of the facility, licensed by the agency and designated as a facility.

(52) "Probation" means continuation of certification, licensure, registration and/or permit under conditions set by the agency.

(53) "Public view" means open to view and easy for the public to see.

(54) "Reasonably accessible" means not more than three minutes travel time from any work location.

(55) "Reciprocity" means that an applicant, holding an active certificate or license in another state, meets the applicable qualifications and requirements pertaining to minimum competency through satisfactory completion of a national written and practical examination recognized and/or approved by the Board.

(56) "Registration" means an authorization to practice in barbering, hair design, esthetics and/or nail technology as an independent contractor.

(57) "Sanitary" means free of agents of infection, disease, or infestation by insects and vermin and free of soil, dust, or foreign material; referring to cleanliness.

(58) "Sanitized" means rendered free of soil, dust, foreign material, and agents of disease or infestation by insects or vermin through the use of effective cleaning.

(59) "Sanitizing container" means a receptacle, holding a disinfecting agent, which is large and deep enough to submerge the tool(s) or implement(s) or portion(s) thereof, which are to be disinfected.

(60) "Sharp edged or pointed, non-electrical tools and implements" means those items which may on occasion pierce or cut the skin and draw blood, includes razors, cuticle nippers, cuticle pushers, nail clippers, tweezers, comedone extractors, shears, and metal nail files.

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

(62) "Suspend" means, as used in ORS 690.075, to place a certificate, license, registration and/or permit in an inactive status for an unspecified period of time.

(63) "Temporary facility permit" means an authorization as defined in ORS 690.005, not to exceed 30 consecutive days.

(64) "Tools and implements" means all portable articles and instruments, which the practitioner can carry to use in the performance of services on clients, including but not limited to combs, shears, clippers and yoyettes.

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

Stat. Auth.: ORS 690.165 & 690.205(1)

Stats. Implemented: ORS 690.165 & 690.105(1)

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

DIVISION 10

SAFETY AND SANITATION RULES: FACILITY STANDARDS

817-010-0007

Compliance with All Applicable Regulations

(1) Practitioners, facility owners and independent contractors shall observe and be subject to all Department of Human Services, Health Services, and other city, county and state regulations pertaining to public health and safety. Compliance with building, state fire, plumbing, and electrical regulations is required.

(2) In addition, when an employee/employer relationship exists, practitioners shall comply with ORS 654, the Oregon Safe Employment Act.

Stat. Auth.: ORS 690.165

Stats. Implemented: ORS 690.165 & 654

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-96; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-010-0009

Compliance with Indoor Clean Air Act and Ventilation Requirements

Any public place in a facility shall be governed under the Oregon Indoor Clean Air Act as it appears in ORS 433.835 through 433.875. All facilities shall provide adequate ventilation according to OAR 817-005-0005(2).

Stat. Auth.: ORS 690.205

Stats. Implemented: ORS 433.835 - 433.875

Hist.: BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02

817-010-0014

Water Supply Requirements and Standards

(1) Facility water supplies shall have a minimum of 20 pounds pressure per square inch in accordance with the **State Plumbing Code**.

(2) The quality and construction of facility water supplies shall meet the requirements of ORS Chapter 448 and the **State Plumbing Code**, OAR 918, Division 750.

(3) All facilities shall have an adequate supply of both hot and cold running water and wash basins on the facility premises. Sinks located in the restroom do not qualify as a water source for the facility premises.

(4) Practitioners shall have immediate access to a supply of hot and cold running water.

(5) Hand washing accommodations shall be provided in work areas where the employees are exposed to hazardous materials, which may have a harmful effect on or be absorbed through the skin if the contamination is not removed.

(6) Washing accommodations shall be maintained in a clean and sanitary condition.

(7) Hand soap or similar cleansing agents shall be provided.

(8) Individual towels of cloth or paper shall be provided. Air blowers for drying the hands may be substituted for towels.

(9) Use of bar soap or a common towel is prohibited.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 690.205

Stats. Implemented: ORS 448

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; Renumbered from 817-010-0016(1) & (2); BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-010-0021

Restroom/Toilets and Water Disposal

(1) All facilities shall have a restroom available for employees. The restroom shall be located on the facility premises or in an adjoining premises which is reasonably accessible.

(2) All restrooms located on facility premises shall be kept clean, sanitary and in proper working order at all times.

(3) All facility liquid waste from toilets and lavatories shall be discharged directly into a public sewer or, in the absence of a public sewer, by method meeting the requirements of ORS Chapter 454 (septic tank and drain field requirements).

Stat. Auth.: ORS 690

Stats. Implemented:

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; Renumbered from 817-010-0026; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94

817-010-0035

Towels or Linens

(1) Clean towels or linens shall be used for each client.

(2) When using linens as arm cushions during nail technology service, the practitioner may use a protective disposable cover on the linen towel to prevent contact with the client.

(3) Clean towels and linens shall be stored in a clean area.

(4) Each facility or practitioner shall provide closable containers large enough and sturdy enough to store all soiled towels or linens after use. Chemically soiled towels or linens shall be stored in fire-retardant containers.

(5) Used towels shall be laundered either by regular commercial laundering or by a non-commercial laundering process, which includes use of commercial laundry detergent manufactured for the purpose of cleaning clothes, linens or other washable fabric, and immersion in hot water during the hot water wash/rinse operation.

Stat. Auth.: ORS 690.205

Stats. Implemented: ORS 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-010-0040

Articles in Contact with a Client

(1) A neck strip or towel shall be placed around the client's neck to prevent direct contact between a common use hair cloth or cape and the client's skin.

(2) All items which come in direct contact with the client's skin that do not require disinfecting shall be clean.

(3) All articles which come in direct contact with the client's skin that cannot be cleaned or disinfected shall be disposed of in a covered waste receptacle immediately after use.

Stat. Auth.: ORS 690.205

Stats. Implemented: ORS 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96

817-010-0055

Materials in Contact with a Client

(1) All chemical substances, including paraffin wax, used within a field of practice shall be dispensed from containers in a manner to prevent contamination of the unused portion.

(2) Paraffin wax must be used in such a manner that prevents contamination of wax remaining in the paraffin bath or container, such as application with a single use or sanitized spatula or applicator, or disposal of any used wax. Paraffin must be covered when not in use, and maintained at a temperature specified by the manufacturer's instructions.

Stat. Auth.: ORS 690.205

Stats. Implemented: ORS 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-010-0060

Refuse and Waste Material

(1) All chemical waste material shall be deposited in a closed container at the conclusion of each service and then disposed of in a fire-retardant container at the close of each business day.

(2) All waste related to the performance of services shall be deposited in a covered container to avoid the potential for cross contamination through release of or exposure to infectious waste materials.

(3) All waste unrelated to performance of services shall be deposited in a waste disposal container. Containers located in the reception area, which do not contain waste relating to performance of services, are exempt from having covers.

(4) Any waste disposal container used to store cigarette ashes, butts, etc., shall be a metal or fire-retardant container.

(5) Outer surfaces of waste disposal containers shall be kept clean.

(6) Any disposable material coming into contact with blood and/or body fluids such as discharge from pustules, pimples, and sebaceous glands, shall be disposed of in a sealable plastic bag (separate from sealable trash or garbage liners) or in a manner that not only protects the licensee and the client but also others who may come into contact with the material such as sanitation workers.

(7) Any disposable sharp objects that come in contact with blood or other body fluids shall be disposed of in a sealable rigid (puncture-proof) container that is strong enough to protect the practitioner, client and others from accidental cuts or puncture wounds that could happen during the disposal process.

(8) Practitioners and/or facility owners shall have both sealable plastic bags and sealable rigid containers available for use at all times services are being performed.

Stat. Auth.: ORS 690.205

Stats. Implemented: ORS 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 2-1982, f. & ef. 3-31-82; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-010-0065

Requirements and Standards

(1) All tools and implements that come in direct contact with a client, shall be disinfected or disposed of after use.

(2) Only disinfecting agents that meet the criteria set forth in OAR 817-010-0005(34) and (39) are approved for use.

(3) Holders of a facility license, independent contractor registration, or certificate of identification shall provide and maintain adequate disinfecting or sterilizing equipment for the number of practitioners, usage requirements, and volume of business.

(4) Optional sterilization equipment used in lieu of disinfectants shall be checked annually to ensure it is reaching the temperature and/or pressure required by manufacturer's instructions.

(5) When used according to the manufacturer's instructions, each of the following is an approved method of disinfecting tools and implements:

(a) Complete immersion in the disinfecting solution of the object(s) or portion(s) thereof to be disinfected;

(b) Steam sterilizer, registered and listed with the U.S. Food and Drug Administration; or

(c) Dry heat sterilizer or autoclave, registered and listed with the U.S. Food and Drug Administration.

(6) All disinfecting agents shall be kept at adequate strengths to maintain effectiveness, be free of foreign material and be available for immediate use at all times the facility is open for business.

(7) Nail files, cosmetic sponges, buffer blocks, sanding bands or sleeves, orangewood sticks, and disposable nail bits that have not been approved by the agency for disinfection and reuse, shall be given to the client or discarded after use on each client. Presence of these articles in the work area (facility) shall be prima facie evidence of use.

(8) Protective gloves that are not cleaned with soap and water and disinfected shall be disposed of after use on a client (refer to provisions of OAR 817-015-0030(3) and (5)).

(9) All manual or mechanical devices and equipment used in the practice of cosmetology must meet all product registration requirements imposed by any federal, state, county, or local authority.

(10) All manual or mechanical devices or equipment used in the practice of cosmetology must be used in accordance with the product safety requirements imposed by any federal, state, county, or local authority.

(11) The holder of a facility license or independent contractor registration must verify, maintain, or be able to access documentation related to any device classified by the U.S. Food and Drug Administration (FDA) as a "Class I" or "Class II" manual or mechanical device that is used in the practice of cosmetology, including the practice of barbering, esthetics, hair design, and nail technology, as defined in ORS 690.005. Required documentation includes:

(a) Verification of establishment registration of manufacturer on FDA Registration Database;

(b) Verification of "FDA device registration" for Class I devices on FDA Device Listing Database (Form 2891, required under 21 CFR Part 807.20 and, if applicable FDA Form 2892);

(c) FDA 510K number for Class II devices, including the Intended Use Statement put forth by the FDA; and

(d) Certification or acknowledgement from the manufacturer or from a trainer approved by the manufacturer that each practitioner who uses any Class II device has been trained in the safe and effective use of the Class II device by the manufacturer or by a trainer approved by the manufacturer.

(12) Practitioners may not use any manual or mechanical device or equipment unless the use is consistent with client health and safety. In determining whether the use of any manual or mechanical device or equipment is consistent with client health and safety, the agency will consider the information provided in the documentation required by section (11) of this rule.

(13) In the provision of cosmetology services, practitioners may use Class II devices only for the use or uses intended by the manufacturer.

(14) Practitioners may use a Class III medical device only when providing services under the supervision of a physician.

(15) Practitioners must permit any representative of the agency to inspect any manual or mechanical device or equipment used in the practice of cosmetology or the documentation required by section (10) of this rule, upon demand.

NOTE: Class I devices are typically exempt from a 510(k) submission to the FDA because of their low risk and non-invasive nature, but are still registered with the FDA using Form 2891 and 2892. A Class II device has more potential for risk if the device is not designed properly, does not meet strict standards, or is not used properly. Class II devices may require additional controls such as special labeling, mandatory performance standards and post market review. Practitioners may use only those Class II devices intended by the manufacturer for use in providing cosmetology services.

Only practitioners who have been trained in the safe and effective use of the device or equipment may use the device or equipment. Verification of establishment registration is necessary; FDA standards and regulations may be accessed at www.fda.gov/cdrhdevadvice. The documentation requirements described in section (10) of this rule apply to specialized items used in the practice of cosmetology, and may not apply to those items used in the delivery of basic services, which have been defined as an "article", "equipment", or "materials and supplies" in OAR chapter 817, division 005, such as scissors, combs, orangewood sticks, shampoo bowls, styling chairs or nail files.

Stat. Auth.: ORS 690.205

Stats. Implemented: ORS 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 2-1980, f. & ef. 5-29-80; BH 2-1982, f. & ef. 3-31-82; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-010-0068

Disinfecting Non-Electrical Tools and Implements

All tools and implements used within a field of practice shall be disinfected before use on each client. The method for disinfecting non-electrical tools and implements will be as outlined below.

(1) To disinfect all non-electrical tools and implements first:

(a) Remove all hair and/or foreign material;

(b) Clean thoroughly with soap or detergent and water;

(c) Rinse thoroughly with clear, clean water; and

(d) Complete process as outlined in section (2) or (3) of this rule; or

(e) Sterilize, using one of the approved methods listed in OAR 817-010-0065(5)(b) or (c).

(2) For all tools and implements without sharp edges or points, including but not limited to combs, brushes, rollers, rods, etc., totally immerse according to manufacturer's instructions in a solution containing 1,000 parts per million (ppm) of a commercial quaternary ammonium compound or other low-level disinfectant used according to the manufacturer's instructions.

(3) For all tools and implements with sharp edges or points totally, immerse in a high-level disinfectant used according to the manufacturer's instructions.

Stat. Auth.: ORS 690.165 & 690.205

Stats. Implemented: ORS 690.165 & 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 2-1980, f. & ef. 5-29-80; BH 2-1982, f. & ef. 3-31-82; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-010-0069

Disinfecting Electrical Tools and Implements

(1) All electrical tools and implements, with the exception of clipper blades, shall be disinfected before each use. The method is as follows:

(a) Remove hair and/or all foreign matter;

(b) Disinfect with a low-level disinfectant used according to the manufacturer's instructions.

(2) Electrical clipper blades shall be disinfected before each use. The method is as follows:

(a) Remove hair and/or all foreign matter;

(b) Completely saturate clipper blade with a high-level disinfectant solution, spray, or foam used according to the manufacturer's instructions.

(3) Electrical clipper blades may be sterilized, using one of the approved methods listed in OAR 817-010-0065(5)(b) or (c).

Stat. Auth.: ORS 676.605, 690.165 & 690.205

Stats. Implemented: ORS 676.605, 690.165 & 690.205

Hist.: BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-010-0075

Storage of Tools and Implements

(1) New and/or disinfected and cleaned tools and implements shall be stored separately from all others.

(2) Roller-storage receptacles and contents shall be clean and free of foreign material.

(3) Storage drawers for clean tools and implements shall be clean, free of hair and used only for clean tools and implements.

(4) Storage cabinets, work stations and vanities shall be kept clean.

Stat. Auth.: ORS 676.605, 690.165 & 690.205

Stats. Implemented: ORS 676.605, 690.165 & 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-010-0085

Hairpieces

During the trying on of a manufactured hairpiece, that portion of the head which comes in contact with the hairpiece shall be completely covered with a disposable cover. All used hair goods must be cleaned according to manufacturer's instructions before resale and marked as "used."

Stat. Auth.: ORS 690

Stats. Implemented:

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 2-1990, f. & cert. ef. 10-29-90

817-010-0090

Use of Drinking Cups

Disposable cups shall be available for customers' use if beverages are served in facilities, and disposed of after use by the same methods as other waste materials.

Stat. Auth.: ORS 690

Stats. Implemented:

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94

817-010-0095

Pets in Facilities

Pets or other animals shall not be permitted in a facility at any time. This prohibition does not apply to trained guide dogs for the disabled, sightless, or hearing impaired or to fish in aquariums.

Stat. Auth.: ORS 690

Stats. Implemented:

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94

817-010-0101

Equipment

(1) The surface of all equipment, including but not limited to backbars shall be of cleanable non-absorbent material. This requirement does not apply to the reception area of a facility where services are not performed.

(2) Shampoo bowls and sinks shall be clean and free of hair and residue.

(3) All equipment shall be clean and in good repair.

(4) A high-level disinfectant or bleach solution, used according to the manufacturer's instructions, shall be used to disinfect surfaces contaminated by blood or bodily fluids.

(5) Foot spa equipment shall be cleaned and disinfected with a high-level disinfectant after use on each client.

Stat. Auth.: ORS 676.605, 690.165 & 690.205

Stats. Implemented: ORS 676.605, 690.165 & 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-010-0106

Floor Surface

(1) Floor surfaces in the working area of a facility shall be of a cleanable, non-absorbent material and shall be kept clean, orderly, and in good repair.

(2) Wooden floors which have a durable water-proof non-absorbent finish may be acceptable in working areas of the facility.

(3) Hair clippings shall not be allowed to accumulate and shall be disposed of in a covered container.

Stat. Auth.: ORS 690.165(3) & 690.205

Stats. Implemented: ORS 690.165(3) & 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2006, f. & cert. ef. 3-15-06

817-010-0110

Walls and Ceilings

Walls and ceilings shall be clean and free of excessive spots, mildew, condensation, or peeling paint.

Stat. Auth.: ORS 690

Stats. Implemented:

Hist.: BH 2-1978, f. & ef. 11-29-78

817-010-0300

Variances

Upon application, the Board of Cosmetology may grant a variance from requirements of its safety and infection control rules as follows:

(1) Where it is demonstrated to the satisfaction of the Board that strict compliance with the rules would be highly burdensome or impractical due to special conditions or cause;

(2) Where the Board finds that the public or private interest in the granting of a variance clearly outweighs the interest of the application of uniform rules; and

(3) Where, in the opinion of the Board, such alternative measures will provide adequate public health and safety protection.

Stat. Auth.: ORS 676.605, 690.165 & 690.205

Stats. Implemented: ORS 676.605, 690.165 & 690.205

Hist.: BH 2-1982, f. & ef. 3-31-82; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 15

SAFETY AND INFECTION CONTROL RULES: PRACTICE STANDARDS

817-015-0010

Blood-Borne Diseases

A practitioner providing service or working in a facility after diagnosis of immunodeficiency disease or condition or Hepatitis B, C, or D shall observe and follow all current Centers for Disease Control (CDC) standards for public service workers regarding personal protection equipment and disposal of blood or bodily fluid contaminated articles, tools and equipment. These standards shall also apply to practitioners or employees providing services to clients who have been diagnosed with having an immunodeficiency disease or condition or Hepatitis B, C, or D. It is the position of the Board that human immunodeficiency virus (HIV) is the cause of acquired immunodeficiency syndrome (AIDS) and related immunodeficiency conditions. This virus, as well as Hepatitis B virus (HBV), Hepatitis C virus (HCV) and Hepatitis D virus (HDV), may be transmitted by sharp instruments contaminated by blood or other body fluids, if proper precautions are not followed.

NOTE: As the carriers of these viruses may have no symptoms, the most prudent course to follow is to treat body fluids from all persons with the same high standards of caution and to rigorously follow established safety and infection control practices as required by the law and rules of the Board. There is no published evidence to support casual transmission of HIV, by sneezing or touching, even in close household settings involving AIDS patients and family members caring for them at home. Because HIV is not spread by casual means and because of the inadequacies of the HIV antibody test, there is no reason for the Board to require blood tests prior to certification and/or licensure. Good hand washing after glove removal and between each client is imperative and the most important procedure for prevention of all infections, including HIV. Uniform body fluid precautions are ample to prevent transmission of HIV or HBV, HCV and/or HDV in a facility setting.

Stat. Auth.: ORS 676.605, 676.615 & 690.165

Stats. Implemented: ORS 676.605, 676.615 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; Renumbered from 817-010-0130(1); BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; Former section (3) renumbered to 817-010-0135(4); BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-

96, cert. ef. 7-1-96; Renumbered from 817-010-0125; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

ef. 3-1-01; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-015-0030

Serving Clients

(1) Practitioners shall observe and follow thorough hand washing with soap and water or other alternative hand-washing products, such as gel, aerosol spray, foam, or pre-packaged hand wipes, immediately before and after serving each client as needed to prevent cross contamination and/or transmission of body fluids, infections or exposure to service-related wastes or chemicals.

(2) Practitioners who have visible open sores or bleeding lesions on their hands or arms shall not have client contact until the lesions have healed to the scab phase and shall cover them with protective gloves and/or impervious bandages prior to contact with clients.

(3) Practitioners shall wear single-use disposable or cleaned and disinfected protective gloves when performing service or affecting a procedure that routinely involves body fluid exposure, such as during a facial where blood, pus, or weeping of the skin may be present or is likely to occur during the service.

(4) Practitioners shall wear eye goggles, shields and/or a mask if spattering is likely to occur while services are being performed.

(5) Practitioners performing service on clients with skin conditions that are wet or weeping shall wear single-use protective gloves. Single-use disposable gloves shall be used and discarded after use with each client.

(6) Disposable materials that come in contact with blood and/or body fluids, such as discharge from pustules, pimples, and sebaceous glands, or are used in cleaning blood spills shall be discarded according to provisions of OAR 817-010-0060 to protect the practitioner, clients and others who may come into contact with the material.

(7) Head lice may be treated at the discretion of the practitioner and/or facility owner. Compliance with OAR 817, division 10 Safety and Infection Control Rules: Facility Standards, shall be observed and followed.

Stat. Auth.: ORS 676.605, 690.165 & 690.205

Stats. Implemented: ORS 676.605, 690.165 & 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; Renumbered from 817-010-0130(2); BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; Renumbered from 817-010-0125; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-010-0135; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-015-0050

Skin Care Services

(1) Estheticians may use only those chemicals or products, natural or synthetic, and manual mechanical devices designed for skin care services of the epidermis.

(2) Estheticians shall not use chemicals or products, natural or synthetic, manual and mechanical devices, which may damage skin.

(3) Chemicals prohibited for use shall include, but not be limited to, the following:

(a) Unbuffered alpha-hydroxy acids at concentrations greater than 15 percent;

(b) Buffered concentrations of alpha-hydroxy acids of 10 to 30 percent where pH is less than 3;

(c) Any concentration or formulation of alpha-hydroxy acids greater than 30 percent;

(d) Any concentration or formulation of trichloroacetic acid (TCA) formulation containing phenol or resorcinol, or salicylic acid which acts on living tissue.

(4) An esthetician must obtain training in the safe and effective use of each chemical, product or device that the esthetician uses to provide services in the practice of esthetics, and must provide documentation of that training in response to a request from the agency.

(5) All exfoliant products or formulations, and manual or mechanical devices shall be used in accordance with manufacturers recommendations.

Stat. Auth.: ORS 676.605 & 690.165

Stats. Implemented: ORS 676.605 & 690.165

Hist.: BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert.

817-015-0065

Client Records

(1) Facility owners and independent contractors providing esthetic or nail technology services must maintain client records to ensure basic client information is available to safeguard the health and well being of both the client and practitioner.

(2) Legible hand-written or electronic records are acceptable. Basic client information includes the client's name, address, telephone number, type of service and date of service.

(3) The record must include the name and registration number of the practitioner providing service, and special instructions or notations that the practitioner believes to be pertinent to providing esthetic or nail technology services to the client, such as bleeding disorders, allergies or sensitivities to chemicals or products or complications during service(s).

(4) A practitioner may obtain medical advice if necessary to safeguard the client or the practitioner.

(5) Client records must be kept at the facility premises for a minimum of two years and must be made available immediately upon request from an enforcement officer of the Oregon Health Licensing Agency.

(6) A practitioner may not provide services to a client who refuses to provide the personal information required by (2) 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 (5) of this rule for client records.

Stat. Auth.: ORS 676.605 & 690.165

Stats. Implemented: ORS 676.605 & 690.165

Hist.: BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

DIVISION 20

LICENSING AND OPERATION OF A FACILITY

817-020-0005

Issuance of Facility Licenses

(1) A facility license may be issued if the applicant:

(a) Is at least 18 years of age, if the applicant is a natural person, and meets requirements of ORS 690.055;

(b) Has registered with the Corporations Division and received an assumed business name prior to applying for a facility license (unless doing business under the full name of the owner);

(c) Files an application on prescribed forms with the agency and pays the required application and license fees. If the facility is owned by a corporation, the application must state the name of and the form must be signed by the corporate officer;

(d) Complies with all applicable rules and regulations of the Board and other state agencies; and

(e) Certifies the application information is correct.

(2) The premises where services are performed solely by independent contractors who are registered by the agency shall be required to be licensed as a facility.

Stat. Auth.: ORS 676.605, 690.055 & 690.165

Stats. Implemented: ORS 676.605, 690.055 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-020-0011

Facility License Criteria: Requirements

(1) Applicants for a facility license shall:

(a) Provide a map or directions to the facility if it is located in a rural or isolated area.

(b) Meet the specifications for building, fire and plumbing codes as specified in OAR 817-010-0007 and comply with exit and fire standards established by the Building Codes Agency and Office of the State Fire Marshal.

(2) Applicants for a facility license located within a residence shall:

- (a) Have an identifying house number or a sign, which is easily visible from the street and indicates the location of the facility;
- (b) Maintain equipment the Board requires for all facilities;
- (c) Comply with all applicable regulations in accordance with OAR 817-010-0007;

(d) Provide an entrance to the facility that is separate from the entrance to residential living areas; and

(e) Maintain separation between the residential living area and facility by solid walls extending from floor to ceiling, with connecting doors kept closed during hours the facility is in operation and/or serving clients as required in ORS 690.205(2).

(3) Facilities shall comply with the administrative rules of the Board concerning health, safety, and infection control pursuant to ORS 690.055(1)(b).

(4) The cleanliness and sanitation of any common area used by or provided for separately licensed facilities or independent contractors located at one premises is the responsibility of each registration holder on that premises.

(5) Violations found in a common area will be cited against all holders of facility licenses and independent contractor registrations at the premises, unless a contractual agreement exists which indicates specific responsibility for the cleanliness of a common area within the premises.

Stat. Auth.: ORS 676.605, 690.055, 690.165 & 690.205

Stats. Implemented: ORS 676.605, 690.055, 690.165 & 690.205

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-020-0012

Criteria for Operating a Facility

A facility owner or license holder shall:

(1) Allow the agency's enforcement officer to inspect the facility when it is open for business.

(2) Abstain from obstructing or hindering the normal progress of the inspection, threatening or exerting physical harm, or enabling another individual or employee to impede the inspection process.

(3) Contact the agency in writing to make arrangements for an inspection if the agency has been unable to perform an inspection after one year because the facility was closed.

Stat. Auth.: ORS 690.165 & 690.225

Stats. Implemented: ORS 690.165 & 690.225

Hist.: BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-020-0015

Facility Licensing Requirements

(1) A facility owner or license holder shall meet the requirements of a new facility (refer to OAR 817-020-0011) and submit a new facility application and required fees when any of the following conditions exist:

(a) A facility is purchased from the current or previous owner, partnership or corporation. Facility licenses are not transferable from person-to-person or from business-to-business;

(b) There is a change in the legal ownership, partnership or holding of a facility regulated under ORS 690 and OAR 817, such as:

(A) A partner(s) or co-owner(s) is added to the existing facility license; or

(B) A partner(s) or co-owner(s) is removed from the existing facility license, including change in ownership status due to death of facility owner(s), or spouse listed as a co-owner on the agency's records.

(c) An existing facility moves or relocates to a new physical address. Facility licenses are not transferable from location-to-location.

(2) Facility license holders who close a business regulated under ORS 690 and OAR 817 shall:

(a) Inform the agency in writing within five calendar days of the closure of the facility;

(b) Inform the agency in writing prior to reopening the facility, when the same individual listed as the owner on file with the agency reopens the facility while the license is still current.

Stat. Auth.: ORS 690.055 & 690.165

Stats. Implemented: ORS 690.055 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 2-1996, f. 6-28-96, cert. ef. 7-1-96; Renumbered from 817-020-0025 & 817-020-0030; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-020-0305

Licensed Health Care Facility

(1) Health care facilities licensed under ORS 441.025 or a residential facility licensed under ORS 443.415 are exempt from facility license requirements as stated in ORS 690.025(3) if services are provided to residents only.

(2) No person acting individually or jointly with any other person shall establish, conduct, maintain, manage or operate a facility defined in ORS 690.005 without a license issued by the Board of Cosmetology. Licensed health care facilities shall comply with the Board's licensing, safety and infection control rules if services regulated under ORS 690 are administered to the general public

(3) The agency may inspect those areas of a licensed health care facility where services are performed if alleged licensing or safety and infection control violations are reported. The agency may investigate the facility in response to a complaint. The agency may report the safety and infection control conditions and results of inspection or investigation to the Department of Human Services, Health Services and/or other appropriate agencies.

Stat. Auth.: ORS 690.015, 690.025, 690.035, 690.055, 690.165, 690.205 & 690.225

Stats. Implemented: ORS 690.015, 690.025, 690.035, 690.055, 690.165, 690.205, 690.225 & 442

Hist.: BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

DIVISION 30

EXAMINATIONS

817-030-0005

Qualification and Training Requirements

To obtain an Oregon certificate in one or more fields of practice, individuals must complete required application documentation prescribed by the Board, provide satisfactory evidence of meeting certification requirements, which includes qualifying criteria listed in one of the following certification pathways, and submit payment of required fees.

CERTIFICATION PATHWAY ONE

(1) Graduate from Oregon Licensed Career School: Applicants must meet the education and training requirements in effect at the time of application. Applicants shall complete and pass courses required by the Oregon Department of Education, Private Career Schools, in one or more of the following educational programs offered through an Oregon licensed career school, and must also pass a written and practical examination approved or recognized by the Board of Cosmetology in accordance with OAR 817-030-0040:

(a) Hair design — 1,450 hour course;

(b) Barbering — 1,100 hour course;

(c) Esthetics — 250 hour course;

(d) Nail technology — 350 hour course;

(e) Mandatory completion of a 150 hour safety and infection control course and a 100 hour career development course in addition to any one or more of the approved programs listed in (a) through (d) of this rule. The Board recognizes a final practical examination, prescribed by the Department of Education, Private Career Schools in collaboration with the Board, which establishes standard examination criteria and testing protocols, as its qualifying practical certification examination. Authorized Oregon licensed career school personnel conduct the practical examination.

(2) Non-Credentialed Applicants from Another State or Country: Applicants who have completed schooling requirements established by a regulatory authority in another state or country must submit all required application documentation (OAR 817-030-0015) to the agency for evaluation and approval by the Oregon Department of Education, Private Career Schools (ORS 345.430). Approved applicants will be required to take the Oregon qualifying written and practical examination (OAR 817-030-0040) if the following criteria apply:

(a) Certification or licensure in another state or country was not attained;

(b) Reciprocity requirements listed in subsection (3) of this rule have not been met.

CERTIFICATION PATHWAY TWO

(3) Oregon Certification by Reciprocity: The Board recognizes other states', and at its discretion may recognize other countries', education, examination and licensing requirements. Applicants currently certified or licensed in one or more fields of practices in another state or country will qualify for Oregon certification without examination if requirements of OAR 817-030-0015(1) and (2)(c) and the following criteria have been met:

(a) The applicant shall arrange for the originating regulatory authority to forward directly to the agency a current and original "Affidavit of Licensure" document, signed by an authorized representative of the regulatory authority and affixed with an official seal or stamp to the document. The document may be electronically transmitted to the agency from the originating state. The applicant is responsible for payment of any service fee the originating state may assess for producing the affidavit.

(b) Completion of a state-approved board examination for certification/licensure and graduation from a licensed cosmetology school.

(4) Applicants holding current certification/licensure from out-of-state who do not qualify for Oregon certification by means of reciprocity as specified in subsection (3) of this rule must complete and pass the qualifying examination(s) required in OAR 817-030-0005(1) and 817-030-0040.

Stat. Auth.: ORS 690.035, 690.046 & 690.165

Stats. Implemented: ORS 690.035, 690.046 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 1-1981, f. & ef. 10-1-81; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-030-0015

Application Requirements

(1) Applicants must meet all of the requirements of OAR 331-030-0000 in addition to the provisions of this rule.

(2) Applicants must provide, or cause to be delivered to the agency, prescribed documentation verifying training and/or licensure, according to one of the following qualification pathways. Refer to OAR 817-030-0005:

(a) Official transcript/Oregon Career School: completed official transcript, issued by an Oregon licensed career school of barbering, hair design, esthetics or nail technology, and completed original official transcript of practical examination, signed by the authorized school personnel proctoring the Board sanctioned examination, certifying that criteria for the practical examination was met and that the applicant satisfactorily demonstrated minimum competencies established by the Department of Education, Private Career Schools, in collaboration with the Board.

(b) Out-of-state non-credentialed: documentation of schooling and/or training experience, including official transcript from the licensed school mailed or transmitted directly to the agency from the originating state's regulatory authority, work study or apprenticeship records.

(c) Reciprocity: current and original signed and sealed or stamped Affidavit of Licensure document issued upon the request of applicant certified or licensed in another state and mailed directly to

the agency by the originating state, and if applicable, verification of a Board-approved examination.

(3) Any Affidavit of Licensure document not mailed directly to the agency from the originating state will invalidate qualification for certification, scheduling and examination.

(4) Application documentation required for an examination and certification must be submitted to the Oregon Health Licensing Agency in English. If documents require translation, a copy of the official document(s), in the original language, must be submitted with the written translation in English.

Stat. Auth.: ORS 676.615, 690.035 & 690.165

Stats. Implemented: ORS 676.615, 690.035 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 1-1981, f. & ef. 10-1-81; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; Renumbered from 817-030-0010; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2001(Temp), f. 1-31-01, cert. ef. 2-1-01 thru 7-29-01; BOC 3-2001, f. 3-30-01, cert. ef. 4-1-01; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-030-0018

Examination for Reinstatement of Certification

Pursuant to ORS 690.085(5), a certificate that has expired beyond two years, may be reinstated upon compliance with all of the following criteria and submission of required documentation:

(1) A signed and completed application form prescribed by the agency in accordance with requirements specified in OAR 331-030-0000 and 817-030-0015, which includes the applicant's expired certificate number(s);

(2) A completed official practical examination transcript issued by the appropriate Oregon licensed career showing attainment of a passing score on the practical examination conducted by the Oregon licensed career school within two years from the date of application;

(3) Attainment of a passing score on the Board approved written examination(s); and

(4) Payment of the required application, examination and certificate fees specified in OAR 817-040-0003.

Stat. Auth.: ORS 690.035, 690.046, 690.048 & 690.165

Stats. Implemented: ORS 690.035, 690.046, 690.048 & 690.165

Hist.: BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05; BOC 1-2006, f. & cert. ef. 3-15-06

817-030-0020

Examination Requirements

(1) The agency will conduct examinations for certification. A schedule of examination dates and times shall be available upon request. The agency reserves the right to alter or adjust examination dates, times and locations as it deems necessary to meet emergency situations and will notify applicants and schools in advance whenever possible.

(2) Applicants may request special examination accommodation according to requirements of OAR 817-030-0080. Special examinations will be scheduled at a date and time determined by the Oregon Health Licensing Agency Director.

(3) Applicants will qualify for examination upon compliance with relevant provisions of OAR 817-030-0005 and 817-030-0015. Applicants will not be allowed to take the examination until all requirements for examination have been met. If documentation is incomplete or incorrect, applicants will not be allowed to sit for the examination.

(4) Applicants shall present photographic identification, such as a driver's license, and their original Social Security card to the examination proctor.

Stat. Auth.: ORS 676.615, 690.065 & 690.165

Stats. Implemented: ORS 676.615, 690.065 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-030-0030

General Information about the Examination

(1) Taking notes, textbooks or notebooks into the examination area is prohibited.

(2) Electronic equipment and communication devices, such as personal computers, pagers and cellular telephones or any other devices deemed inappropriate by agency staff, are prohibited in the examination area. Taking such items into the examination area will invalidate the examination and result in forfeiture of the examination fees.

(3) An applicant will be immediately disqualified during or after the examination for conduct that interferes with the examination. Such conduct includes:

(a) Giving or receiving aid, directly or indirectly during the examination process;

(b) Obtaining help or information from notes, books, or other individuals or sources to answer questions;

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

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

(e) Endangering the health of a person involved in the examination; and

(f) Exhibiting behavior, which impedes the normal progress of the examination.

(4) Disqualification will invalidate the examination and result in forfeiture of the examination and fees. The applicant will be required to reapply, submit additional examination fees, and request in writing to schedule another examination. Reexamination will be scheduled at a date, time and place determined by the Director following date of disqualification. Reexamination will be conducted at the agency office.

Stat. Auth.: ORS 676.615, 690.065 & 690.165

Stats. Implemented: ORS 676.615, 690.065 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; Renumbered from 817-030-0025; BH 33-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-030-0040

Type of Examination

(1) The written examination consists of the following sections: Oregon Laws and Rules, Barbering, Hair Design, Esthetics and Nail Technology. Examinations test the applicant's knowledge of the following subjects:

(a) The basic principals of safety and infection control;

(b) The safety and infection control rules of the Board of Cosmetology;

(c) Chemical use and storage;

(d) Diseases and disorders;

(e) Equipment and tools/implements;

(f) Licensure requirements and regulations;

(g) Standards of practice;

(h) Definitions; and

(i) Practical applications and procedures.

(2) Each section will be scored individually. The passing score for each section is 75 percent or better.

(3) The Board will establish by policy a maximum examination time allowance for each examination section, listed in section (1) of this rule. Maximum examination time allowances shall be published and included in the application for certification packet, posted in the agency Web site and made available upon request.

(4) The examination may be administered using a computerized testing system with touch screen functionality for selecting the candidate's response to multiple-choice question. The examination is administered in English. Examination candidates may be electronically monitored during the course of testing.

(5) The practical examination is a final examination conducted at an Oregon licensed career school of barbering, hair design, esthetics or nail technology, administered at the direction of and in accordance with criteria established by the Department of Education, Private Career Schools. The examination must be documented

according to provisions set forth by the Department of Education, Private Career Schools. The Board of Cosmetology recognizes and sanctions the practical examination conducted by licensed career schools in accordance with the Department of Education's criteria and protocols, as its practical competency examination.

(6) In collaboration with the Department of Education, Private Career Schools, the Board or designated staff may periodically review any career school's practical examination procedures and conduct to determine compliance with Department of Education's criteria and to maintain Board recognition of the practical examination.

Stat. Auth.: ORS 676.615, 690.065 & 690.165

Stats. Implemented: ORS 676.615, 690.065 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 1-1983(Temp), f. & ef. 10-4-83; BH 1-1984, f. & ef. 2-13-84; BH 4-1984, f. & ef. 12-7-84; BH 2-1990, f. & cert. ef. 10-29-90; Renumbered from 817-030-0060; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-030-0045

Sections Which the Applicant Must Pass

(1) An applicant who is a graduate of an Oregon Licensed Career School or applying for certification based on equivalency according to OAR 817-030-0015(2)(a) and (b) must pass the Oregon Laws and Rules section of the examination and one or more of the following fields of practice:

(a) Barbering;

(b) Hair Design;

(c) Esthetics;

(d) Nail Technology.

(2) Applicants failing to successfully complete the examination process and thus failing to obtain a certificate within two years from the date of their most recent examination attempt, will be required to:

(a) Reapply for examination according to OAR 817-030-0015;

(b) Pay the application, examination and original certificate fees; and

(c) Retake all written and practical examination sections qualified for, regardless of a previously passing score.

(3) Applicants for certification who fail any part of the examination may apply to retake the failed section(s) twice before being required to obtain recertification of training through an Oregon career school licensed under ORS 345.010 to 345.450

Stat. Auth.: ORS 676.615, 690.065 & 690.165

Stats. Implemented: ORS 676.615, 690.065 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-030-0055

Notification of the Examination Results

Examination results will be issued following completion of each examination section as part of the agency's automated testing system. Applicants taking examinations conducted under special accommodation will be given results by mail within seven calendar days following the date of examination.

Stat. Auth.: ORS 690.065 & 690.165

Stats. Implemented: ORS 690.065 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-030-0065

Procedure if the Applicant Fails

(1) Failed sections of the examination may be retaken at the next available date and time, as scheduling allows. Retaking a failed examination requires registration and payment of the examination fees.

(2) Opportunity to review failed sections of the examination, conducted by use of the electronic touch screen computer testing system, are provided at the conclusion of each examination

question/answer selection, or immediately following conclusion of the entire examination. Review of failed examination sections at a later time or date is prohibited.

(3) Applicants retaking the examination must present photographic identification such as a driver's license and their original Social Security card as required by OAR 817-030-0020(4).

Stat. Auth.: ORS 690.065 & 690.165

Stats. Implemented: ORS 690.065 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 1-1983(Temp), f. & ef. 10-4-83; BH 1-1984, f. & ef. 2-13-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1 1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-030-0080

Special Examination Accommodations

(1) Applicants who have a learning, psychological, physical, or other disability which requires an accommodation to the regular testing environment may request a special examination, if the disability is covered under the Americans with Disabilities Act (ADA).

(2) Requests for accommodation must be made on forms provided by the Board and contain supporting documentation completed by a licensed professional holding appropriate credentials qualified to certify that the applicant's disabling condition requires the requested test accommodation.

(3) Requests for accommodation shall be arranged 30 calendar days in advance of the preferred examination date and time by special appointment.

(4) All special examinations are conducted at the agency. If the agency is unable to accommodate the disability at the office, special arrangements will be made for an adequate test site to accommodate the request.

Stat. Auth.: ORS 690.065 & 690.165

Stats. Implemented: ORS 690.065 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-030-0100

Interpreter Assisted Examinations

(1) An applicant may submit a written request to the agency for a special examination to accommodate their inability to speak or read English.

(2) Following the receipt of an application, an examination date will be scheduled.

(3) The applicant must secure and arrange for an individual to provide translation services and must pay any costs involved.

(4) The applicant must agree to specific provisions concerning the requirements, administration and conduct of the examination before taking the scheduled examination.

(5) Interpreters must meet the following requirements before providing examination interpreting services:

(a) Be registered by an agency or organization approved by the Board.

(b) Be on Board approved list before examination date;

(c) Not be personally affiliated with the test applicant;

(d) Present picture identification at the time of examination.

(6) An agency or organization approved by the Agency must submit the prescribed "Notification for Scheduled Interpreter Assisted Examination" form at least 24 hours before a scheduled examination to confirm the date and time reserved for providing examination interpreting services at the agency office.

(7) Applicants or interpreters will be excluded from the examination if they do not present the proper identification and documentation at the time of scheduled examination.

(8) All interpreter-assisted examinations are conducted at the agency and may be mechanically recorded using an audio or video recording device.

(9) The Board may approve and establish by policy additional examination time beyond published maximum allowances, per examination section listed in OAR 817-030-0040, to accommodate

language translation services. Examinations are scheduled in the order in which applications are received in the office and according to available testing dates.

Stat. Auth.: ORS 676.615 & 690.165

Stats. Implemented: ORS 676.615, 690.065 & 690.165

Hist.: BOC 1-2000(Temp), f. 1-31-01, cert. ef. 2-1-01 thru 7-29-01; BOC 3-2001, f. 3-30-01, cert. ef. 4-1-01; BOC 5-2001, f. 11-30-01, cert. ef. 12-1-01; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

DIVISION 35

CERTIFICATION/LICENSING

817-035-0010

Issuance and Renewal of Certificates, Licenses and/or Registrations

(1) Individuals will be subject to the provisions of ORS 690.046, 690.055, 690.057, 690.085 and OAR 331-030-0010 for issuance and renewal of certificates, licenses and registrations.

(2) An applicant whose renewal payment is received by the agency, or is postmarked, after the expiration date will be assessed a late renewal fee, as specified in ORS 690.085(4). A late renewal fee of \$25 for each year in expired status will be required to renew a certificate, license or registration.

(3) Practitioners who fail to renew a certificate within two years from the expiration date must reapply and meet requirements of ORS 690.085(5) and OAR 331-030-0000.

(4) Independent contractors who fail to renew their registration within one year from the date of expiration must reapply and pay the application and registration fees.

(5) The agency may also request that applicants provide their Social Security number at the time of renewal.

(6) Practitioner Certificates. When renewing a certificate, applicants must provide the following information to the agency:

(a) Name and current residential or mailing address;

(b) Certificate number and expiration date;

(c) Residence area code and telephone number;

(d) Date of birth;

(e) Selection of field(s) of practice for renewal to maintain active certification;

(f) The name, address, telephone number and facility license or independent contractor registration number where services are being performed, or other work location where service is performed;

(g) Social Security number.

(7) Independent Contractor Registration. When renewing an independent contractor registration, applicants must provide the following information to the agency:

(a) Independent contractor registration number and expiration date;

(b) Assumed Business Name if using name other than full legal name in business;

(c) Name, address and license number of facility where working under lease agreement, or business mailing address;

(d) Residential address;

(e) Business area code and telephone number; and

(f) Information regarding whether actively engaged in performing services within a field(s) of practice.

(8) Facility Licenses. When renewing a facility license, applicants will be subject to requirements of ORS 690.085(2) and (4). Applicants must provide the following information to the agency at the time of renewal;

(a) Facility license number and expiration date;

(b) Name and place of business, or business mailing address;

(c) Business area code and telephone number; and

(d) Whether regulated services outside the scope of ORS 690.005 to 690.235 are being performed within the premises of the facility. Such services include but are not limited to electrolysis, tanning, ear and body piercing, or tattooing, i.e. permanent makeup.

Stat. Auth.: ORS 676.605, 676.615, 690.085 & 690.165

Stats. Implemented: ORS 676.605, 676.615, 690.085 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 2-1994(Temp), f. 2-

15-94, cert. ef. 3-1-94 thru 8-28-94; Renumbered from 817-040-0008, BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-040-0015, BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05; BOC 1-2006, f. & cert. ef. 3-15-06

817-035-0030

Document Issuance

(1) Pursuant to ORS 690.048, an individual will be issued a certificate authorizing the holder to practice barbering, hair design, esthetics or nail technology upon passage of the qualifying examination(s) required in OAR 817-030-0045 and payment of an initial certificate fee for each field of practice.

(2) Certificate, license and registration holders are subject to provisions of OAR 331-030-0010 regarding issuance and renewal of an authorization, and to provisions of OAR 331-030-0020 regarding authorization to practice and requirements for issuance of a duplicate authorization.

Stat. Auth.: ORS 676.615, 690.048, 690.123 & 690.165

Stats. Implemented: ORS 676.615, 690.048, 690.123 & 690.165

Hist.: BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; Renumbered from 817-030-0095; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05; BOC 1-2006, f. & cert. ef. 3-15-06

817-035-0050

Application and Criteria for Certificate of Identification

(1) A practitioner who provides services outside of a licensed facility must hold a certificate of identification.

(2) The applicant for a certificate of identification must submit:

(a) A completed application, indicating applicant's name, current residential address (and mailing address if applicable), telephone number, and certificate number;

(b) A legible copy of photographic identification such as a driver's license;

(c) Payment of application and certificate of identification fees; and

(d) The assumed business name (ABN) filed with and issued by the Corporations Division, Assumed Business Names section, if applicable.

(3) The agency will conduct an examination of the applicant's safety and infection control practices, which the applicant must pass prior to issuance of the certificate of identification. The examination will be performed at a time and place determined by the agency.

(4) Upon qualification, the agency will issue a certificate of identification indicating the fields of practice the practitioner is certified to perform outside of a licensed facility.

(5) The certificate of identification is issued as a separate document from the certificate authorizing the holder to perform services, for a period of one year and expires on the last date of the month one year from the date all qualifications were met.

(6) A certificate of identification is not automatically renewable. Applicants must reapply and meet qualification criteria prior to issuance.

(7) A holder of a certificate of identification shall:

(a) Provide each client with a card indicating the name and address of the agency, that specifically states the client may contact the agency to comment on any of the services received or on any of the sanitary procedures followed while performing services;

(b) Display the practitioner's certificate number on all advertising and the card required by subsection (7)(a) of this section when soliciting business; and

(c) Be subject to the Board's health, safety, and infection control rules and regulations.

(8) The certificate of identification may be suspended or revoked by the Board if the certificate holder:

(a) Practices or performs services at the practitioner's residence when the residence is not licensed as a facility under OAR 817-020-0005;

(b) Practices or performs services on clients other than those who either reside at or are employed at the residence, office or business where services are provided; or

(c) Both practices and resides outside the state of Oregon.

(9) The certificate of identification may be suspended or revoked by the agency if the Board has taken action to refuse to issue or renew, or has suspended or revoked the practitioner's certificate.

Stat. Auth.: ORS 676.615, 690.048, 690.123 & 690.165

Stats. Implemented: ORS 676.615, 690.048, 690.123 & 690.165

Hist.: BH 4-1984, f. & cert. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, f. & cert. ef. 7-1-94; Renumbered from 817-020-0040; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-035-0070

Independent Contractor Registration Eligibility

An independent contractor registration may be issued if the applicant:

(1) Holds a current, valid practitioner's certificate;

(2) Is at least 18 years of age as required in ORS 690.057;

(3) Meets the criteria for independent contractor status in accordance with ORS 690.035, 690.057, 670.600, and 657.040;

(4) Applies on forms provided by the agency and pays the required application and registration fees;

(5) Complies with all applicable rules and regulations of the Board and other state agencies; and

(6) Certifies that application information is correct.

Stat. Auth.: ORS 676.615, 690.055, 690.057 & 690.165

Stats. Implemented: ORS 676.615, 690.055, 690.057 & 690.165

Hist.: BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-035-0090

Independent Contractor Registration Criteria

(1) An independent contractor registration may be issued upon qualification according to the provisions of OAR 817-035-0070.

(2) An independent contractor registration will be evidence of the practitioner's qualification to work independent of a facility license holder. The registration is transferable between work locations, provided the agency is given notification as stated in OAR 331-010-0040(3).

(3) Independent contractors must:

(a) Be subject to all of the Board's health, safety, and infection control rules and regulations;

(b) Allow the agency's enforcement officer to inspect all working areas when open for business;

(c) Abstain from obstructing or hindering the normal progress of the inspection, threatening or exerting physical harm, or enabling another individual to impede the inspection process;

(d) Contact the agency in writing to make arrangements for an inspection if after one year the agency has not performed an inspection; and

(e) Post the registration and inspection certificate as stated in OAR 817-035-0110.

Stat. Auth.: ORS 676.615, 690.055, 690.057, 690.085, 690.095, 690.165 & 690.225

Stats. Implemented: ORS 676.615, 690.055, 690.057, 690.085, 690.095, 690.165 & 690.225

Hist.: BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-035-0110

Posting Requirements

Certificate, license, permit and registration holders are subject to the requirements of OAR 331-030-0020 in addition to the following posting requirements:

(1) Facility licenses must be posted in public view.

(2) Independent contractor registrations must be posted at the registration holder's workstation in public view.

(3) Practitioner certificates must be posted in public view. The practitioner's address printed on the certificate may be blocked from public view.

(4) Demonstration and temporary authorizations must be posted in public view.

(5) Holders of a facility license or an independent contractor registration must maintain the most recent inspection certificate on the facility premises or at the designated work station and allow access to the record upon request by the agency's enforcement officer or representative.

Stat. Auth.: ORS 676.615, 690.095 & 690.165

Stats. Implemented: ORS 676.615, 690.095 & 690.165

Hist.: BH 2-1978, f. & ef. 11-29-78; BH 4-1984, f. & ef. 12-7-84; Renumbered from 817-010-0120; BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; Renumbered from 817-020-0013; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

DIVISION 40

FEES

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 Board are as follows:

(a) Application for a certificate, license, permit or registration (non-refundable): \$15.

(b) Original practitioner certificate (two-year) for each field of practice:

- (A) Barbering: \$33;
- (B) Hair Design: \$33;
- (C) Esthetics: \$33;
- (D) Nail Technology: \$33;

(c) Renewal of practitioner certificate (two-year) for each field of practice:

- (A) Barbering: \$33;
- (B) Hair Design: \$33;
- (C) Esthetics: \$33;
- (D) Nail Technology: \$33;
- (d) Examination for certification (each attempt):
- (A) Oregon Laws and Rules: \$25;
- (B) Barbering: \$25;
- (C) Hair Design: \$25;
- (D) Esthetics: \$25;
- (E) Nail Technology: \$25.

(F) Certificate of identification (exam): \$15

(e) Original facility license: \$50.

(f) Renewal of facility license: \$50.

(g) Original independent contractor registration: \$50.

(h) Renewal of independent contractor registration: \$50.

(i) Annual Certificate of identification (authorization): \$50.

(j) Duplicate or replacement of a certificate, license, registration or permit: \$5.

(k) Late fees:

(A) Late practitioner certificate renewal fee: \$25 per year in expired status;

(B) Late facility license renewal fee: \$25;

(C) Late independent contract registration renewal fee: \$25;

(l) Demonstration permit: \$15.

(m) Reciprocity fee: \$50.

(n) Temporary facility permit: \$35.

Stat. Auth.: ORS 676.605, 676.615 & 690.235

Stats. Implemented: ORS 676.605, 676.615, 690.235 & 30.701

Hist.: BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 1-1990(Temp), f. 4-20-90 & cert. ef. 6-1-90; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2005, f. 6-17-05, cert. ef. 7-1-05; BOC 1-2006, f. & cert. ef. 3-15-06

DIVISION 60

CHEMICAL USE AND STORAGE

817-060-0010

Client Protection

(1) When administering chemical services to a client, all practitioners, as defined in ORS Chapter 690, shall follow safety procedures which prevent eye, nail, hair, or skin injury to clients or damage to the clothing of clients.

(2) When an employee/employer relationship exists employees shall comply with ORS 654 and OAR 437-002-0360(25), 29 CFR 1910.1030, OAR 437-002-0360(35), and 29 CFR 1910.1200.

Stat. Auth.: ORS 690.165 & 690.205

Stats. Implemented: ORS 654, 690.165 & 690.205

Hist.: BH 1-1983(Temp), f. & ef. 10-4-83; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Administrative Correction 1-15-98

817-060-0020

Chemical Storage

(1) For the purposes of this section, the following terms are being used as defined by OAR 437, division 2, General Occupational Safety and Health Rules Toxic and Hazardous Substances as amended and in effect November 2, 1999;

- (a) Corrosives;
- (b) Flammables (aerosol, gas, liquid, and/or solid);
- (c) Oxidizers.

(2) For purposes of this section "hazardous" and "segregated in storage" are defined as follows:

(a) "Hazardous" means capable of causing an unplanned, uncontrolled reaction which could present a hazard to practitioners or clients by explosion, fire, release of toxic gases or by-products, or physical or chemical burns; and

(b) "Segregated in storage" means that potentially hazardous chemicals and materials are separated (so as to prevent their mixing with one another through leakage, spillage or breakage) by an adequate distance or through the use of physical barriers such as partitions or separate shelving arrangements.

(3) All facilities, independent contractors and practitioners using chemicals in providing services to clients shall store the chemicals safely to avoid fire, explosion and bodily harm to clients and practitioners:

(a) Flammable chemicals shall be stored remote from potential sources of ignition (e.g., the pilot light of a hot water tank); and

(b) Chemicals which could interact in a hazardous manner (e.g., oxidizers, corrosives and flammables) shall be segregated in storage, in areas where surrounding air temperatures do not exceed 140 degrees Fahrenheit:

(A) Chemical containers holding one gallon or less may be stored in the same area or in the same storage cabinet with materials with which they could react, if one of the following conditions is met:

(i) Containers of reactive chemicals are separated by location or sufficient distance (i.e., at least 12 inches apart or on different shelves) to prevent their reaction; or

(ii) Glass bottles of reactive chemicals are treated to make them break-resistant (e.g., resin-coated) or are stored in rubber buckets or sleeves, or are stored with a partition separating them.

(B) Chemicals which are highly reactive or stored in containers greater than one gallon must be stored in separate cabinets, in safety-valve containers, or in locations isolated from other chemicals;

(C) Chemicals may be stored in containers which the Oregon Department of Transportation has approved for the shipping of those chemicals; and

(D) Chemically related waste or refuse and chemically dampened or saturated towels must be placed in the appropriate fire-retardant containers as stated in OAR 817-010-0035(4) and 817-010-0060.

Stat. Auth.: ORS 676.605, 676.615, 690.165 & 690.205

Stats. Implemented: ORS 676.605, 676.615, 690.165 & 690.205

Hist.: BH 1-1983(Temp), f. & ef. 10-4-83; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

817-060-0030

Use, Handling and Disposing of Chemicals

(1) Practitioners who use chemicals in order to provide services to clients shall mix those chemicals in a dispensing area, which has adequate ventilation away from open flame or other source of potential ignition.

(2) All chemically saturated towels and waste from the work and storage area must be placed in covered, fire-retardant containers. Refer to 817-010-0035 and 817-010-0060.

(3) All chemicals shall be disposed of according to manufacturers instructions and in accordance with local and state environmental requirements.

(4) Cosmetic products containing hazardous substances, which have been banned by the U.S. Food and Drug Administration for use in cosmetic products, are prohibited on the premises of facilities.

(5) Products are prohibited from being used in a manner that is disapproved by the U.S. Food and Drug Administration.

(6) A practitioner shall not use any product containing compounds or substances characterized as hazardous or harmful to humans by Material Safety Data Sheets (MSDS) and/or random product testing.

(7) Smoking or use of an open flame at the workstation, by either the client or practitioner, during any phase of chemical service, i.e. mixing, application, processing, or use of any potentially explosive chemicals, is strictly prohibited. This prohibition includes smoking by the client inside the facility while any phase of a chemical service is being performed.

Stat. Auth.: ORS 676.605, 676.615, 690.165 & 690.205

Stats. Implemented: ORS 676.605, 676.615, 690.165 & 690.205

Hist.: BH 1-1983(Temp), f. & ef. 10-4-83; BH 4-1984, f. & ef. 12-7-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04

DIVISION 80

DISCIPLINE AND ENFORCEMENT

817-080-0005

Investigative Authority

The Oregon Health Licensing Agency may initiate and conduct investigations of matters relating to the practice of cosmetology, pursuant to ORS 676.608 and 676.618, and may take appropriate disciplinary action in accordance with the provisions of ORS 676.612 and 690.167.

Stat. Auth.: ORS 676.608, 676.618, 690.165 & 690.167

Stats. Implemented: ORS 676.608, 676.618, 690.165 & 690.167

Hist.: BH 4-1984, f. & ef. 1-27-84; BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

DIVISION 90

CIVIL PENALTIES

817-090-0025

Schedule of Penalties for Facility and Independent Contractor Registration Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of the following facility license and independent contractor registration rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 817-020-0060. For the 4th and subsequent offenses, the provisions of OAR 817-020-0060 will apply.

(1) Operating a facility without first filing a facility application, paying the fees, and receiving a license is a violation of ORS 690.015(2)(b) and (2)(e) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: The facility owner/operator shall be subject to the assessment of a monetary penalty and any other penalties

allowed by law including refusal to issue a certificate and/or a facility license.

(2) Operating as an independent contractor without first filing an independent contractor registration application, paying the fees, and receiving a registration is a violation of ORS 690.015 (2)(d) and (2)(e) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: The independent contractor shall be subject to the assessment of a monetary penalty and any other penalties allowed by law including refusal to issue a certificate, license, registration and/or permit.

(3) Operating a facility or as an independent contractor with an expired license or registration is a violation of ORS 690.015(2)(b) or (2)(d) and OAR 331-030-0010(4) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: The independent contractor shall be subject to the assessment of a monetary penalty and any other penalties allowed by law including refusal to issue a certificate, license registration and/or permit.

(4) Allowing an uncertified person to practice as an employee is a violation of ORS 690.015(2)(g) and shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000;

(c) For 3rd offense: The person shall be subject to the assessment of a penalty and/or the proposed revocation, suspension or refusal to issue a license.

(5) Failing to notify the Agency of a work location change as an independent contractor as required by OAR 331-010-0040(3) shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: The independent contractor shall be subject to the assessment of a penalty and/or the proposed revocation, suspension or refusal to issue an independent contractor registration.

(6) Failing to allow the Agency to inspect the premises when the facility is open or obstructing or hindering the normal progress of the inspection, threatening or exerting physical harm, or enabling another individual to impede the inspection progress is a violation of OAR 817-020-0012(1) and (2) and shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000;

(c) For 3rd offense: The facility owner/operator or practitioner shall be subject to the assessment of a penalty and/or the proposed revocation, suspension or refusal to issue a certificate, license, registration and/or permit.

(7) Allowing an employee to practice with an expired practitioner certificate is a violation of ORS 690.015(7) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: The facility owner shall be subject to the assessment of a monetary penalty and any other penalties allowed by law including refusal to issue a facility license.

(8) Failing to meet the specifications and standards required under OAR 817-010-0007 in a facility is a violation of OAR 817-020-0011(1)(b) and shall incur the following penalty for any offense: Immediate suspension of the facility license until the violation is corrected.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0035

Schedule of Penalties for Practitioner Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of the following practitioner licensing rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Operating with an expired practitioner certificate is a violation of ORS 690.015(2)(a) and OAR 331-030-0010(4) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

(c) For 3rd offense: The practitioner shall be subject to the assessment of a monetary penalty and any other penalties allowed by law including refusal to issue a certificate, license, registration and/or permit.

(2) Practicing barbering, hair design, esthetics or nail technology without a certificate, with a certificate issued to another person, or a suspended certificate is a violation of ORS 690.015(2)(a), 676.612(4) and/or 676.612(1)(d) and shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000;

(c) For 3rd offense: The person shall be subject to the assessment of a monetary penalty and any other penalties allowed by law including refusal to issue a certificate, license, registration and/or permit.

(3) Performing services as a practitioner while working as an employee in an unlicensed facility is a violation of ORS 690.015(2)(e) and shall incur the following penalties:

(a) For 1st offense: \$200;

(b) For 2nd offense: \$500;

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

(4) Failing as a practitioner to inform the Agency within 30 calendar days of a change of employment with a facility is a violation of OAR 331-010-0040 and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$200.

(5) Failing to notify the Agency of a move or a change of home address within 30 calendar days of the change is a violation of OAR 331-010-0040 and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$200.

(6) Performing barbering, hair design, esthetics and/or nail technology services by a student when not on the premises of the career school in which he or she is enrolled is a violation of OAR 817-100-0005(3) and shall incur the following penalties:

(a) For 1st offense: \$150;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96, Renumbered from 817-090-0020; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0045

Schedule of Penalties for Certificate/License/Registration/Permit Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of the following certificate/license/registration/permit rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply:

(1) Altering a license, certificate, registration or permit authorization issued by the agency is a violation of ORS 690.015(2)(j) and shall incur the following penalties:

(a) For 1st offense: \$500;

(b) For 2nd offense: \$1,000;

(c) For 3rd offense: The person shall be subject to the assessment of a penalty and/or the proposed revocation, suspension or refusal to issue a certificate, license, registration, permit or authorization.

(2) Failing to post a facility license, independent contractor registration, practitioner certificate and/or permit in a publicly visible place within a facility or at the independent contractor's work station is a violation of ORS 690.095 and OAR 817-035-0110 and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$500;

(c) For 3rd offense: The practitioner and/or facility owner/independent contractor shall be subject to the assessment of a penalty and/or probation, revocation, suspension or refusal to issue a certificate, facility license and/or independent contractor registration. Posting of photocopies, reproductions, and pocket identification cards will be cited as failure to post.

(3) Failing to maintain the most recent inspection certificate on the facility premises or at the work station of an independent contractor, or to make the document available upon request is a violation of OAR 817-035-0110(5) and shall incur the following penalties:

(a) For 1st offense: \$50.

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$200.

(4) Failing to return or surrender a certificate, license, registration and/or permit upon demand by the Agency is a violation of OAR 331-030-0020(5) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(5) Failing to provide appropriate photographic identification upon request by the Agency is violation of OAR 331-030-0020(4) and shall incur the following penalties:

(a) For 1st offense: \$300;

(b) For 2nd offense: \$500;

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

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0020; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0050

Schedule of Penalties for Certificate of Identification Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of the following certificate of identification licensing rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Working with an expired certificate of identification is a violation of ORS 690.015(2)(a) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$500;

(c) For 3rd offense: The practitioner shall be subject to the assessment of a monetary penalty and any other penalties allowed by law including refusal to issue a certificate.

(2) Failing to display the practitioner certificate number when advertising or soliciting business; and/or, failing to provide required card under a certificate of identification is a violation of OAR 817-035-0050(7)(a) and/or (b) and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$200.

(3) Practicing outside a licensed facility without Agency authorization to do so is a violation of ORS 690.123 and shall incur the following penalties:

(a) For 1st offense: \$300;

(b) For 2nd offense: \$500;

(c) For 3rd offense: The practitioner shall be subject to the assessment of a penalty and/or the proposed suspension or refusal to issue a certificate.

Stat. Auth: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96, Renumbered from 817-090-0020; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0055

Schedule of Penalties for Home Facility Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violation of the following home facility licensing rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to identify a facility located in a residence by means of a house number or a sign easily visible from the street is a violation of OAR 817-020-0011(2)(a) and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$200.

(2) Failing to have a separate entry to the living area of the residence for a facility located in a residence or to properly separate the facility from the living area of the residence is a violation of OAR 817-020-0011(2)(d), (e) and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$200.

Stat. Auth: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165 & 690.167

Hist.: BH 3-1984(Temp), f. & ef. 6-27-84; BH 4-1984, f. & ef. 12-7-84; BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96, Renumbered from 817-090-0020; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0065

Schedule of Penalties for Water Supply and Disposal Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to have immediate access to both hot and cold running water in the working area of a facility or as a practitioner working under a certificate of identification is a violation of OAR 817-010-0014(4) and 817-035-0050(7)(c) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(2) Failing to have a facility water supply which meets state pressure and purity requirements is a violation of OAR 817-010-0014(1) and (2) and shall incur the following penalty for any offense: Referral of the violation to the State Plumbing Board and immediate suspension of the facility license until the violation is corrected.

(3) Improperly disposing of liquid waste from a facility is a violation of OAR 817-010-0021(3) and shall incur the following penalty for any offense: Referral of the violation to the State Plumbing Board

and immediate suspension of the facility license until the violation is corrected.

Stat. Auth: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167, 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96, Renumbered from 817-090-0030; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0070

Schedule of Penalties for Towels and Linens Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to use clean towels or linens for each client is a violation of OAR 817-010-0035(1) and failing to launder towels and linens as required is a violation of OAR 817-010-0035(5), and shall incur the following penalties for each violation:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$200.

(2) Failing to store clean towels and linens in a clean area is a violation of OAR 817-010-0035(3) and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$200.

(3) Failing to immediately deposit all used towels with chemical residue in a closed, fire retardant container is a violation of OAR 817-010-0035(4) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(4) Failing to deposit soiled towels in a covered container is a violation of OAR 817-010-0035(4) and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$200.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0075

Schedule of Penalties for Waste Disposal Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to immediately deposit all chemical waste materials in a closed container at the conclusion of each service, or a fire-retardant container at the close of each business day is a violation of OAR 817-010-0060(1) and shall incur the following penalties:

(a) For 1st offense: \$100;

(b) For 2nd offense: \$300;

(c) For 3rd offense: \$500.

(2) Failing to immediately deposit all waste and refuse in covered containers is a violation of OAR 817-010-0060(2) and shall incur the following penalties:

(a) For 1st offense: \$50;

(b) For 2nd offense: \$100;

(c) For 3rd offense: \$200.

(3) Failing to store cigarette ashes, butts, etc. in a fire-retardant container is a violation of OAR 817-010-0060(4) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(4) Failing to keep the outer surface of a waste disposal container clean is a violation of OAR 817-010-0060(5) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(5) Failing to dispose of disposable material coming into contact with blood or other bodily fluids in a sealable plastic bag is a violation of OAR 817-010-0060(6) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(6) Failing to dispose of disposable sharp-edged material coming into contact with blood or other bodily fluids in a sealable rigid container is a violation of OAR 817-010-0060(7) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(7) Failing to have sealable plastic bags and sealable rigid containers available for use at all times services are being performed is a violation of OAR 817-010-0060(8) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
 Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167, 690.205
 Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0080

Schedule of Fines for Dispensing of Cosmetic Preparations Violations

(1) The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(2) Failing to properly dispense powders, liquids, wave solutions, creams, semi-solid substances or other materials which come in contact with a client is a violation of OAR 817-010-0055 and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 690.165, 690.205 & 690.995
 Stats. Implemented: ORS 690.165, 690.205 & 690.995
 Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06; BOC 1-2007, f. 10-31-07, cert. ef. 11-1-07

817-090-0085

Schedule of Penalties for Sanitation or Disinfectant Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to use a high-level disinfectant or failing to totally immerse all tools and implements with sharp edges or points, according to disinfectant manufacturers instructions is a violation of either OAR 817-010-0068(3) or 817-010-0101(5) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(2) Failing to keep disinfecting solutions at adequate strength, free of foreign material and/or available for immediate use at all times the facility is open for business is a violation of OAR 817-010-0065(6) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(3) Failing as a facility license holder, an independent contractor or a practitioner working under a certificate of identification to provide and maintain adequate disinfecting and sterilizing equipment to the number of practitioners, usage requirements or volume of business is a violation of OAR 817-010-0065(3) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(4) Failing to use a low-level disinfectant or failing to totally immerse all tools and implements, without sharp edges or points according to disinfectant manufacturers instructions is a violation of OAR 817-010-0068(2) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
 Stats. Implemented: ORS 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205
 Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0090

Schedule of Penalties for Disinfecting Requirements of Tools and Implements Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to cleanse and disinfect electrical or mechanical hair clipper blades after use on each client is a violation of OAR 817-010-0069(2) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(2) Failing as a facility license holder, independent contractor, or practitioner working under a certificate of identification to disinfect tools and implements in a sanitizing pan or, alternatively, to use pre-disinfected packets or containers of tools and implements, prepared in advance for each client, is a violation of OAR 817-010-0065(3) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(3) Failing to store new, disinfected or cleaned tools and implements separately from all others is a violation of OAR 817-010-0075(1) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(4) Failing to ensure that all articles which come in contact with a client are disinfected, cleaned or disposed of is a violation of OAR

817-010-0040(2) and/or 817-010-0040(3) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(5) Failing to discard a disposable nail file, cosmetic sponge, buffer block, sanding band or sleeve, orangewood stick, or nail bits designed for single use after use on a client, or to give the nail file, cosmetic sponge, buffer block, sanding band or sleeve, orangewood stick or nail bit to the client is a violation of OAR 817-010-0065(7) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167, 690.205
Stats. Implemented: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0095

Schedule of Penalties for Cleanable/Non-Absorbent Surfaces Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to have cleanable, non-absorbent surfaces on all equipment in all areas of a facility where services are performed is a violation of OAR 817-010-0101(1) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(2) Failing to keep equipment in a facility, including upholstery fabrics, clean and in good repair is a violation of OAR 817-010-0101(3) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(3) Failing to have cleanable, non-absorbent floor surfaces in good repair in the area(s) of a facility where services are performed is a violation of OAR 817-010-0106(1) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

Stat. Auth.: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167, 690.205
Stats. Implemented: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0100

Schedule of Penalties for Clean Conditions Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to keep a restroom located on the premises of a facility clean and sanitary is a violation of OAR 817-010-0021(2) and shall incur the following penalties:

- (a) For 1st offense: \$50;

- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(2) Failing to keep a facility shampoo bowl or sink clean is a violation of OAR 817-010-0101(2) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(3) Failing to keep roller-storage receptacles and their contents clean and free of foreign material is a violation of OAR 817-010-0075(2) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(4) Failing to keep storage drawers for clean tools and implements clean and to use such drawers only for clean tools and implements is a violation of OAR 817-010-0075(3) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(5) Failing to keep storage cabinets, work stations, vanities and backbars or other such equipment clean is a violation of OAR 817-010-0075(4) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(6) Allowing hair clippings to accumulate on a facility floor or failing to dispose of hair clippings in a covered container is a violation of OAR 817-010-0106(3) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(7) Failing to keep facility walls and ceiling clean and free of excessive spots, mildew, condensation or peeling paint is a violation of OAR 817-010-0110 and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(8) Failing to properly clean and disinfect foot spa equipment as required is a violation of OAR 817-010-0101(5) and shall incur the following penalty:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Stats. Implemented: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0105

Schedule of Penalties for Client Health and Safety Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to use a neck strip or a towel to prevent contact between the skin of a client's neck and a hair cloth or cape is a violation of OAR 817-010-0040(1) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(2) Failing to use a disposable cover on the head of a client who is trying on a hairpiece or to clean and label used hair goods as

“used” prior to resale is a violation of OAR 817-010-0085 and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(3) Failing to provide disposable drinking cups when beverages are served in a facility is a violation of OAR 817-010-0090 and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(4) Failing to wear single-use disposable protective gloves while having open sores or skin lesions during any performance of service on a client is a violation of OAR 817-015-0030(2) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(5) Performing services while diagnosed with a communicable disease or condition in a transmittable form is a violation of OAR 817-120-0005(4) and (5) and shall incur the following penalty for any violation: Immediate suspension until the disease or condition is no longer communicable.

(6) Treating any disease or knowingly serving any client having a communicable disease or condition except head lice is a violation of OAR 817-120-0005(4) and (5) and shall incur the following penalties:

- (a) For 1st offense: \$250;
- (b) For 2nd offense: \$500;
- (c) For 3rd offense: Suspension or revocation of practitioner certificate.

(7) Performing services without washing one's hands immediately before and after serving each client is a violation of OAR 817-015-0030(1) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(8) Failing to maintain client records for each client receiving esthetics or nail technology services, maintain client records on the premises of the facility or allow an enforcement officer access to review client records upon request is a violation of OAR 817-015-0065 and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(9) Failing to maintain required documentation of an FDA Class I or Class II manual or mechanical device or equipment, or to provide required documentation upon request is a violation of OAR 817-010-0065(10) or (14) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167, 690.205
Stats. Implemented: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 4-2001(Temp), f. & cert. ef. 11-1-01 thru 4-29-02; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0110

Schedule of Penalties for Safe Working Conditions Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following safety and infection control rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to meet the requirements of the Oregon Indoor Clean Air Act is a violation of OAR 817-010-0009 and will be referred to the Department of Human Services, Health Services.

(2) Having frayed electrical wiring or overloading the electrical circuits in a facility is a violation of ORS 690.055(1)(C), 690.055(4)(F) and OAR 817-010-0007(1) and shall be referred to the appropriate authority.

(3) Having pets in facilities, other than fish in an aquarium, is a violation of OAR 817-010-0095 and shall incur the following penalties.

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(4) Failing to wear single-use disposable protective gloves while performing a service on a client whose skin shows signs of excretion of any body fluids is a violation of OAR 817-015-0030(3) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(5) Failing to wear eye goggles, shields or mask in performing services on a client where the likelihood of splattering is present is a violation of OAR 817-015-0030(4) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

(6) Failing to have a restroom available which is “reasonably accessible” for facility employees is a violation of OAR 817-010-0021(1) and shall incur the following penalties:

- (a) For 1st offense: \$50;
- (b) For 2nd offense: \$100;
- (c) For 3rd offense: \$200.

Stat. Auth.: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Stats. Implemented: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0030; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2002, f. 5-31-02 cert. ef. 6-1-02; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

817-090-0115

Schedule of Penalties for Chemical Use and Storage Violations

The Agency has adopted the following presumptive penalty schedule for the 1st, 2nd, and 3rd violations of the following chemical use and storage rules. The following schedule shall apply except as the agency otherwise determines in consideration of the factors referred to in OAR 331-020-0060. For the 4th and subsequent offenses, the provisions of OAR 331-020-0060 will apply.

(1) Failing to store chemicals safely to avoid fire, explosion and/or bodily harm to clients and practitioners is a violation of OAR 817-060-0020(3) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(2) Failing to mix chemicals in a dispensing area is a violation of OAR 817-060-0030(1) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(3) Mixing or using chemicals near an open flame or other potential source of ignition is a violation of OAR 817-060-0030(1) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

(4) Smoking, or allowing a client to smoke, or having an open flame at the workstation, during any phase of chemical service, i.e. mixing, application, processing, or use of any potentially explosive or flammable chemical, in relation to performing services is a

violation of OAR 817-060-0030(7) and shall incur the following penalties:

- (a) For 1st offense: \$100;
- (b) For 2nd offense: \$300;
- (c) For 3rd offense: \$500.

Stat. Auth.: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167, 690.205
Stats. Implemented: ORS 676.605, 676.605, 676.615, 676.992, 690.165, 690.167 & 690.205

Hist.: BH 1-1985, f. & ef. 3-28-85; BH 1-1988, f. & cert. ef. 7-1-88; BH 2-1990, f. & cert. ef. 10-29-90; BH 1-1992, f. 6-1-92, cert. ef. 7-1-92; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; Renumbered from 817-090-0040; BBH 1-1998, f. 6-24-98, cert. ef. 6-30-98; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

DIVISION 100

CLARIFICATION OF EXEMPTIONS

817-100-0005

Exemptions

(1) ORS 690.025(5) applies only while persons are on the premises of a business.

(2) Merchants or other individuals must have a certificate, license and/or registration under this Chapter to demonstrate supplies or apparatuses for purposes of sale when:

(a) They receive any form of compensation for the product/apparatus before conducting or presenting a “free” demonstration;

(b) They require any form of compensation to reserve a place at a “free” demonstration; or

(c) They make any stipulation, which requires a fee, or any remunerative action on the part of the client before or after receiving a “free” demonstration.

(3) A student of barbering, hair design, esthetics or nail technology is exempted only when on the premises of the career school in which the student is enrolled, and only while pursuing the prescribed curriculum.

(4) Persons working within a licensed health care facility providing services exclusively to facility residents without specific compensation from the resident for the service shall be exempt under ORS 690.025(3) and OAR 817-020-0305.

(5) Persons who work in photography studios, applying temporary makeup, combing hair or applying hair spray, without receiving specific compensation for service when provided to a photography client solely for preparing the client for a professional photograph shall be exempt under the provisions of ORS 690.025(7).

(6) Persons applying temporary makeup, combing hair or applying hair spray, without specific compensation for services, provided for the sole purpose of preparing any individual for a theatrical performance shall be exempt under ORS 690.025(7).

(7) Practitioners may provide services outside the premises of a licensed facility, on persons confined to their residence through medical disability or restriction without requirement of working under a certification of identification, provided they carry and display their practitioner certificate while working on the person or performing services.

(8) Domestic Administration refers to a person providing services in a location where the client or person resides and the services are provided only to persons who are related by blood, marriage, or domestic partnership.

(9) Emergency Services as described in ORS 690.025(1) means situations where failure to act is likely to result in greater injury or personal harm.

Stat. Auth.: ORS 690.025 & 690.165

Stats. Implemented: ORS 690.025 & 690.165

Hist.: BH 4-1984, f. & ef. 12-7-84; BH 2-1990, f. & cert. ef. 10-29-90; BH 3-1994, f. 6-23-94, f. & cert. ef. 7-1-94; BH 1-1996, f. 5-31-96, cert. ef. 7-1-96; BH 1-1997, f. 7-22-97, cert. ef. 8-1-97; BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 2-2001, f. 2-16-01, cert. ef. 3-1-01; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06

DIVISION 120

CODE OF PROFESSIONAL CONDUCT

817-120-0005

Practice Standards

(1) Practitioners must be guided by the highest standards of professional conduct.

(2) Practitioners shall act and practice in a manner which safeguards the public's health, safety, and welfare.

(3) All practitioners shall be appropriately clothed while providing services and shall be subject to public decency laws.

(4) Practitioners shall not perform services while diagnosed with a communicable disease or condition in a transmittable form.

(5) Practitioners shall not treat any disease or knowingly serve any client having a communicable disease or condition, except head lice.

Stat. Auth.: ORS 676.605, 676.615 & 690.165

Stats. Implemented: ORS 676.605, 676.615 & 690.165

Hist.: BH 1-1988, f. & cert. ef. 7-1-88; BH 3-1994, f. 6-23-94, cert. ef. 7-1-94; BH 1-1996, f. 5-31-95, cert. ef. 7-1-96; Renumbered from 817-120-0010, BOC 1-2000, f. 5-12-00, cert. ef. 5-15-00; BOC 1-2004, f. 6-29-04, cert. ef. 7-1-04; BOC 1-2006, f. & cert. ef. 3-15-06