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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

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

FILED

08/31/2023 2:14 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Define esthetics device and natural physiological effect.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/09/2023 12:00 PM

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

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Filed By:
Samantha Patnode
Rules Coordinator

HEARING(S)

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

DATE: 09/19/2023

TIME: 9:00 AM - 3:00 PM

OFFICER: Samie Patnode

HEARING LOCATION

ADDRESS: Health Licensing Office Conference Room, 1430 Tandem Ave, Suite 180, Salem, OR 97301

REMOTE MEETING DETAILS

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

PHONE NUMBER: 971-271-2343

CONFERENCE ID: 170680339

SPECIAL INSTRUCTIONS:

If joining the meeting from a computer through MS Teams click on the URL link above and enter the following:

Meeting ID: 295 487 779 79

Passcode: wjswTj

NEED FOR THE RULE(S)

The rules are needed to comply with the requirements of HB 2970 (2021) passed during the 2021 Legislature. The bill made changes to both the estheticians and advanced estheticians' scope of practice and requires the Board of Certified Advanced Estheticians and the Board of Cosmetology to work collaboratively to define the term "device" within each profession.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

- Oregon Revised Statutes, Oregon Administrative Rules, and meeting materials, including video recordings related to

the Board of Cosmetology, Board of Certified Advanced Estheticians, and HLO.

- Information pertaining to HB 2970 (2021).
- Joint Rules Advisory Committee meeting documents and video.
- Stedman's Medical Dictionary for the Health Professions and Nursing is 7th edition, copyright 2012
- MiLady Standard – Esthetics – Fundamentals – Edition 11, last copyright 2013
- Salon Fundamentals Esthetics – 2nd edition, last copyright 2007
- MiLady Standard - Advanced Esthetics – 2nd edition, last copyright 2013
- Advanced Professional Skin Care – Medical Edition – copyright 2005, no edition

All documents are available at the HLO, 1430 Tandem Ave. NE, Suite 180, Salem, OR 97301-2192. To obtain information or copies of information, please contact Samie Patnode, Policy Analyst, at 503-373-1917 or by email at samie.patnode@oha.oregon.gov, during normal business hours Monday through Friday between 7 a.m. and 2:30 p.m.

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

Adoption of the proposed rules will likely not affect racial equity in Oregon because all certified estheticians no matter what their race, gender or ethnic background will be required to meet the requirements of the new rules.

FISCAL AND ECONOMIC IMPACT:

There may be a fiscal impact to estheticians, small business owners, and the public if the proposed rules become permanent.

COST OF COMPLIANCE:

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

Cost of Compliance

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

The HLO will likely be affected by the rule changes. HLO performs inspections on cosmetology facilities where both estheticians and advanced estheticians are required to work. Changes to the scope of practice will require additional training of staff to understand the changes to the scope of practice, which will ensure inspectors can determine if either profession is working outside of the scope of practice.

Generally, when inspectors find the certificate holders are working outside of the scope of practice it inspection is transferred to a complaint generated by HLO for further investigation. Complaint investigations are considerably more work than a cosmetology facility inspection. If the changes in the scope of practice increase the number of complaints received, it may cost HLO more in expenditures for training of investigators and subject matter experts, legal, hearing, and cost for subject matter experts. If there is an increase in complaints, there will likely be additional meetings held for both the Board of Cosmetology and the Board of Certified Advanced Estheticians to make decisions based on investigations.

Conversely, if estheticians are prohibited from providing microneedling services, there will likely be fewer related complaints, which may lower the economic impact on estheticians (legal fees, time off for hearings) and lower costs associated with investigating complaints, including litigation expenses.

HLO may have to create additional practice clarifications that explain how specific procedures, services, and use of devices impact each scope of practice, including prohibitions and exemptions. Practice clarification requires the cost of obtaining legal advice, board meeting time if applicable, and resources within the Policy Section of HLO.

If estheticians are considered members of the public, there would likely be a fiscal and economic impact if the proposed rules are adopted permanently.

The public may experience higher prices if estheticians choose to go through school to obtain an education and certificate in advanced esthetics, enabling them to perform higher-level services defined in ORS 676.630 and 819-030-0000(3)(c), including use of lasers, intense pulse light, microneedling, or other similar devices.

The actual costs to the public are unknown, as the prices associated with advanced esthetics vary based on complexity of the procedure, geography, experience, and education. Prohibiting estheticians from performing microneedling services and making it an advanced esthetics procedure could lower the cost to the public because the education and training costs associated with estheticians performing microneedling would not be passed on to the client.

As part of HB 2970 (2021) galvanic current, high-frequency, microcurrents, light-emitting diode therapy, and microdermabrasion using mechanical or electric apparatuses, appliances, or devices was added to the esthetics scope of practice because they were services estheticians had learned to use as part of their education and training and historically had been an esthetics service.

The proposed definition of an esthetic device has several components, including requirements, prohibitions, and responsibilities of the esthetician. These components include, but are not limited to:

- The device being either mechanical or electrical.
- Being capable of, and used for, performing the following skin care or facial care services: cleansing, stimulating, manipulating, exfoliating, and applying lotions or creams.
- Limiting estheticians from performing services with a mechanical or electric apparatuses, appliances, or devices that do not penetrate beyond the epidermis except through natural physiological and which are used to perform galvanic current, high-frequency, microcurrents, light-emitting diode therapy, microdermabrasion, and esthetics devices.
- Prohibiting estheticians from performing advanced nonablative esthetics procedures including but not limited to laser, intense pulse light and a piece of equipment or a mechanism used for microneedling, micro-channeling, dermarolling, radiofrequency needling, or a similar procedure specified in OAR 819-030-0000(3)(c) and other advanced esthetic devices.
- Prohibiting estheticians from using needle-free devices for injection of dermal fillers or fillers.
- Requiring a mechanical or electric apparatuses, appliances, or devices that share the same common characteristics similar to galvanic current, high-frequency, microcurrents, light-emitting diode therapy, microdermabrasion and esthetics devices and that does not require advanced esthetics training.
- Being capable of penetrating beyond the epidermis.
- Using a mechanical or electrical apparatus, appliance, or device that can only penetrate beyond the epidermis through the body's natural physiological effects.

Reportedly, many estheticians perform "microneedling" or similar procedures on clients, which is often considered a top-tier service that is generally a more expensive service. If the proposed rule is adopted, estheticians currently performing these services may be negatively impacted. The specific impact to estheticians' income is indeterminant. Likely, the cost of microneedling services would vary based on the complexity and location of the procedure, as well as the length of time required to perform the procedure, equipment cost and maintenance and whether the service is combined with other modalities such as radiofrequency, used to perform microneedling services. One website states

the average microneedling service costs \$683 per session and shows the cost can vary from \$100 to \$800 per procedure.

EstheticianEDU.org shows that an esthetician's salary in Portland, Oregon ranges from \$22,330 to \$71,160 annually with a median income of \$42,320 annually. Whereas the National Laser Institute which is linked with Salary.com shows an esthetician in Portland, Oregon earning \$54,100 annually.

One audience member at the October 23, 2023, Joint Board of Certified Advanced Esthetics and Board of Cosmetology meeting stated that the microneedling machine she purchased cost more than \$2000 and if she cannot continue to perform microneedling services she would be out the cost of the machine and any earnings from microneedling services. The cost of microneedling machines vary depending on if they are mechanical or handheld, for home use or change the depth in which the needle can penetrate the skin. Some of the reportedly more popular microneedling devices cost according to one website: SkinPen \$963 and a microneedling device that includes radiofrequency can cost more than \$64,875. Nanoneedling devices which are reportedly much safer than other microneedling devices in that they generally penetrate between .25 and 2.5 depth. Nanoneedling devices range in cost from approximately 100 to \$1000.

The audience member also stated she has spent a significant amount of money on training staff to perform microneedling services and if the proposed rules are adopted prohibiting estheticians from performing microneedling services, it may cause the trained staff to be laid off, which would affect the livelihood of some Oregon families.

The United States Food and Drug Administration (USFDA) has guidance related to "microneedling devices". The USFDA defines "microneedling-devices" as: Microneedling devices are instruments with technological features, such as many small needles, tips, or pins on the surface, which are repeatedly inserted and removed into the skin. For example, the needles may be attached to a cylinder that is rolled across the skin, project from a flat surface that is "stamped" on the skin, or arranged in a pattern on the tip of a pen-shaped instrument.

If estheticians continue to perform services with advanced esthetic devices, they could be fined up to \$5000 and have additional discipline imposed under their esthetics certificate.

If estheticians want to continue performing advanced esthetics services and they may seek additional education and training from an advanced esthetics career school which would likely have a significant negative impact. Currently there are seven advanced esthetics private career schools located throughout Oregon. Tuition costs between \$12,000 and \$15,500 which include 500 hours of theory and hands-on practical procedures. Fees to obtain a permanent certification as an advanced esthetician is \$100 for application and \$100 certification fee. The Board of Certified Advanced Estheticians approved examination cost is \$250. Once certified the following costs may be assessed:

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

(2) Effect on Small Businesses: a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping, and administrative activities and costs required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply

with the rule(s).

a) Estimate the number and type of small businesses subject to the rule(s);

There are currently 1,300 members of the Oregon Estheticians for Fair Licensing group which is an advocacy group for estheticians and advanced estheticians. Many of the members would be considered small businesses.

Currently there are 319 businesses who are actively registered with the Secretary of States Office with the term "esthetics" in the title. HLO has approximately 5,000 licensed cosmetology facilities some of which specialize in esthetics and advanced esthetics. HLO does not track which cosmetology fields of practice are performed in each facility.

There are currently 37 cosmetology private career schools licensed through the Higher Education Coordinating Commission seven which primarily only teach esthetics. There could be a financial loss to esthetics schools and registered teachers currently teaching microneedling to estheticians if the proposed rule becomes permanent.

The seven advanced esthetics private career schools could see a positive financial gain if estheticians currently performing microneedling enroll an advanced esthetics education program.

There may also be a financial loss to estheticians who are independent contractors providing hands-on training or continuing education to already certified estheticians. There are currently 15,378 active estheticians in Oregon of which some may be independent contractors who would likely consider themselves a small business. There are currently 7,673 independent contractors in Oregon many of which are certified in esthetics.

All HLO authorization data can be obtained on the website.

(b) Describe the expected reporting, recordkeeping, and administrative activities and costs required to comply with the rule(s);

The cost for reporting, recordkeeping and administrative activities appears to be minimal.

Estheticians may have to update media or communication resources to align with the changes in scope of practice. Business owners with employees may have to complete employment documentation for employees who are laid off due to prohibiting certain procedures by estheticians.

HLO may have to update facility inspection sheets with new rule information.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s). The cost for professional services, equipment supplies, labor, and increased administration appears to be limited. Cosmetology facilities that employ estheticians to perform microneedling will see the cost of labor decrease if employees are laid off due to a change in scope of practice.

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

Many of the members of the Board of Certified Advanced Esthetics and Board of Cosmetology as well as Rules Advisory Committee members were small business owners.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

817-005-0005, 817-010-0067, 817-015-0040

AMEND: 817-005-0005

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

CHANGES TO RULE:

817-005-0005

Definitions ¶¶

The following definitions apply to OAR Chapter 817, Divisions 5 through 120.¶¶

- (1) "Adequate ventilation" means ventilation by natural or mechanical methods that removes or exhausts fumes, vapors, or dust to prevent hazardous conditions from occurring in accordance with OAR Chapter 437, Division 2, or to allow the free flow of air in a room in proportion to the size and capacity of the room.¶¶
- (2) "Affidavit of Licensure" means an original document or other approved means of verifying licensure history, including information disclosing all unresolved or outstanding penalties and disciplinary actions. Refer to OAR 331-030-0040.¶¶
- (3) "Article" means those items that complement services provided in the practice of barbering, hair design, esthetics, or nail technology, including, but not limited to, neck-strips, towels or linens, and cloth or plastic capes.¶¶
- (4) "Authorization" has the definition set forth in ORS 676.562 and means a certificate, license, permit, or registration issued by the Health Licensing Office that allows a person to practice one of the occupations or professions or maintain a facility subject to the authority of the boards and councils listed in ORS 676.565.¶¶
- (5) "Barbering" has the definition set forth in ORS 690.005.¶¶
- (6) "Board" means the Board of Cosmetology.¶¶
- (7) "Chemical service" means the use of any product that restructures or removes hair or changes the shape or appearance of skin, hair or nails.¶¶
- (8) "Common area" means an area of a facility that is used by all authorization holders performing services, including, but not limited to, reception areas, dispensing areas, sinks, shampoo bowls, hair dryers, hair dryer areas, and employee lounges.¶¶
- (9) "Dermaplaning" means the use of a blade with a handle to remove dead skin cells and vellus hairs from the face.¶¶
- (10) "Disinfect" means using a process to destroy harmful organisms, including bacteria, viruses, germs, and fungi.¶¶
- (11) "Dispensing area" means an area with nonporous surfaces and a sink with hot and cold running water where service preparations are conducted, including, but not limited to, mixing of chemicals, cleaning of tools and equipment, disposing of residues, and rinsing parts of the body exposed to chemicals.¶¶
- (12) "Educational institution" means an Oregon high school licensed under ORS 335, an Oregon career school licensed under ORS 345 or an Oregon community college licensed under ORS 341.¶¶
- (13) "EPA" means the United States Environmental Protection Agency.¶¶
- (14) "Epidermis" has the definition set forth under OAR 817-015-0045.¶¶
- (15) "Equipment" means those items needed to operate a facility, including, but not limited to, waiting chairs, barber or styling chairs, shampoo chairs, cabinets, sinks, shampoo bowls, stationary dryers, pedicure bowls or whirlpool foot spas, paraffin wax containers, and nail technology tables.¶¶
- (156) "Esthetics" has the definition set forth in ORS 690.005.¶¶
- (167) "Esthetics device" has the definition set forth under OAR 817-015-0040.¶¶
- (18) "Facility" has the definition set forth in ORS 690.005.¶¶
- (179) "FDA" means the United States Food and Drug Administration.¶¶
- (1820) "Field of practice" has the definition set forth in ORS 690.005.¶¶
- (219) "Fire-retardant container" means an airtight metal container for disposing of chemical waste or storing linens with chemical residue.¶¶
- (202) "Freelance authorization" has the definition set forth in ORS 690.005.¶¶
- (213) "Hair design" has the definition set forth in ORS 690.005.¶¶
- (224) "HECC" means Higher Education Coordinating Commission.¶¶
- (235) "High-level disinfectant" means a chemical agent, that has demonstrated tuberculocidal activity and is registered with the EPA.¶¶
- (246) "Independent contractor" has the definition set forth in ORS 690.005.¶¶
- (257) "Low-level disinfectant" means a chemical agent that has demonstrated bactericidal, germicidal, fungicidal, and limited virucidal activity and is registered with the EPA.¶¶

~~(268)~~ "Materials and supplies" means those items ~~which that~~ complement the use of tools and implements, including but not limited to hair tints, bleaches, permanent wave solutions, hair oils, shampoos, wax, rinses, disinfectants, and chemicals.¶

~~(279)~~ "Mechanical or electrical apparatus, appliance, or device" has the definition set forth in ORS 690.005.¶

~~(30)~~ "Nail technology" has the definition set forth in ORS 690.005.¶

~~(2831)~~ "Natural hair care" has the definition set forth in ORS 690.005.¶

~~(329)~~ "Natural person" means a living, individual, human being.¶

~~(303)~~ "Natural physiological effect" has the definition set forth in OAR 817-015-0045.¶

~~(34)~~ "Office" means the Health Licensing Office.¶

~~(315)~~ "Official transcript" means a document authorized by the appropriate office in the HECC and certified by an educational institution indicating applicant identity information, each field of practice enrolled under, specific hour requirements for each field of practice if applicable, final practical examination scores for each field of practice, enrollment information, and a signature from an authorized representative on file with the Office. Original documents must be submitted directly to the Office from the educational institution by United States Postal Service mail, email, or fax.¶

~~(326)~~ "Practitioner" has the definition set forth in ORS 690.005.¶

~~(337)~~ "Premises" means the entire area of a facility; licensed by the Office as a facility defined under ORS 690.005.¶

~~(348)~~ "Sharp-edged or pointed, non-electrical tools and implements" means those items that may come in contact with blood-borne pathogens and other potentially hazardous materials, including, but not limited to, dermaplaning blades, with handles, lancets, razors, cuticle nippers, cuticle pushers, nail clippers, tweezers, comedone extractors, shears, and metal nail files.¶

~~(359)~~ "Soiled" means an article that has been used and has not been cleaned or disinfected for use on the next client.¶

~~(3640)~~ "Superficial peel" means a chemical peel that does not extend beyond the stratum basale (basal layer). This does not include enzymes and other solutions that act only on the stratum corneum.¶

~~(3741)~~ "Tools and implements" means all portable articles and instruments, ~~which that~~ the authorization holder uses when performing services on clients, including, but not limited to, combs, brushes, shears, clippers and yoyettes.¶

~~(3842)~~ "Very superficial peel" means a chemical peel that does not extend beyond the stratum spinosum.-This does not include enzymes and other solutions that act only on the stratum corneum.¶

~~(439)~~ "Work area" means an area where services are performed, and preparations are conducted, including, but not limited to, shampoo areas, work-stations, and dispensing areas.

Statutory/Other Authority: ORS 690.005, ORS 345, ORS 690.165, ORS 676.615, ORS 676.630

Statutes/Other Implemented: ORS 690.005, ORS 345, ORS 690.165

REPEAL: 817-010-0067

RULE SUMMARY: Repeal rule.

CHANGES TO RULE:

~~817-010-0067~~

~~Requirements, Standards and Prohibitions – Esthetics~~

~~(1) ORS 676.635 prohibits the practice of advanced nonablative procedures by anyone who is not authorized to practice advanced nonablative procedures by the Board of Certified Advanced Estheticians, except for licensed health care professionals acting within their scope of practice and students enrolled in an advanced nonablative esthetics education or training program. ¶¶~~

~~(2) The practice of advanced nonablative esthetics is defined in ORS 676.630, and is a procedure that uses a laser or other device registered with the FDA for nonablative procedures performed on hair or skin. ¶¶~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(8) Services provided by an individual certified in esthetics that are prohibited, unsafe, dangerous or causes harm may result in a violation of incompetence, negligence or unprofessional conduct pursuant to ORS 676.612(2)(j) and under Office rules.~~

~~Statutory/Other Authority: ORS 690.005, ORS 676.630, ORS 690.165, ORS 690.205, ORS 676.615~~

~~Statutes/Other Implemented: ORS 690.005, ORS 676.630, ORS 690.165, ORS 690.205~~

ADOPT: 817-015-0040

RULE SUMMARY: Define esthetics device.

CHANGES TO RULE:

817-015-0040

Definition of Esthetics Device

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

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

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

(a) Galvanic current;

(b) High-frequency;

(c) Microcurrents;

(d) Light-emitting diode therapy;

(e) Microdermabrasion;

(f) Other esthetics devices.

(3) An esthetic device must:

(a) Be either mechanical or electrical.

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

(A) Cleansing;

(B) Stimulating;

(C) Manipulating;

(D) Exfoliating;

(E) Applying lotions or creams.

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

(4) An esthetic device is not a:

(a) Laser;

(b) Intense pulse light;

(c) Other advanced esthetics devices including piece of equipment, or a mechanism used for microneedling, micro-channeling, dermarolling, radiofrequency needling, or a similar procedure as specified in OAR 819-030-0000(3)(c);

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

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

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

(7) An individual certified in esthetics is responsible for determining if any services provided or mechanical or electrical apparatuses, appliances, or devices used on clients would be prohibited by law.

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

Statutory/Other Authority: ORS 690.005, ORS 690.065, ORS 676.615, ORS 676.630

Statutes/Other Implemented: ORS 690.005, ORS 676.630