

COSMETOLOGY AND HAIR BRAIDING

2013 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill adds an exemption for licensure in the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act for a person that braids hair and creates new licensing classifications related to hair braiders.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ changes the name of the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act to the Barber, Cosmetologist/Barber, Esthetician, Electrologist, Hair Braider, and Nail Technician Licensing Act;
- ▶ adds an exemption from licensure for a person that braids hair under certain circumstances and does not engage in other activity requiring licensure;
- ▶ creates new licensing classifications and describes the requirements for being licensed as:
 - a hair braider;
 - an advanced hair braider;
 - a hair braiding instructor; and
 - a hair braiding school;
- ▶ adds certain eyelash and eyebrow treatments to the practice of basic esthetics;
- ▶ modifies what constitutes unlawful conduct under the act; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

33 **58-11a-101**, as last amended by Laws of Utah 2007, Chapter 209
 34 **58-11a-102**, as last amended by Laws of Utah 2012, Chapter 362
 35 **58-11a-103**, as last amended by Laws of Utah 2007, Chapter 209
 36 **58-11a-201**, as last amended by Laws of Utah 2007, Chapter 209
 37 **58-11a-301**, as last amended by Laws of Utah 2009, Chapter 130
 38 **58-11a-302**, as last amended by Laws of Utah 2010, Chapter 145
 39 **58-11a-304**, as last amended by Laws of Utah 2012, Chapter 110
 40 **58-11a-306**, as last amended by Laws of Utah 2009, Chapter 130
 41 **58-11a-502**, as last amended by Laws of Utah 2012, Chapter 362
 42 **58-11a-503**, as last amended by Laws of Utah 2008, Chapter 382

43

44 *Be it enacted by the Legislature of the state of Utah:*

45 Section 1. Section **58-11a-101** is amended to read:

46 **58-11a-101. Title.**

47 This chapter is known as the "Barber, Cosmetologist/Barber, Esthetician, Electrologist,
 48 Hair Braider, and Nail Technician Licensing Act."

49 Section 2. Section **58-11a-102** is amended to read:

50 **58-11a-102. Definitions.**

51 As used in this chapter:

52 (1) "Advanced hair braider" means a person who is licensed under this chapter to
 53 engage in the practice of advanced hair braiding.

54 (2) "Approved advanced hair braiding apprenticeship" means an apprenticeship that
 55 meets the requirements of Subsection 58-11a-306(7) and the requirements established by rule
 56 by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
 57 Administrative Rulemaking Act.

58 [(+) (3) "Approved barber or cosmetologist/barber apprenticeship" means an
 59 apprenticeship that meets the requirements of Subsection 58-11a-306(1) for barbers or
 60 Subsection 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule
 61 by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
 62 Administrative Rulemaking Act.

63 [(2)] (4) "Approved esthetician apprenticeship" means an apprenticeship that meets the

64 requirements of Subsection 58-11a-306(3) and the requirements established by rule by the
65 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
66 Administrative Rulemaking Act.

67 (5) "Approved hair braiding apprenticeship" means an apprenticeship that meets the
68 requirements of Subsection 58-11a-306(6) and the requirements established by rule by the
69 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
70 Administrative Rulemaking Act.

71 ~~[(3)]~~ (6) "Approved master esthetician apprenticeship" means an apprenticeship that
72 meets the requirements of Subsection 58-11a-306(4) and the requirements established by rule
73 by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
74 Administrative Rulemaking Act.

75 ~~[(4)]~~ (7) "Approved nail technician apprenticeship" means an apprenticeship that meets
76 the requirements of Subsection 58-11a-306(5) and the requirements established by rule by the
77 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
78 Administrative Rulemaking Act.

79 ~~[(5)]~~ (8) "Barber" means a person who is licensed under this chapter to engage in the
80 practice of barbering.

81 ~~[(6)]~~ (9) "Barber instructor" means a barber who is licensed under this chapter to teach
82 barbering at a licensed barber school or in an apprenticeship program as defined in Section
83 58-11a-306.

84 ~~[(7)]~~ (10) "Board" means the Barber, Cosmetology/Barbering, Esthetics, Electrology,
85 Hair Braiding, and Nail Technology Licensing Board created in Section 58-11a-201.

86 ~~[(8)]~~ (11) "Cosmetic laser procedure" includes a nonablative procedure as defined in
87 Section 58-67-102.

88 ~~[(9)]~~ (12) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.

89 ~~[(10)]~~ (13) "Cosmetologist/barber" means a person who is licensed under this chapter
90 to engage in the practice of cosmetology/barbering.

91 ~~[(11)]~~ (14) "Cosmetologist/barber instructor" means a cosmetologist/barber who is
92 licensed under this chapter to teach cosmetology/barbering at a licensed cosmetology/barber
93 school, licensed barber school, licensed nail technology school, or in an apprenticeship
94 program as defined in Subsection 58-11a-306(2).

95 ~~[(12)]~~ (15) "Direct supervision" means that the supervisor of an apprentice or the
96 instructor of a student is immediately available for consultation, advice, instruction, and
97 evaluation.

98 ~~[(13)]~~ (16) "Electrologist" means a person who is licensed under this chapter to engage
99 in the practice of electrology.

100 ~~[(14)]~~ (17) "Electrologist instructor" means an electrologist who is licensed under this
101 chapter to teach electrology at a licensed electrology school.

102 ~~[(15)]~~ (18) "Esthetician" means a person who is licensed under this chapter to engage
103 in the practice of esthetics.

104 ~~[(16)]~~ (19) "Esthetician instructor" means a master esthetician who is licensed under
105 this chapter to teach the practice of esthetics and the practice of master-level esthetics at a
106 licensed esthetics school, a licensed cosmetology/barber school, or in an apprenticeship
107 program as defined in Subsection 58-11a-306(3).

108 ~~[(17)]~~ (20) "Fund" means the Barber, Cosmetologist/Barber, Esthetician, Electrologist,
109 Hair Braider, and Nail Technician Education and Enforcement Fund created in Section
110 58-11a-103.

111 (21) "Hair braider" means a person who is licensed under this chapter to engage in the
112 practice of hair braiding.

113 (22) "Hair braiding instructor" means an advanced hair braider who is licensed under
114 this chapter to teach the practice of hair braiding and advanced hair braiding at a licensed hair
115 braiding school, a licensed cosmetology/barber school, or in an apprentice program as defined
116 in Subsections 58-11a-306(6) and (7).

117 ~~[(18)]~~ (23) "Licensed barber or cosmetology/barber school" means a barber or
118 cosmetology/barber school licensed under this chapter.

119 ~~[(19)]~~ (24) "Licensed electrology school" means an electrology school licensed under
120 this chapter.

121 ~~[(20)]~~ (25) "Licensed esthetics school" means an esthetics school licensed under this
122 chapter.

123 (26) "Licensed hair braiding school" means a hair braiding school licensed under this
124 chapter.

125 ~~[(21)]~~ (27) "Licensed nail technology school" means a nail technology school licensed

126 under this chapter.

127 ~~[(22)]~~ (28) "Master esthetician" means an individual who is licensed under this chapter
128 to engage in the practice of master-level esthetics.

129 ~~[(23)]~~ (29) "Nail technician" means an individual who is licensed under this chapter to
130 engage in the practice of nail technology.

131 ~~[(24)]~~ (30) "Nail technician instructor" means a nail technician licensed under this
132 chapter to teach the practice of nail technology in a licensed nail technology school, a licensed
133 cosmetology/barber school, or in an apprenticeship program as defined in Subsection
134 58-11a-306(5).

135 (31) (a) "Natural hair braiding" means the twisting, weaving, or interweaving of a
136 person's natural human hair.

137 (b) "Natural hair braiding" includes the following methods or styles:

138 (i) African-style braiding;

139 (ii) box braids;

140 (iii) cornrows;

141 (iv) dreadlocks;

142 (v) french braids;

143 (vi) invisible braids;

144 (vii) micro braids;

145 (viii) single braids;

146 (ix) single plaits;

147 (x) twists; and

148 (xi) visible braids.

149 (c) "Natural hair braiding" does not include:

150 (i) the use of natural or synthetic hair extensions or wefts;

151 (ii) the use of natural or synthetic fibers;

152 (iii) the cutting of human hair; or

153 (iv) the application of heat, dye, a reactive chemical, or other preparation to:

154 (A) alter the color of the hair; or

155 (B) straighten, curl, or alter the structure of the hair.

156 (32) (a) "Practice of advanced hair braiding" means the braiding, twisting, weaving, or

157 interweaving of:

158 (i) a person's natural human hair; or

159 (ii) a person's natural human hair along with natural or synthetic hair extensions, beads,
160 or other materials.

161 (b) "Practice of advanced hair braiding" includes:

162 (i) natural hair braiding as defined in this section;

163 (ii) the practice of hair braiding as defined in this section;

164 (iii) the use of lock braids;

165 (iv) the use of beads and other accessories; and

166 (v) the use of extensions and wefts utilizing:

167 (A) synthetic tape;

168 (B) keratin bonds;

169 (C) fusion bonds; and

170 (D) heat tools.

171 (c) "Practice of advanced hair braiding" does not include:

172 (i) the cutting of human hair; or

173 (ii) the application of dye, a reactive chemical, or other preparation to:

174 (A) alter the color of the hair; or

175 (B) straighten, curl, or alter the structure of the hair.

176 ~~[(25)]~~ (33) "Practice of barbering" means:

177 (a) cutting, clipping, or trimming the hair of the head of any person by the use of
178 scissors, shears, clippers, or other appliances;

179 (b) draping, shampooing, scalp treatments, basic wet styling, and blow drying; and

180 (c) removing hair from the face or neck of a person by the use of shaving equipment.

181 ~~[(26)]~~ (34) "Practice of barbering instruction" means instructing barbering in a licensed
182 barber school, licensed cosmetology/barber school, or in an apprenticeship program as defined
183 in Subsection 58-11a-306(1).

184 ~~[(27)]~~ (35) "Practice of basic esthetics" means any one of the following skin care
185 procedures done on the head, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes for
186 cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

187 (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or

188 masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the
189 application of eyelash extensions, natural nail manicures or pedicures, or callous removal by
190 buffing or filing;

191 (b) limited chemical exfoliation as defined by rule;

192 (c) removing superfluous hair by means other than electrolysis, except that an
193 individual is not required to be licensed as an esthetician to engage in the practice of threading;

194 (d) other esthetic preparations or procedures with the use of the hands, a
195 high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not
196 for the treatment of medical, physical, or mental ailments; ~~or~~

197 (e) arching eyebrows, tinting or perming eyebrows or eyelashes, applying eyelash
198 extensions, or a combination of these procedures; or

199 ~~(e)~~ (f) except as provided in Subsection ~~(27)(e)~~ (35)(f)(i), cosmetic laser procedures
200 under the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the
201 following:

202 (i) superfluous hair removal which shall be under indirect supervision;

203 (ii) anti-aging resurfacing enhancements;

204 (iii) photo rejuvenation; or

205 (iv) tattoo removal.

206 ~~(28)~~ (36) (a) "Practice of cosmetology/barbering" means:

207 (i) styling, arranging, dressing, curling, waving, permanent waving, cleansing,
208 singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a
209 person;

210 (ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or
211 other appliances;

212 (iii) arching eyebrows, ~~or~~ tinting or perming eyebrows or eyelashes, applying eyelash
213 extensions, or ~~any~~ a combination of these procedures;

214 (iv) removing hair from the face, neck, shoulders, arms, back, torso, feet, bikini line, or
215 legs of a person by the use of depilatories, waxing, or shaving equipment;

216 (v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces
217 or both on the human head; or

218 (vi) practicing hair weaving or hair fusing or servicing previously medically implanted

219 hair.

220 (b) The term "practice of cosmetology/barbering" includes:

221 (i) the practice of basic esthetics; ~~and~~

222 (ii) the practice of nail technology~~[-]; and~~

223 (iii) the practice of advanced hair braiding.

224 (c) An individual is not required to be licensed as a cosmetologist/barber to engage in
225 the practice of threading.

226 ~~[(29)]~~ (37) "Practice of cosmetology/barbering instruction" means instructing
227 cosmetology/barbering as defined in Subsection ~~[(28)]~~ (36) in a licensed cosmetology/barber
228 school or in an apprenticeship program as defined in Subsection 58-11a-306(2).

229 ~~[(30)]~~ (38) "Practice of electrology" means:

230 (a) the removal of superfluous hair from the body of a person by the use of electricity,
231 waxing, shaving, or tweezing; or

232 (b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to
233 superfluous hair removal.

234 ~~[(31)]~~ (39) "Practice of electrology instruction" means instructing electrology in a
235 licensed electrology school.

236 ~~[(32)]~~ (40) "Practice of esthetics instruction" means instructing esthetics in a licensed
237 esthetics school, a licensed cosmetology/barber school, or instructing master-level esthetics in a
238 licensed esthetics school or in an apprenticeship program as defined in Subsections
239 58-11a-306(2), (3), and (4).

240 (41) (a) "Practice of hair braiding" means the braiding, twisting, weaving, or
241 interweaving of:

242 (i) a person's natural human hair; or

243 (ii) a person's natural human hair along with natural or synthetic hair extensions.

244 (b) "Practice of hair braiding" includes:

245 (i) natural hair braiding as defined in this section;

246 (ii) dreadlock extensions; and

247 (iii) the use of extensions and wefts utilizing:

248 (A) elastic bands;

249 (B) sewing and crochet techniques; and

- 250 (C) synthetic glue that is not protein based and does not require heat.
- 251 (c) "Practice of hair braiding" does not include:
- 252 (i) except for natural or synthetic hair extensions or wefts, the use of beads or other
- 253 materials;
- 254 (ii) the use of keratin bonds or synthetic tape;
- 255 (iii) the use of fusion bonds;
- 256 (iv) the application of heat;
- 257 (v) the use of lock braids;
- 258 (vi) the cutting of human hair; or
- 259 (vii) the application of heat, dye, a reactive chemical, or other preparation to:
- 260 (A) alter the color of the hair; or
- 261 (B) straighten, curl, or alter the structure of the hair.
- 262 (42) "Practice of hair braiding instruction" means instructing hair braiding or advanced
- 263 hair braiding in a licensed hair braiding school, a licensed cosmetology/barber school, or in an
- 264 apprenticeship program as defined in Subsections 58-11a-306(6) and (7).
- 265 ~~[(33)]~~ (43) (a) "Practice of master-level esthetics" means:
- 266 (i) any of the following when done for cosmetic purposes on the head, face, neck,
- 267 torso, abdomen, back, arms, hands, legs, feet, eyebrows, or eyelashes and not for the treatment
- 268 of medical, physical, or mental ailments:
- 269 (A) body wraps as defined by rule;
- 270 (B) hydrotherapy as defined by rule;
- 271 (C) chemical exfoliation as defined by rule;
- 272 (D) advanced pedicures as defined by rule;
- 273 (E) sanding, including microdermabrasion;
- 274 (F) advanced extraction;
- 275 (G) other esthetic preparations or procedures with the use of:
- 276 (I) the hands; or
- 277 (II) a mechanical or electrical apparatus which is approved for use by division rule for
- 278 beautifying or similar work performed on the body for cosmetic purposes and not for the
- 279 treatment of a medical, physical, or mental ailment; or
- 280 (H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a

281 physician's evaluation before the procedure, as needed, unless specifically required under
282 Section 58-1-506, and limited to the following:

- 283 (I) superfluous hair removal;
- 284 (II) anti-aging resurfacing enhancements;
- 285 (III) photo rejuvenation; or
- 286 (IV) tattoo removal with a physician's evaluation before the tattoo removal procedure;

287 and

288 (ii) lymphatic massage by manual or other means as defined by rule.

289 (b) Notwithstanding the provisions of Subsection [~~(33)~~] (43)(a), a master-level
290 esthetician may perform procedures listed in Subsection [~~(33)~~] (43)(a)(i)(H) if done under the
291 supervision of a cosmetic supervisor acting within the scope of the cosmetic supervisor license.

292 (c) The term "practice of master-level esthetics" includes the practice of esthetics, but
293 an individual is not required to be licensed as an esthetician or master-level esthetician to
294 engage in the practice of threading.

295 [~~(34)~~] (44) "Practice of nail technology" means to trim, cut, clean, manicure, shape,
296 massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of
297 hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the
298 application and removal of sculptured or artificial nails.

299 [~~(35)~~] (45) "Practice of nail technology instruction" means instructing nail technology
300 in a licensed nail technician school, licensed cosmetology/barber school, or in an
301 apprenticeship program as defined in Subsection 58-11a-306(5).

302 [~~(36)~~] (46) "Recognized barber school" means a barber school located in a state other
303 than Utah, whose students, upon graduation, are recognized as having completed the
304 educational requirements for licensure in that state.

305 [~~(37)~~] (47) "Recognized cosmetology/barber school" means a cosmetology/barber
306 school located in a state other than Utah, whose students, upon graduation, are recognized as
307 having completed the educational requirements for licensure in that state.

308 [~~(38)~~] (48) "Recognized electrology school" means an electrology school located in a
309 state other than Utah, whose students, upon graduation, are recognized as having completed the
310 educational requirements for licensure in that state.

311 [~~(39)~~] (49) "Recognized esthetics school" means an esthetics school located in a state

312 other than Utah, whose students, upon graduation, are recognized as having completed the
313 educational requirements for licensure in that state.

314 (50) "Recognized hair braiding school" means a hair braiding school located in a state
315 other than Utah, whose students, upon graduation, are recognized as having completed the
316 educational requirements for licensure in that state.

317 [~~(40)~~] (51) "Recognized nail technology school" means a nail technology school
318 located in a state other than Utah, whose students, upon graduation, are recognized as having
319 completed the educational requirements for licensure in that state.

320 [~~(41)~~] (52) "Salon" means a place, shop, or establishment in which
321 cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

322 [~~(42)~~] (53) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

323 [~~(43)~~] (54) "Unprofessional conduct" is as defined in Sections 58-1-501 and
324 58-11a-501 and as may be further defined by rule by the division in collaboration with the
325 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

326 Section 3. Section **58-11a-103** is amended to read:

327 **58-11a-103. Education and enforcement fund.**

328 (1) There is created a restricted special revenue fund known as the "Barber,
329 Cosmetologist/Barber, Esthetician, Electrologist, Hair Braider, and Nail Technician Education
330 and Enforcement Fund."

331 (2) The fund consists of money from administrative penalties collected pursuant to this
332 chapter.

333 (3) The fund shall earn interest and all interest earned on fund money shall be
334 deposited into the fund.

335 (4) The director may, with concurrence of the board, make distributions from the fund
336 for the following purposes:

337 (a) education and training of licensees under this chapter;

338 (b) education and training of the public or other interested persons in matters
339 concerning the laws governing the practices licensed under this chapter; and

340 (c) enforcement of this chapter by:

341 (i) investigating unprofessional or unlawful conduct; and

342 (ii) providing legal representation to the division when the division takes legal action

343 against a person engaging in unprofessional or unlawful conduct.

344 (5) The division shall report annually to the appropriate appropriations subcommittee
345 of the Legislature concerning the fund.

346 Section 4. Section **58-11a-201** is amended to read:

347 **58-11a-201. Board.**

348 (1) There is created the Barbering, Cosmetology/Barbering, Esthetics, Electrology,
349 Hair Braiding, and Nail Technology Licensing Board consisting of nine members as follows:

350 (a) one barber or cosmetologist/barber;

351 (b) (i) one barber or cosmetologist/barber instructor; or

352 (ii) one representative of a licensed barber or cosmetology/barber school;

353 (c) one master esthetician;

354 (d) (i) one esthetician instructor; or

355 (ii) one representative of a licensed esthetics school;

356 (e) one nail technician;

357 (f) (i) one nail technician instructor; or

358 (ii) one representative of a licensed nail technician school;

359 (g) one electrologist; and

360 (h) two members from the general public.

361 (2) (a) The board shall be appointed and serve in accordance with Section 58-1-201.

362 (b) (i) At least one of the members of the board appointed under Subsections (1)(b),
363 (d), and (f) shall be an instructor at or a representative of a public school.

364 (ii) At least one of the members of the board appointed under Subsections (1)(b), (d),
365 and (f) shall be an instructor at or a representative of a private school.

366 (3) The duties and responsibilities of the board are in accordance with Sections
367 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a
368 permanent or rotating basis to:

369 (a) assist the division in reviewing complaints concerning the unlawful or
370 unprofessional conduct of a licensee; and

371 (b) advise the division in its investigation of these complaints.

372 (4) A board member who has, under Subsection (3), reviewed a complaint or advised
373 in its investigation may be disqualified from participating with the board when the board serves

374 as a presiding officer in an adjudicative proceeding concerning the complaint.

375 Section 5. Section **58-11a-301** is amended to read:

376 **58-11a-301. Licensure required -- License classifications.**

377 (1) Except as specifically provided in Section 58-1-307 or 58-11a-304, a license is
378 required to:

379 (a) engage in the practice of:

380 (i) barbering;

381 [~~(ii) barbering instruction;~~]

382 [~~(iii) operating a barbering school;~~]

383 [~~(iv) cosmetology/barbering;~~]

384 [~~(v) cosmetology/barbering instruction; or~~]

385 [~~(vi) electrology;~~]

386 [~~(b) operate a cosmetology/barbering school;~~]

387 [~~(c) engage in the practice of:~~]

388 [~~(i) electrology instruction;~~]

389 [~~(ii) esthetics;~~]

390 [~~(iii) master-level esthetics;~~]

391 [~~(iv) esthetics instruction;~~]

392 [~~(v) nail technology; or~~]

393 [~~(vi) nail technology instruction; or~~]

394 (ii) cosmetology/barbering;

395 (iii) electrology;

396 (iv) esthetics;

397 (v) master-level esthetics;

398 (vi) hair braiding;

399 (vii) advanced hair braiding;

400 (viii) nail technology;

401 (ix) barbering instruction;

402 (x) cosmetology/barbering instruction;

403 (xi) electrology instruction;

404 (xii) esthetics instruction;

- 405 (xiii) hair braiding instruction; or
406 (xiv) nail technology instruction; or
407 ~~[(d)]~~ (b) operate:
408 ~~[(i) an electrology school;]~~
409 ~~[(ii) an esthetics school; or]~~
410 ~~[(iii) a nail technology school.]~~
411 (i) a barbering school;
412 (ii) a cosmetology/barbering school;
413 (iii) an electrology school;
414 (iv) an esthetics school;
415 (v) a hair braiding school; or
416 (vi) a nail technology school.

417 (2) The division shall issue to a person who qualifies under this chapter a license in the
418 following classifications:

- 419 (a) barber;
420 (b) barber instructor;
421 (c) barber school;
422 (d) cosmetologist/barber;
423 (e) cosmetologist/barber instructor;
424 (f) cosmetology/barber school;
425 (g) electrologist;
426 (h) electrologist instructor;
427 (i) electrology school;
428 (j) esthetician;
429 (k) master esthetician;
430 (l) esthetician instructor;
431 (m) esthetics school;
432 (n) hair braider;
433 (o) advanced hair braider;
434 (p) hair braiding instructor;
435 (q) hair braiding school;

436 ~~[(m)]~~ (r) nail technology;

437 ~~[(o)]~~ (s) nail technology instructor; and

438 ~~[(p)]~~ (t) nail technology school.

439 Section 6. Section **58-11a-302** is amended to read:

440 **58-11a-302. Qualifications for licensure.**

441 (1) Each applicant for licensure as a barber shall:

442 (a) submit an application in a form prescribed by the division;

443 (b) pay a fee determined by the department under Section 63J-1-504;

444 (c) be of good moral character;

445 (d) provide satisfactory documentation of:

446 (i) graduation from a licensed or recognized barber school or a licensed or recognized

447 cosmetology/barber school whose curriculum consists of a minimum of 1,000 hours of

448 instruction or the equivalent number of credit hours over a period of not less than 25 weeks;

449 (ii) (A) having graduated from a recognized barber school located in a state other than

450 Utah whose curriculum consists of less than 1,000 hours of instruction or the equivalent

451 number of credit hours; and

452 (B) having practiced as a licensed barber for a period of not less than 2,000 hours; or

453 (iii) having completed an approved barber apprenticeship; and

454 (e) meet the examination requirement established by rule.

455 (2) Each applicant for licensure as a barber instructor shall:

456 (a) submit an application in a form prescribed by the division;

457 (b) pay a fee determined by the department under Section 63J-1-504;

458 (c) provide satisfactory documentation that the applicant is currently licensed as a

459 barber;

460 (d) be of good moral character;

461 (e) provide satisfactory documentation of completion of:

462 (i) an instructor training program conducted by a licensed or recognized school as

463 defined by rule consisting of a minimum of 500 hours or the equivalent number of credit hours;

464 or

465 (ii) a minimum of 2,000 hours of experience as a barber; and

466 (f) meet the examination requirement established by rule.

- 467 (3) Each applicant for licensure as a barber school shall:
- 468 (a) submit an application in a form prescribed by the division;
- 469 (b) pay a fee determined by the department under Section 63J-1-504; and
- 470 (c) provide satisfactory documentation:
- 471 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 472 (ii) of business licensure from the city, town, or county in which the school is located;
- 473 (iii) that the applicant's physical facilities comply with the requirements established by
- 474 rule; and
- 475 (iv) that the applicant meets the standards for barber schools, including staff and
- 476 accreditation requirements, established by rule.
- 477 (4) Each applicant for licensure as a cosmetologist/barber shall:
- 478 (a) submit an application in a form prescribed by the division;
- 479 (b) pay a fee determined by the department under Section 63J-1-504;
- 480 (c) be of good moral character;
- 481 (d) provide satisfactory documentation of:
- 482 (i) graduation from a licensed or recognized cosmetology/barber school whose
- 483 curriculum consists of a minimum of 2,000 hours of instruction, with full flexibility within the
- 484 2,000 hours, or the equivalent number of credit hours over a period of not less than 50 weeks;
- 485 (ii) (A) having graduated from a recognized cosmetology/barber school located in a
- 486 state other than Utah whose curriculum consists of less than 2,000 hours of instruction, with
- 487 full flexibility within the 2,000 hours, or the equivalent number of credit hours; and
- 488 (B) having practiced as a licensed cosmetologist/barber for a period of not less than
- 489 4,000 hours; or
- 490 (iii) having completed an approved cosmetology/barber apprenticeship; and
- 491 (e) meet the examination requirement established by rule.
- 492 (5) Each applicant for licensure as a cosmetologist/barber instructor shall:
- 493 (a) submit an application in a form prescribed by the division;
- 494 (b) pay a fee determined by the department under Section 63J-1-504;
- 495 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 496 cosmetologist/barber;
- 497 (d) be of good moral character;

- 498 (e) provide satisfactory documentation of completion of:
499 (i) an instructor training program conducted by a licensed or recognized school as
500 defined by rule consisting of a minimum of 1,000 hours or the equivalent number of credit
501 hours; or
502 (ii) a minimum of 4,000 hours of experience as a cosmetologist/barber; and
503 (f) meet the examination requirement established by rule.
- 504 (6) Each applicant for licensure as a cosmetologist/barber school shall:
505 (a) submit an application in a form prescribed by the division;
506 (b) pay a fee determined by the department under Section 63J-1-504; and
507 (c) provide satisfactory documentation:
508 (i) of appropriate registration with the Division of Corporations and Commercial Code;
509 (ii) of business licensure from the city, town, or county in which the school is located;
510 (iii) that the applicant's physical facilities comply with the requirements established by
511 rule; and
512 (iv) that the applicant meets the standards for cosmetology schools, including staff and
513 accreditation requirements, established by rule.
- 514 (7) Each applicant for licensure as an electrologist shall:
515 (a) submit an application in a form prescribed by the division;
516 (b) pay a fee determined by the department under Section 63J-1-504;
517 (c) be of good moral character;
518 (d) provide satisfactory documentation of having graduated from a licensed or
519 recognized electrology school after completing a curriculum of 600 hours of instruction or the
520 equivalent number of credit hours; and
521 (e) meet the examination requirement established by rule.
- 522 (8) Each applicant for licensure as an electrologist instructor shall:
523 (a) submit an application in a form prescribed by the division;
524 (b) pay a fee determined by the department under Section 63J-1-504;
525 (c) provide satisfactory documentation that the applicant is currently licensed as an
526 electrologist;
527 (d) be of good moral character;
528 (e) provide satisfactory documentation of completion of:

529 (i) an instructor training program conducted by a licensed or recognized school as
530 defined by rule consisting of a minimum of 175 hours or the equivalent number of credit hours;

531 or

532 (ii) a minimum of 1,000 hours of experience as an electrologist; and

533 (f) meet the examination requirement established by rule.

534 (9) Each applicant for licensure as an electrologist school shall:

535 (a) submit an application in a form prescribed by the division;

536 (b) pay a fee determined by the department under Section 63J-1-504; and

537 (c) provide satisfactory documentation:

538 (i) of appropriate registration with the Division of Corporations and Commercial Code;

539 (ii) of business licensure from the city, town, or county in which the school is located;

540 (iii) that the applicant's facilities comply with the requirements established by rule; and

541 (iv) that the applicant meets the standards for electrologist schools, including staff,

542 curriculum, and accreditation requirements, established by rule.

543 (10) Each applicant for licensure as an esthetician shall:

544 (a) submit an application in a form prescribed by the division;

545 (b) pay a fee determined by the department under Section 63J-1-504;

546 (c) be of good moral character;

547 (d) provide satisfactory documentation of one of the following:

548 (i) graduation from a licensed or recognized esthetic school or a licensed or recognized

549 cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic

550 instruction with a minimum of 600 hours or the equivalent number of credit hours;

551 (ii) completion of an approved esthetician apprenticeship; or

552 (iii) (A) having graduated from a recognized cosmetology/barber school located in a

553 state other than Utah whose curriculum consists of less than 2,000 hours of instruction with full

554 flexibility within the 2,000 hours or the equivalent number of credit hours; and

555 (B) having practiced as a licensed cosmetologist/barber for a period of not less than

556 4,000 hours; and

557 (e) meet the examination requirement established by division rule.

558 (11) Each applicant for licensure as a master esthetician shall:

559 (a) submit an application in a form prescribed by the division;

- 560 (b) pay a fee determined by the department under Section 63J-1-504;
- 561 (c) be of good moral character; [~~and~~]
- 562 (d) provide satisfactory documentation of one of the following:
- 563 (i) [~~(A)~~] completion of at least 1,200 hours of training or the equivalent number of
- 564 credit hours over a period of not less than 30 weeks at a licensed or recognized esthetics
- 565 school; [~~or~~]
- 566 [~~(B)~~] (ii) (A) accepting up to 600 hours or credit hours towards the 1,200 hours of
- 567 training or equivalent number of credit hours from an applicant who has graduated from a
- 568 licensed or recognized cosmetology/barbering school whose curriculum consists of a minimum
- 569 of 2,000 hours of instruction with full flexibility within the 2,000 hours, or the equivalent
- 570 number of credit hours; and
- 571 [~~(C)~~] (B) for practice of lymphatic massage, provide satisfactory documentation to
- 572 show completion of 200 hours of training or equivalent number of credit hours in lymphatic
- 573 massage as defined by division rule; [~~or~~]
- 574 [~~(ii)~~] (iii) completion of an approved master esthetician apprenticeship;
- 575 [~~(iii)~~] (iv) accepting up to 600 hours or credit hours towards the 1,200 hours of training
- 576 or equivalent number of credit hours from a recognized cosmetology/barber school located in a
- 577 state other than Utah whose curriculum consists of less than 2,000 hours of instruction or the
- 578 equivalent number of credit hours; or
- 579 [~~(iv)~~] (v) (A) having graduated from a recognized master esthetics school located in a
- 580 state other than Utah whose curriculum consists of less than 1,200 hours of instruction, with
- 581 full flexibility within the 1,200 hours or the equivalent number of credit hours; and
- 582 (B) having practiced as a licensed master esthetician for a period of not less than 4,000
- 583 hours; and
- 584 (e) meet the examination requirement established by division rule.
- 585 (12) Each applicant for licensure as an esthetician instructor shall:
- 586 (a) submit an application in a form prescribed by the division;
- 587 (b) pay a fee determined by the department under Section 63J-1-504;
- 588 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 589 master esthetician;
- 590 (d) be of good moral character;

- 591 (e) provide satisfactory documentation of completion of:
- 592 (i) an instructor training program conducted by a licensed or recognized school as
- 593 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit
- 594 hours; or
- 595 (ii) a minimum of 1,000 hours of experience in esthetics; and
- 596 (f) meet the examination requirement established by rule.
- 597 (13) Each applicant for licensure as an esthetics school shall:
- 598 (a) submit an application in a form prescribed by the division;
- 599 (b) pay a fee determined by the department under Section 63J-1-504; and
- 600 (c) provide satisfactory documentation:
- 601 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 602 (ii) of business licensure from the city, town, or county in which the school is located;
- 603 (iii) that the applicant's physical facilities comply with the requirements established by
- 604 rule; and
- 605 (iv) that the applicant meets the standards for esthetics schools, including staff,
- 606 curriculum, and accreditation requirements, established by division rule made in collaboration
- 607 with the board.
- 608 (14) Each applicant for licensure as a nail technician shall:
- 609 (a) submit an application in a form prescribed by the division;
- 610 (b) pay a fee determined by the department under Section 63J-1-504;
- 611 (c) be of good moral character; [~~and~~]
- 612 (d) provide satisfactory documentation of:
- 613 (i) graduation from a licensed or recognized nail technology school or a licensed or
- 614 recognized cosmetology/barber school whose curriculum consists of not less than 300 hours or
- 615 the equivalent number of credit hours of not more than eight hours a day and six days a week
- 616 during the program;
- 617 (ii) (A) having graduated from a recognized nail technology school located in a state
- 618 other than Utah whose curriculum consists of less than 300 hours of instruction or the
- 619 equivalent number of credit hours; and
- 620 (B) having practiced as a licensed nail technician for a period of not less than 1,000
- 621 hours; or

- 622 (iii) having completed an approved nail technician apprenticeship; and
623 (e) meet the examination requirement established by division rule.
- 624 (15) Each applicant for licensure as a nail technician instructor shall:
625 (a) submit an application in a form prescribed by the division;
626 (b) pay a fee determined by the department under Section 63J-1-504;
627 (c) provide satisfactory documentation that the applicant is currently licensed as a nail
628 technician;
629 (d) be of good moral character;
630 (e) provide satisfactory documentation of completion of:
631 (i) an instructor training program conducted by a licensed or recognized school as
632 defined by rule consisting of a minimum of 150 hours or the equivalent number of credit hours;
633 or
634 (ii) a minimum of 600 hours of experience in nail technology; and
635 (f) meet the examination requirement established by rule.
- 636 (16) Each applicant for licensure as a nail technology school shall:
637 (a) submit an application in a form prescribed by the division;
638 (b) pay a fee determined by the department under Section 63J-1-504; and
639 (c) provide satisfactory documentation:
640 (i) of appropriate registration with the Division of Corporations and Commercial Code;
641 (ii) of business licensure from the city, town, or county in which the school is located;
642 (iii) that the applicant's facilities comply with the requirements established by rule; and
643 (iv) that the applicant meets the standards for nail technology schools, including staff,
644 curriculum, and accreditation requirements, established by rule.
- 645 (17) Each applicant for licensure as a hair braider shall:
646 (a) submit an application in a form prescribed by the division;
647 (b) pay a fee determined by the department under Section 63J-1-504;
648 (c) be of good moral character;
649 (d) provide satisfactory documentation of:
650 (i) graduation from a licensed or recognized hair braiding school or a licensed or
651 recognized cosmetology/barber school whose curriculum consists of at least eight weeks of
652 hair-braiding related instruction and includes at least 300 hours of instruction or the equivalent

653 number of credit hours;

654 (ii) (A) graduation from a recognized hair braiding school located in a state other than
655 Utah whose curriculum consists of less than 300 hours of instruction or the equivalent number
656 of credit hours; and

657 (B) having practiced as a licensed hair braider for a period of at least 1,000 hours; or

658 (iii) completion of an approved hair braiding apprenticeship; and

659 (e) meet the examination requirement established by division rule.

660 (18) Each applicant for licensure as an advanced hair braider shall:

661 (a) submit an application in a form prescribed by the division;

662 (b) pay a fee determined by the department under Section 63J-1-504;

663 (c) be of good moral character;

664 (d) provide satisfactory documentation of:

665 (i) graduation from a licensed or recognized hair braiding school or a licensed or
666 recognized cosmetology/barber school whose curriculum consists of at least 15 weeks of
667 hair-braiding related instruction and includes at least 600 hours of instruction or the equivalent
668 number of credit hours;

669 (ii) (A) graduation from a recognized hair braiding school located in a state other than
670 Utah whose curriculum consists of less than 600 hours of instruction or the equivalent number
671 of credit hours; and

672 (B) having practiced as a licensed hair braider for a period of at least 2,000 hours; or

673 (iii) completion of an approved advanced hair braiding apprenticeship; and

674 (e) meet the examination requirement established by division rule.

675 (19) Each applicant for licensure as a hair braiding instructor shall:

676 (a) submit an application in a form prescribed by the division;

677 (b) pay a fee determined by the department under Section 63J-1-504;

678 (c) provide satisfactory documentation that the applicant is currently licensed as an
679 advanced hair braider;

680 (d) be of good moral character;

681 (e) provide satisfactory documentation of completion of:

682 (i) an instructor training program conducted by a licensed or recognized school as
683 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit

684 hours; or

685 (ii) a minimum of 1,000 hours of experience in hair braiding; and

686 (f) meet the examination requirement established by rule.

687 (20) Each applicant for licensure as a hair braiding school shall:

688 (a) submit an application in a form prescribed by the division;

689 (b) pay a fee determined by the department under Section 63J-1-504; and

690 (c) provide satisfactory documentation:

691 (i) of appropriate registration with the Division of Corporations and Commercial Code;

692 (ii) of business licensure from the city, town, or county in which the school is located;

693 (iii) that the applicant's physical facilities comply with the requirements established by

694 rule; and

695 (iv) that the applicant meets the standards for hair braiding schools, including staff,

696 curriculum, and accreditation requirements, established by division rule.

697 ~~[(17)]~~ (21) Each applicant for licensure under this chapter whose education in the field

698 for which a license is sought was completed at a foreign school may satisfy the educational

699 requirement for licensure by demonstrating, to the satisfaction of the division, the educational

700 equivalency of the foreign school education with a licensed school under this chapter.

701 ~~[(18)]~~ (22) (a) A licensed or recognized school under this section may accept credit

702 hours towards graduation for any profession listed in this section.

703 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and

704 consistent with this section, the division may make rules governing the acceptance of credit

705 hours under Subsection ~~[(18)]~~ (22)(a).

706 Section 7. Section **58-11a-304** is amended to read:

707 **58-11a-304. Exemptions from licensure.**

708 In addition to the exemptions from licensure in Section 58-1-307, the following persons

709 may engage in the practice of barbering, cosmetology/barbering, esthetics, master-level

710 esthetics, electrology, hair braiding, advanced hair braiding, or nail technology without being

711 licensed under this chapter:

712 (1) ~~[persons]~~ a person licensed under the laws of this state to engage in the practice of

713 medicine, surgery, osteopathy, or chiropractic when engaged in the practice of the profession

714 for which they are licensed;

715 (2) ~~a commissioned [physicians and surgeons]~~ physician or surgeon serving in the
716 armed forces of the United States or another federal agency;

717 (3) ~~a registered [nurses, undertakers, and morticians]~~ nurse, undertaker, or mortician
718 licensed under the laws of this state when engaged in the practice of the profession for which
719 ~~[they are]~~ the person is licensed;

720 (4) ~~[persons]~~ a person who ~~[visit]~~ visits the state to engage in instructional seminars,
721 advanced classes, trade shows, or competitions of a limited duration;

722 (5) ~~[persons who engage]~~ a person who engages in the practice of barbering,
723 cosmetology/barbering, esthetics, master-level esthetics, electrology, hair braiding, advanced
724 hair braiding, or nail technology without compensation;

725 (6) ~~[persons]~~ a person instructing an adult education ~~[classes and]~~ class or other
726 educational ~~[programs]~~ program directed toward persons who are not licensed under this
727 chapter and that are not intended to train persons to become licensed under this chapter,
728 provided:

729 (a) ~~[attendees receive]~~ an attendee receives no credit toward ~~[the]~~ educational
730 ~~[requirement]~~ requirements for licensure under this chapter; ~~[and]~~

731 (b) the instructor informs each attendee in writing that taking such a class or program
732 will not certify or qualify the attendee to perform a service for compensation that requires
733 licensure under this chapter; and

734 ~~[(b)]~~ (c) (i) the instructor is properly licensed; or

735 (ii) the instructor receives no compensation;

736 (7) ~~[persons instructing]~~ a person providing instruction in workshops, seminars,
737 training meetings, ~~[and]~~ or other educational programs whose purpose is to provide continuing
738 professional development to licensed barbers, cosmetologist/barbers, estheticians, master
739 estheticians, electrologists, hair braiders, advanced hair braiders, or nail technicians~~[-or~~
740 electrologists];

741 (8) ~~[persons currently]~~ a person enrolled in a licensed barber or cosmetology/barber
742 school when participating in an on the job training internship under the direct supervision of a
743 licensed barber or cosmetologist/barber upon completion of a basic program under the
744 standards established by rule by the division in collaboration with the board;

745 (9) ~~[persons]~~ a person enrolled in an approved apprenticeship pursuant to Section

746 58-11a-306;

747 (10) ~~[employees]~~ an employee of a company ~~[which]~~ that is primarily engaged in the
748 business of selling products used in the practice of barbering, cosmetology/barbering, esthetics,
749 master-level esthetics, electrology, hair braiding, advanced hair braiding, or nail technology
750 when demonstrating the company's products to a potential [customers; or] customer, provided
751 the employee makes no representation to a potential customer that attending such a
752 demonstration will certify or qualify the attendee to perform a service for compensation that
753 requires licensure under this chapter;

754 (11) a person who:

755 (a) is qualified to engage in the practice of barbering, cosmetology/barbering, esthetics,
756 master-level esthetics, electrology, hair braiding, advanced hair braiding, or nail technology in
757 another jurisdiction as evidenced by licensure, certification, or lawful practice in the other
758 jurisdiction;

759 (b) is employed by, or under contract with, a motion picture company; and

760 (c) engages in the practice of barbering, cosmetology/barbering, esthetics, master-level
761 esthetics, electrology, hair braiding, advanced hair braiding, or nail technology in the state:

762 (i) solely to assist in the production of a motion picture; and

763 (ii) for no more than 120 days per calendar year[-]; and

764 (12) a person who:

765 (a) engages in one specific method or style of natural hair braiding; and

766 (b) unless it is expressly exempted under this section or Section 58-1-307, does not
767 engage in other activity requiring licensure under this chapter.

768 Section 8. Section **58-11a-306** is amended to read:

769 **58-11a-306. Apprenticeship.**

770 (1) An approved barber apprenticeship shall:

771 (a) consist of not less than 1,250 hours of training in not less than eight months; and

772 (b) be conducted by a supervisor who:

773 (i) is licensed under this chapter as a barber instructor or a cosmetology/barber
774 instructor; and

775 (ii) provides direct one-on-one supervision of the barber apprentice during the
776 apprenticeship program.

- 777 (2) An approved cosmetologist/barber apprenticeship shall:
- 778 (a) consist of not less than 2,500 hours of training in not less than 15 months; and
- 779 (b) be conducted by a supervisor who:
- 780 (i) is licensed under this chapter as a cosmetologist/barber instructor; and
- 781 (ii) provides direct one-on-one supervision of the cosmetologist/barber apprentice
- 782 during the apprenticeship program.
- 783 (3) An approved esthetician apprenticeship shall:
- 784 (a) consist of not less than 800 hours of training in not less than five months; and
- 785 (b) be conducted by a supervisor who:
- 786 (i) is licensed under this chapter as an esthetician instructor; and
- 787 (ii) provides direct one-on-one supervision of the esthetician apprentice during the
- 788 apprenticeship program.
- 789 (4) An approved master esthetician apprenticeship shall:
- 790 (a) consist of not less than 1,500 hours of training in not less than 10 months; and
- 791 (b) be conducted by a supervisor who:
- 792 (i) is licensed under this chapter as a master-level esthetician instructor; and
- 793 (ii) provides direct one-on-one supervision of the master esthetician apprentice during
- 794 the apprenticeship program.
- 795 (5) An approved nail technician apprenticeship shall:
- 796 (a) consist of not less than 375 hours of training in not less than three months; and
- 797 (b) be conducted by a supervisor who:
- 798 (i) is licensed under this chapter as a nail technician instructor or a cosmetology/barber
- 799 instructor; and
- 800 (ii) provides direct one-on-two supervision of the nail technician apprentice during the
- 801 apprenticeship program.
- 802 (6) An approved hair braiding apprenticeship shall:
- 803 (a) consist of not less than 400 hours of training in not less than 10 weeks; and
- 804 (b) be conducted by a supervisor who:
- 805 (i) is licensed under this chapter as an advanced hair braiding instructor; and
- 806 (ii) provides direct one-on-one supervision of the hair braiding apprentice during the
- 807 apprenticeship program.

- 808 (7) An approved advanced hair braiding apprenticeship shall:
809 (a) consist of not less than 800 hours of training in not less than 20 weeks; and
810 (b) be conducted by a supervisor who:
811 (i) is licensed under this chapter as an advanced hair braiding instructor; and
812 (ii) provides direct one-on-one supervision of the hair braiding apprentice during the
813 apprenticeship program.

814 Section 9. Section **58-11a-502** is amended to read:

815 **58-11a-502. Unlawful conduct.**

816 Unlawful conduct includes:

817 (1) practicing or engaging in, or attempting to practice or engage in activity for which a
818 license is required under this chapter unless:

- 819 (a) the person holds the appropriate license under this chapter; or
820 (b) an exemption in Section 58-1-307 or 58-11a-304 applies;

821 (2) knowingly employing any other person to engage in or practice or attempt to
822 engage in or practice any occupation or profession licensed under this chapter if the employee
823 is not licensed to do so under this chapter or exempt from licensure;

824 (3) touching, or applying an instrument or device to the following areas of a client's
825 body:

826 (a) the genitals or the anus, except in cases where the patron states to a licensee that the
827 patron requests a hair removal procedure and signs a written consent form, which must also
828 include the witnessed signature of a legal guardian if the patron is a minor, authorizing the
829 licensee to perform a hair removal procedure; or

830 (b) the breast of a female patron, except in cases in which the female patron states to a
831 licensee that the patron requests breast skin procedures and signs a written consent form, which
832 must also include the witnessed signature of a parent or legal guardian if the patron is a minor,
833 authorizing the licensee to perform breast skin procedures;

834 (4) using or possessing as a nail technician a solution composed of at least 10% methyl
835 methacrylate on a client; ~~or~~

836 (5) performing an ablative procedure as defined in Section 58-67-102[-]; or

837 (6) when acting as an instructor regarding a service requiring licensure under this
838 chapter, for a class or education program where attendees are not licensed under this chapter.

839 failing to inform each attendee in writing that:

840 (a) taking the class or program without completing the requirements for licensure under
841 this chapter is insufficient to certify or qualify the attendee to perform a service for
842 compensation that requires licensure under this chapter; and

843 (b) the attendee is required to obtain licensure under this chapter before performing the
844 service for compensation.

845 Section 10. Section **58-11a-503** is amended to read:

846 **58-11a-503. Penalties.**

847 (1) Unless Subsection (2) applies, an individual who commits an act of unlawful
848 conduct under Section 58-11a-502 or who fails to comply with a citation issued under this
849 section after it is final is guilty of a class A misdemeanor.

850 (2) Sexual conduct that violates Section 58-11a-502 and Title 76, Utah Criminal Code,
851 shall be subject to the applicable penalties in Title 76.

852 (3) Grounds for immediate suspension of a licensee's license by the division include
853 the issuance of a citation for violation of Subsection 58-11a-502(1), (2), ~~[(4), (5), or (6)].~~

854 (4) (a) If upon inspection or investigation, the division concludes that a person has
855 violated the provisions of Subsection 58-11a-502(1), (2), ~~[(4), (5), or (6)]~~, or a rule or order
856 issued with respect to Subsection 58-11a-502(1), (2), ~~[(4), (5), or (6)]~~, and that disciplinary
857 action is appropriate, the director or the director's designee from within the division shall
858 promptly issue a citation to the person according to this chapter and any pertinent rules, attempt
859 to negotiate a stipulated settlement, or notify the person to appear before an adjudicative
860 proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

861 (i) A person who is in violation of Subsection 58-11a-502(1), (2), ~~[(4), (5), or (6)]~~,
862 as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in
863 an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in
864 addition to or in lieu of, be ordered to cease and desist from violating Subsection
865 58-11a-502(1), (2), ~~[(4), (5), or (6)]~~.

866 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
867 58-11a-401 may not be assessed through a citation.

868 (b) (i) Each citation shall be in writing and describe with particularity the nature of the
869 violation, including a reference to the provision of the chapter, rule, or order alleged to have

870 been violated.

871 (ii) The citation shall clearly state that the recipient must notify the division in writing
872 within 20 calendar days of service of the citation if the recipient wishes to contest the citation
873 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

874 (iii) The citation shall clearly explain the consequences of failure to timely contest the
875 citation or to make payment of a fine assessed by the citation within the time specified in the
876 citation.

877 (c) Each citation issued under this section, or a copy of each citation, may be served
878 upon a person upon whom a summons may be served in accordance with the Utah Rules of
879 Civil Procedure and may be made personally or upon the person's agent by a division
880 investigator or by a person specially designated by the director or by mail.

881 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the
882 citation was issued fails to request a hearing to contest the citation, the citation becomes the
883 final order of the division and is not subject to further agency review.

884 (ii) The period to contest a citation may be extended by the division for cause.

885 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation
886 the license of a licensee who fails to comply with a citation after it becomes final.

887 (f) The failure of an applicant for licensure to comply with a citation after it becomes
888 final is a ground for denial of license.

889 (g) No citation may be issued under this section after the expiration of six months
890 following the occurrence of a violation.

891 (h) Fines shall be assessed by the director or the director's designee according to the
892 following:

893 (i) for a first offense under Subsection (4)(a), a fine of up to \$1,000;

894 (ii) for a second offense under Subsection (4)(a), a fine of up to \$2,000; and

895 (iii) for any subsequent offense under Subsection (4)(a), a fine of up to \$2,000 for each
896 day of continued offense.

897 (i) (i) For purposes of issuing a final order under this section and assessing a fine under
898 Subsection (4)(h), an offense constitutes a second or subsequent offense if:

899 (A) the division previously issued a final order determining that a person committed a
900 first or second offense in violation of Subsection 58-11a-502(1), (2), ~~(4)~~, (5), or (6); or

901 (B) (I) the division initiated an action for a first or second offense;
902 (II) no final order has been issued by the division in the action initiated under
903 Subsection (4)(i)(i)(B)(I);
904 (III) the division determines during an investigation that occurred after the initiation of
905 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
906 violation of Subsection 58-11a-502(1), (2), [~~or~~] (4), (5), or (6); and
907 (IV) after determining that the person committed a second or subsequent offense under
908 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under
909 Subsection (4)(i)(i)(B)(I).
910 (ii) In issuing a final order for a second or subsequent offense under Subsection
911 (4)(i)(i), the division shall comply with the requirements of this section.
912 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited
913 into the Barber, Cosmetologist/Barber, Esthetician, Electrologist, Hair Braider, and Nail
914 Technician Education and Enforcement Fund.
915 (b) A penalty which is not paid may be collected by the director by either referring the
916 matter to a collection agency or bringing an action in the district court of the county in which
917 the person against whom the penalty is imposed resides or in the county where the office of the
918 director is located.
919 (c) A county attorney or the attorney general of the state is to provide legal assistance
920 and advice to the director in an action to collect the penalty.
921 (d) A court shall award reasonable attorney fees and costs in an action brought to
922 enforce the provisions of this section.