

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

FILED
4-8-16 2:58 PM
ARCHIVES DIVISION
SECRETARY OF STATE

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon filing, by the
Oregon Medical Board 847

Agency and Division Administrative Rules Chapter Number
Nicole Krishnaswami (971) 673-2667

Rules Coordinator Telephone
1500 SW 1st Ave., Suite 620, Portland, OR 97201

Address

To become effective Upon filing. Rulemaking Notice was published in the February 2016 Oregon Bulletin.

RULE CAPTION

Update the names of the podiatric surgery certifying board and the podiatry licensing examination

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

- ADOPT:**
- AMEND:**
847-008-0070, 847-017-0003, 847-017-0015, 847-017-0020, 847-080-0010, 847-080-0018, 847-080-0021, 847-080-0022, 847-080-0035
- REPEAL:**
- RENUMBER:**
- AMEND AND RENUMBER:**

Statutory Authority:
ORS 677.265

Other Authority:

Statutes Implemented:
ORS 677.085, 677.097, 677.190, 677.265, 677.512, 677.759, 677.805, 677.812, 677.820, 677.825, 677.830, 677.837

RULE SUMMARY

The rule amendments update the name of the American Board of Podiatric Surgery (ABPS) to its current name, American Board of Foot and Ankle Surgery (ABFAS). The amendments also update the name of the American Podiatric Medical Association Council on Podiatry Education to the Council on Podiatric Medical Education.

Nicole Krishnaswami
Rules Coordinator Name

nicole.krishnaswami@state.or.us
Email Address

OREGON ADMINISTRATIVE RULES

CHAPTER 847, DIVISIONS 008, 017 & 080 – OREGON MEDICAL BOARD

FINAL REVIEW – APRIL 2016

The rule amendments update the name of the American Board of Podiatric Surgery (ABPS) to its current name, American Board of Foot and Ankle Surgery (ABFAS). The amendments also update the name of the American Podiatric Medical Association Council on Podiatry Education to the Council on Podiatric Medical Education.

847-008-0070

Continuing Medical Competency (Education)

The Oregon Medical Board is committed to ensuring the continuing competence of its licensees for the protection, safety and well being of the public. All licensees must engage in a culture of continuous quality improvement and lifelong learning.

(1) Licensees renewing registration who had been registered with Active, Administrative Medicine Active, Locum Tenens, Telemedicine Active, Telemonitoring Active, or Teleradiology Active status for the previous registration period must demonstrate ongoing competency to practice medicine by:

(a) Ongoing participation in maintenance of certification by an American Board of Medical Specialties (ABMS) board, the American Osteopathic Association's Bureau of Osteopathic Specialists (AOA-BOS), the American Board of Podiatric Medicine (ABPM), the American Board of ~~Podiatric Surgery (ABPS)~~ **Foot and Ankle Surgery (ABFAS)**, the National Commission on Certification of Physician Assistants (NCCPA), or the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM); or

(b) 60 hours of continuing medical education (CME) per two years relevant to the licensee's current medical practice, or 30 hours of CME if licensed during the second year of the biennium, as follows:

(A) American Medical Association (AMA) Category 1;

(B) American Osteopathic Association (AOA) Category 1-A or 2-A;

(C) American Podiatric Medical Association's (APMA) Council on Podiatric Medical Education approved sponsors of continuing education; or

(D) American Academy of Physician Assistants (AAPA) Category 1 (pre-approved); or
(c) 30 hours of NCCAOM-approved courses per two years relevant to the licensee's current practice, or 15 hours if licensed during the second year of the biennium.

(2) Licensees renewing registration who had been registered with Emeritus status for the previous registration period must demonstrate ongoing competency by:

(a) Ongoing participation in re-certification by an ABMS board, the AOA-BOS, the ABPM, the [ABPS] **ABFAS**, the NCCPA, or the NCCAOM; or

(b) 15 hours of CME per year as follows:

(A) AMA Category 1 or 2;

(B) AOA Category 1-A, 1-B, 2-A or 2-B;

(C) APMA-approved continuing education; or

(D) AAPA Category 1 or 2; or

(c) 8 hours of NCCAOM-approved courses.

(3) Licensees who have lifetime certification without participation in maintenance of certification with the ABMS, AOA-BOS, ABPM, [ABPS] **ABFAS**, or NCCPA must submit the required CME in section (1) (b) of this rule or section (2) (b) of this rule if renewing with Emeritus status.

(4) Licensees who have lifetime certification without participation in maintenance of certification with the NCCAOM must submit the required CME in section (1) (c) of this rule or section (2) (c) of this rule if renewing with Emeritus status.

(5) CME in cultural competency is considered relevant CME for the current practice of all licensees and may be used toward satisfying the required CME hours.

(6) Licensees who perform Level II office-based surgical procedures and who are not eligible or maintaining certification with an ABMS, AOA-BOS, ABPM, [ABPS] **ABFAS**, or NCCPA specialty board, must obtain 50 hours of CME each year. The CME hours must be relevant to the surgical procedures to be performed in the office-based facility and must be accredited as described in section (1)(b) of this rule. This requirement may not be satisfied with cultural competency CME or other CME that is only generally relevant to the licensee's practice.

(7) The Board may audit licensees for compliance with CME. Audited licensees have 60 days from the date of the audit to provide course certificates. Failure to comply or misrepresentation of compliance is grounds for disciplinary action.

(8) As the result of an audit, if licensee's CME is deficient or licensee does not provide adequate documentation, the licensee will be fined \$250 and must comply with CME requirements within 120 days from the date of the audit.

(a) If the licensee does not comply within 120 days of the date of the audit, the fine will increase to \$1000; and

(b) If the licensee does not comply within 180 days of the date of the audit, the licensee's license will be suspended for a minimum of 90 days.

(9) The following licensees are exempt from this rule:

(a) Licensees in residency training;

(b) Licensees serving in the military who are deployed outside Oregon for 90 days or more during the reporting period; and

(c) Volunteer Camp licensees.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265, **677.512, 677.759, 677.837**

847-017-0003

Classification of Office-Based Surgery

Office-based surgeries are classified by complexity.

(1) Level I are minor surgical procedures performed without anesthesia or under topical, local, or minor conduction block anesthesia not involving drug-induced alteration of consciousness, other than minimal sedation utilizing preoperative oral anxiolytic medications.

(a) The licensee must pursue continuing medical education in the field for which the services are being provided and in the proper drug dosages, management of toxicity, and hypersensitivity to local anesthetic and other drugs.

(b) The licensee must maintain active basic life support (BLS) certification.

(2) Level II are minor or major surgical procedures performed under moderate sedation/analgesia, such as oral, parenteral, or intravenous sedation or under analgesic or dissociative drugs.

(a) In addition to the requirements in section (1) of this rule, the licensee must:

(A) Maintain board certification or board eligibility in a specialty recognized by the American Board of Medical Specialties (ABMS), the American Osteopathic Association's

Bureau of Osteopathic Specialists (AOA-BOS), the American Board of Podiatric Medicine (ABPM), the American Board of [Podiatric Surgery (ABPS)] **Foot and Ankle Surgery (ABFAS)** or the National Commission on Certification of Physician Assistants (NCCPA), or

(B) Obtain fifty hours each year of accredited continuing medical education (CME) relevant to the Level II surgical procedures to be performed in the office-based facility. This requirement may not be satisfied with cultural competency CME or other CME that is only generally relevant to the licensee's practice.

(b) The licensee must be certified in advanced resuscitative techniques and must be on site at all times when patients are under the effects of anesthetic.

(c) The patient must be appropriately monitored as defined in 847-017-0005.

(3) Level III are major surgical procedures that require deep sedation/analgesia, general anesthesia, or regional blocks, and require support of vital bodily functions.

(a) In addition to the requirements in section (1) of this rule, the licensee must:

(A) Have staff privileges to perform the same procedure in a hospital or ambulatory surgical center, or

(B) Maintain board certification or board eligibility in an appropriate specialty recognized by the ABMS, the AOA-BOS, the ABPM, the [ABPS] **ABFAS** or the NCCPA.

(b) The licensee must be certified in advanced resuscitative techniques and must be on site at all times when patients are under the effects of anesthetic.

(c) The patient must be appropriately monitored as defined in 847-017-0005.

(d) The licensee performing the procedure may not administer anesthesia other than additional local anesthesia and may not be primarily responsible for monitoring anesthesia during the procedure.

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

(5) Lipoplasty involving the removal of 500 cc or less volume of supernatant fat may be performed as a Level I surgical procedure. Office-based lipoplasty involving more than 500 cc volume of supernatant fat must be performed as a Level II or Level III surgical procedure.

(a) The performance of lipoplasty in an office-based setting may not result in the removal of more than 5% of total body weight or more than 4500 cc volume of supernatant fat removed,

whichever is less.

(b) The licensee may not use more than 55 mg/kg of Lidocaine or 70 mcg/kg of epinephrine for tumescent anesthesia. The concentration of epinephrine in tumescent solutions may not exceed 1.5 mg/L.

(6) The following may not be performed in an office-based surgical facility:

(a) Procedures that may result in blood loss of more than 4% of the estimated blood volume in a patient with a normal hemoglobin;

(b) Procedures requiring intracranial, intrathoracic, or abdominal cavity entry; and

(c) Joint replacement procedures.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

847-017-0015

Selection of Procedures and Patients

(1) The licensee who performs the office-based surgery or anesthetic is responsible for the safety of the patient.

(a) The licensee must evaluate and document the condition of the patient and the potential risks associated with the proposed treatment plan;

(b) The licensee must be satisfied that the procedure to be undertaken is within the scope of practice of the health care personnel, the capabilities of the facility and the condition of the patient; and

(c) The licensee must examine the patient immediately before the procedure to evaluate the risks of the procedure and the risks of anesthesia if applicable.

(2) Informed consent for the nature and objectives of the anesthesia planned and office-based surgery to be performed must be in writing and obtained from the patient before the office-based surgery is performed. Informed consent is only to be obtained after a PARQ conference and must be documented in the medical record. The informed consent must include a disclosure of the licensee's specialty board certification through the ABMS, the AOA-BOS, the ABPM, the [ABPS] **ABFAS** or the NCCPA or lack thereof. The requirement for written informed consent is not necessary for minor Level I procedures limited to the skin and mucosa.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

847-017-0020

Patient Medical Records

(1) A legible, complete, comprehensive and accurate medical record must be maintained for each patient evaluated or treated. The record must include:

- (a) Identity of the patient;
- (b) History and physical, diagnosis and plan;
- (c) Appropriate lab, x-ray or other diagnostic reports;
- (d) Documentation of the PARQ conference;
- (e) Disclosure of the licensee's specialty board certification through the ABMS, the AOA-BOS, the ABPM, the [ABPS] **ABFAS** or the NCCPA or lack thereof;
- (f) Appropriate preanesthesia evaluation;
- (g) Narrative description of procedure;
- (h) Intraoperative and postoperative monitoring;
- (i) Pathology reports;
- (j) Documentation of the outcome and the follow-up plan; and
- (k) Provision for continuity of post-procedure care.

(2) If the office-based surgery is a Level II or Level III surgical procedure, the patient record must include a separate anesthetic record that contains documentation of anesthetic provider, procedure, and technique employed. This must include the type of anesthesia used, drugs (type and dose) and fluids administered during the procedure, patient weight, level of consciousness, estimated blood loss, duration of procedure, and any complication or unusual events related to the procedure or anesthesia.

(3) The patient record must document if tissues and other specimens have been submitted for histopathologic diagnosis.

(4) The licensee must ensure that the facility has specific and current protocols in place for patient confidentiality and security of all patient data and information.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.085, 677.097, 677.265

847-080-0010

Requirements for Licensure

The applicant for licensure must have:

(1) Graduated from a school or college of podiatric medicine accredited by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association.

(2) Successfully passed a licensing examination as provided in OAR 847-080-0018.

(3) Fulfilled one of the following:

(a) Satisfactory completion of one year of post-graduate training served in a hospital that is approved by the CPME, or

(b) Satisfactory completion of one year of post-graduate training in a hospital residency program that was not approved by the CPME and current certification by the American Board of Podiatric Medicine or the American Board of [~~Podiatric Surgery~~] **Foot and Ankle Surgery**.

(4) Satisfactorily met the requirements of ORS 677.820 and 677.825.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.820, 677.825, 677.830

847-080-0018

Examination for Licensure

The applicant must base an application upon the licensing examination administered by the National Board of Podiatric Medical Examiners (NBPME). The licensing examination is limited to the American Podiatric Medical Licensing Examination (APMLE) or the NBPME examination. No application will be accepted on the basis of reciprocity or written examination, other than an examination administered by the NBPME.

(1) The applicant must pass Parts I, II and III of the licensing examination.

(2) Part III of the licensing examination may be waived if the applicant graduated from a school or college of podiatric medicine before January 1, 2001; and

(a) Is licensed as a podiatric physician in another state; or

(b) Is certified by the American Board of Podiatric Medicine (ABPM) or the American Board of [~~Podiatric Surgery (ABPS)~~] **Foot and Ankle Surgery (ABFAS)**.

(3) The score achieved on each Part of the examination must equal or exceed the figure established by the NBPME as a passing score.

(4) All three Parts of the licensing examination must be passed within a seven-year period which begins when the first Part, either Part I or Part II, is passed. An applicant who graduated from a school or college of podiatric medicine on or after January 1, 2001, and who has not passed all three Parts within the seven-year period may request a waiver of the seven-year requirement if he or she:

(a) Has current certification by the ABPM or the [~~ABPS~~] **ABFAS**; or

(b) Suffered from a documented significant health condition which by its severity would necessarily cause a delay to the applicant's podiatric study; or

(c) Experienced other extenuating circumstances that do not indicate an inability to safely practice podiatric medicine as determined by the Board.

(5) The applicant who graduated from a school or college of podiatric medicine on or after January 1, 2001, must have passed Part III of the licensing examination within four attempts, whether for Oregon or for any other state. After the third failed attempt, the applicant must have completed one additional year of postgraduate training in the United States prior to readmission to the examination. The Board must approve the additional year of training to determine whether the applicant is eligible for licensure. The applicant, after completion of the required year of training, must have passed Part III on their fourth and final attempt. An applicant who has passed Part III of the licensing examination, but not within the four attempts as required, may request a waiver of this requirement if he or she has current certification by the ABPM or the [~~ABPS~~] **ABFAS**.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.825, 677.830

847-080-0021

Competency Examination and Re-Entry to Practice

(1) The applicant who has not completed postgraduate training within the past 10 years or been certified or recertified with the ABPM or the [~~ABPS~~] **ABFAS** within the past 10 years may be required to pass a competency examination in [~~podiatry~~] **podiatric medicine**. The competency examination may be waived if the applicant can demonstrate ongoing participation in maintenance of certification with the ABPM or [~~ABPS~~] **ABFAS**, or has completed at least 50 hours of Board-approved continuing education each year for the past three years.

(2) The applicant who has ceased practice for a period of 12 or more consecutive months immediately preceding an application for licensure or reactivation may be required to pass a competency examination in [~~pediatry~~] **podiatric medicine**. The competency examination may be waived if the applicant can demonstrate ongoing participation in maintenance of certification with the ABPM or [~~ABPS~~] **ABFAS** or, subsequent to ceasing practice, the applicant has:

- (a) Passed the licensing examination administered by the NBPME, or
- (b) Been certified or recertified by the ABPM or [~~ABPS~~] **ABFAS**, or
- (c) Completed a Board-approved one-year residency or clinical fellowship, or
- (d) Obtained continuing medical education to the Board's satisfaction.

(3) The applicant who has ceased the practice of medicine for a period of 24 or more consecutive months may be required to complete a re-entry plan to the satisfaction of the Board. The re-entry plan must be reviewed and approved through a Consent Agreement prior to the applicant beginning the re-entry plan. Depending on the amount of time out of practice, the applicant may be required to do one or more of the following:

- (a) Pass the licensing examination;
- (b) Practice for a specified period of time under a mentor/supervising podiatric physician who will provide periodic reports to the Board;
- (c) Obtain certification or re-certification, or participate in maintenance of certification, with the ABPM or the [~~ABPS~~] **ABFAS**;
- (d) Complete a re-entry program as determined appropriate by the Board;
- (e) Complete one year of an accredited postgraduate or clinical fellowship training, which must be pre-approved by the Board's Medical Director;
- (f) Complete at least 50 hours of Board-approved continuing medical education each year for the past three years.

(4) Licensure shall not be granted until all requirements of OAR chapter 847, division 80, are completed satisfactorily.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS **677.190, 677.265**, 677.825, 677.830, **677.837**

847-080-0022

Qualifications to Perform Ankle Surgery

Ankle surgery must be conducted in a certified hospital or in an ambulatory surgical center certified by the Health Division. To be eligible to perform ankle surgery in the state of Oregon, the licensed podiatrist shall meet the qualifications from one of the following sections prior to being approved by the Board to perform ankle surgery:

(1) Completion of a Council on Podiatric Medical Education (CPME) approved surgical residency; board certification by the American Board of [~~Podiatric Surgery (ABPS) in Foot and Ankle Surgery~~] **Foot and Ankle Surgery (ABFAS)**; documented clinical experience as approved by the Board; and current clinical privileges to perform reconstructive/rearfoot ankle surgery in a Joint Commission approved hospital; or

(2) Completion of a CPME approved surgical residency; and board qualified by the [~~ABPS~~] **ABFAS** in Reconstructive Rearfoot/Ankle Surgery progressing to board certification in Reconstructive Rearfoot/Ankle Surgery within seven years.

Stat. Auth.: ORS 677.245

Stats. Implemented: ORS **677.805**, 677.812

847-080-0035

Approved [~~Podiatry~~] Colleges of Podiatric Medicine

[~~Podiatry colleges~~] **Colleges of podiatric medicine** approved by the Board are only those approved by the American Podiatric Medical Association Council on [~~Podiatry~~] **Podiatric Medical** Education.

Stat. Auth.: [~~ORS 183 &~~] ORS 677.**265**

Stats. Implemented: ORS [~~677.190,~~] **677.265, 677.820**