

**COSMETOLOGIST/BARBER, ESTHETICIAN,  
ELECTROLOGIST, AND NAIL TECHNICIAN  
LICENSING ACT AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen D. Clark**

Senate Sponsor: John W. Hickman

Cosponsors:	Brad L. Dee	Rebecca D. Lockhart
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**LONG TITLE**

**General Description:**

This bill modifies the Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act to provide a stand-alone barbering license.

**Highlighted Provisions:**

This bill:

- ▶ provides for stand-alone barber licensing and apprenticeships, and licensing and apprenticeship requirements, that are separate from cosmetology/barber licensing and apprenticeship requirements;
- ▶ modifies the unprofessional and unlawful conduct provisions;
- ▶ removes the 200 hours of training or an equivalent number of credit hours in lymphatic massage required for licensure as a master esthetician; and
- ▶ makes technical corrections.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



AMENDS:

**58-11a-101**, as last amended by Chapter 204, Laws of Utah 2001

**58-11a-102**, as last amended by Chapter 222, Laws of Utah 2005

**58-11a-103**, as last amended by Chapter 256, Laws of Utah 2002

**58-11a-201**, as last amended by Chapter 204, Laws of Utah 2001

**58-11a-301**, as last amended by Chapter 204, Laws of Utah 2001

**58-11a-302**, as last amended by Chapter 222, Laws of Utah 2005

**58-11a-304**, as last amended by Chapter 204, Laws of Utah 2001

**58-11a-306**, as last amended by Chapter 222, Laws of Utah 2005

**58-11a-501**, as last amended by Chapter 204, Laws of Utah 2001

**58-11a-502**, as last amended by Chapter 222, Laws of Utah 2005

**58-11a-503**, as last amended by Chapter 222, Laws of Utah 2005

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

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

**CHAPTER 11a. BARBER, COSMETOLOGIST/BARBER, ESTHETICIAN,  
ELECTROLOGIST, AND NAIL TECHNICIAN LICENSING ACT**

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

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

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

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

(1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the division in collaboration with the board in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(2) "Approved esthetician apprenticeship" means an apprenticeship that meets the

requirements of Subsection 58-11a-306~~[(2)]~~(3) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(3) "Approved master esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306~~[(3)]~~(4) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(4) "Approved nail technician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306~~[(4)]~~(5) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(5) "Barber" means a person who is licensed under this chapter to engage in the practice of barbering.

(6) "Barber instructor" means a barber who is licensed under this chapter to teach barbering at a licensed barber school.

~~[(5)]~~ (7) "Board" means the Barber, Cosmetology/Barbering, Esthetics, Electrology, and Nail Technology Licensing Board created in Section 58-11a-201.

~~[(6)]~~ (8) "Cosmetologist/barber" means a person who is licensed under this chapter to engage in the practice of cosmetology/barbering.

~~[(7)]~~ (9) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed under this chapter to teach cosmetology/barbering at a licensed cosmetology/barber school.

~~[(8)]~~ (10) "Direct supervision" means that the supervisor of an apprentice or the instructor of a student is immediately available for consultation, advice, instruction, and evaluation.

~~[(9)]~~ (11) "Electrologist" means a person who is licensed under this chapter to engage in the practice of electrology.

~~[(10)]~~ (12) "Electrologist instructor" means an electrologist who is licensed under this

chapter to teach electrology at a licensed electrology school.

~~[(11)]~~ (13) "Esthetician" means a person who is licensed under this chapter to engage in the practice of esthetics.

~~[(12)]~~ (14) "Esthetician instructor" means a master esthetician who is licensed under this chapter to teach the practice of esthetics and the practice of master-level esthetics at a licensed esthetics school.

~~[(13)]~~ (15) "Fund" means the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Education and Enforcement Fund created in Section 58-11a-103.

~~[(14)]~~ (16) "Licensed barber or cosmetology/barber school" means a barber or cosmetology/barber school licensed under this chapter.

~~[(15)]~~ (17) "Licensed electrology school" means an electrology school licensed under this chapter.

~~[(16)]~~ (18) "Licensed esthetics school" means an esthetics school licensed under this chapter.

~~[(17)]~~ (19) "Licensed nail technology school" means a nail technology school licensed under this chapter.

~~[(18)]~~ (20) "Master esthetician" means an individual who is licensed under this chapter to engage in the practice of master-level esthetics.

~~[(19)]~~ (21) "Nail technician" means an individual who is licensed under this chapter to engage in the practice of nail technology.

~~[(20)]~~ (22) "Nail technician instructor" means a nail technician licensed under this chapter to teach the practice of nail technology in a licensed nail technology school.

(23) "Practice of barbering" means:

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

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

(24) "Practice of barbering instruction" means instructing barbering in a licensed barber school.

115           ~~[(25)]~~ (25) "Practice of basic esthetics" means any one of the following skin care  
116 procedures done on the head, face, neck, ~~[torso, abdomen, back,]~~ arms, hands, legs, feet,  
117 eyebrows, or eyelashes for cosmetic purposes and not for the treatment of medical, physical, or  
118 mental ailments:

119           (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or  
120 masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing,  
121 natural nail manicures or pedicures, or callous removal by buffing or filing;

122           ~~[(b) manual lymphatic massage of the face and neck,]~~

123           ~~[(c)]~~ (b) limited chemical exfoliation as defined by rule;

124           ~~[(d)]~~ (c) removing superfluous hair by means other than electrolysis or laser  
125 procedures; or

126           ~~[(e)]~~ (d) other esthetic preparations or procedures with the use of the hands, a  
127 high-frequency or galvanic electrical apparatus, or a heat lamp for ~~[beautifying or similar work~~  
128 ~~performed on the body for]~~ cosmetic purposes and not for the treatment of medical, physical, or  
129 mental ailments.

130           ~~[(21)]~~ (26) (a) "Practice of cosmetology/barbering" means:

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

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

136           (iii) arching eyebrows, or tinting eyebrows or eyelashes, or both;

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

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

141           (vi) practicing hair weaving or hair fusing or servicing previously medically implanted  
142 hair.

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

(i) the practice of basic esthetics; and

(ii) the practice of nail technology.

~~[(22)]~~ (27) "Practice of cosmetology/barbering instruction" means instructing cosmetology/barbering in a licensed cosmetology/barber school.

~~[(23)]~~ (28) "Practice of electrology" means the removal of superfluous hair from the body of a person by the use of electricity.

~~[(24)]~~ (29) "Practice of electrology instruction" means instructing electrology in a licensed electrology school.

~~[(26)]~~ (30) "Practice of esthetics instruction" means instructing esthetics or master-level esthetics in a licensed esthetics school.

~~[(27)]~~ (31) (a) "Practice of master-level esthetics" means:

(i) any of the following when done for cosmetic purposes on the head, face, neck, torso, abdomen, back, arms, hands, legs, feet, eyebrows, or eyelashes and not for the treatment of medical, physical, or mental ailments:

(A) body wraps as defined by rule;

(B) hydrotherapy as defined by rule;

(C) chemical exfoliation as defined by rule;

(D) advanced pedicures as defined by rule;

(E) sanding, including microdermabrasion; ~~or~~

(F) advanced extraction; or

~~[(F)]~~ (G) other esthetic preparations or procedures with the use of:

(I) the hands; or

(II) a mechanical or electrical apparatus which is approved for use by division rule for beautifying or similar work performed on the body for cosmetic purposes and not for the treatment of a medical, physical, or mental ailment; and

(ii) lymphatic massage by manual or other means.

(b) Notwithstanding the provisions of Subsection ~~[(27)]~~ (31)(a), a master-level

esthetician may perform procedures listed in Subsection ~~[(27)]~~ (31)(a)(i) for noncosmetic purposes if done under the supervision of a licensed health care practitioner acting within the scope of his or her license.

(c) The term "practice of master-level esthetics" includes the practice of esthetics.

~~[(28)]~~ (32) "Practice of nail technology" means to trim, cut, clean, manicure, shape, massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the application and removal of sculptured or artificial nails.

~~[(29)]~~ (33) "Practice of nail technology instruction" means instructing nail technology in a licensed nail technician school.

(34) "Recognized barber school" means a barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

~~[(30)]~~ (35) "Recognized cosmetology/barber school" means a cosmetology/barber school located in ~~[another]~~ a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

~~[(31)]~~ (36) "Recognized electrology school" means an electrology school located in ~~[another]~~ a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

~~[(32)]~~ (37) "Recognized esthetics school" means an esthetics school located in ~~[another]~~ a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

~~[(33)]~~ (38) "Recognized nail technology school" means a nail technology school located in ~~[another]~~ a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

~~[(34)]~~ (39) "Salon" means a place, shop, or establishment in which cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

~~[(35)]~~ (40) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

199           ~~[(36)]~~ (41) "Unprofessional conduct" is as defined in Sections 58-1-501 and  
200 58-11a-501 and as may be further defined by rule by the division in collaboration with the  
201 board in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

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

203           **58-11a-103. Education and enforcement fund.**

204           (1) There is created a restricted special revenue fund known as the "Barber,  
205 Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Education and  
206 Enforcement Fund."

207           (2) The fund consists of monies from administrative penalties collected pursuant to this  
208 chapter.

209           (3) The fund shall earn interest and all interest earned on fund monies shall be  
210 deposited into the fund.

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

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

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

216           (c) enforcement of this chapter by:

217           (i) investigating unprofessional or unlawful conduct; and

218           (ii) providing legal representation to the division when the division takes legal action  
219 against a person engaging in unprofessional or unlawful conduct.

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

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

223           **58-11a-201. Board.**

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

226           (a) one barber or cosmetologist/barber;

- 227 (b) (i) one barber or cosmetologist/barber instructor; or  
228 (ii) one representative of a licensed barber or cosmetology/barber school;  
229 (c) one master esthetician;  
230 (d) (i) one esthetician instructor; or  
231 (ii) one representative of a licensed esthetics school;  
232 (e) one nail technician;  
233 (f) (i) one nail technician instructor; or  
234 (ii) one representative of a licensed nail technician school;  
235 (g) one electrologist; and  
236 (h) two members from the general public.

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

- 238 (b) (i) At least one of the members of the board appointed under Subsections (1)(b),  
239 (d), and (f) shall be an instructor at or a representative of a public school.  
240 (ii) At least one of the members of the board appointed under Subsections (1)(b), (d),  
241 and (f) shall be an instructor at or a representative of a private school.

242 (3) The duties and responsibilities of the board are in accordance with Sections  
243 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a  
244 permanent or rotating basis to:

- 245 (a) assist the division in reviewing complaints concerning the unlawful or  
246 unprofessional conduct of a licensee; and  
247 (b) advise the division in its investigation of these complaints.

248 (4) A board member who has, under Subsection (3), reviewed a complaint or advised  
249 in its investigation may be disqualified from participating with the board when the board serves  
250 as a presiding officer in an adjudicative proceeding concerning the complaint.

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

252 **58-11a-301. Licensure required -- License classifications.**

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

- 255 (a) engage in the practice of:  
256 (i) barbering;  
257 (ii) barbering instruction;  
258 (iii) operating a barbering school;  
259 ~~[(iv)]~~ (iv) cosmetology/barbering;  
260 ~~[(v)]~~ (v) cosmetology/barbering instruction; or  
261 ~~[(vi)]~~ (vi) electrology; or  
262 (b) operate a cosmetology/barbering school.
- 263 (2) Beginning October 1, 2001, except as specifically provided in Section 58-1-307 or  
264 58-11a-304, a license is required to:
- 265 (a) engage in the practice of:  
266 (i) electrology instruction;  
267 (ii) esthetics;  
268 (iii) master-level esthetics;  
269 (iv) esthetics instruction;  
270 (v) nail technology; or  
271 (vi) nail technology instruction; or  
272 (b) operate:  
273 (i) an electrology school;  
274 (ii) an esthetics school; or  
275 (iii) a nail technology school.
- 276 (3) The division shall issue to a person who qualifies under this chapter a license in the  
277 following classifications:
- 278 (a) barber;  
279 (b) barber instructor;  
280 (c) barber school;  
281 ~~[(d)]~~ (d) cosmetologist/barber;  
282 ~~[(e)]~~ (e) cosmetologist/barber instructor;

283       ~~[(e)]~~ (f) cosmetology/barber school;  
284       ~~[(d)]~~ (g) electrologist;  
285       ~~[(e)]~~ (h) electrologist instructor;  
286       ~~[(f)]~~ (i) electrology school;  
287       ~~[(g)]~~ (j) esthetician;  
288       ~~[(h)]~~ (k) master esthetician;  
289       ~~[(i)]~~ (l) esthetician instructor;  
290       ~~[(j)]~~ (m) esthetics school;  
291       ~~[(k)]~~ (n) nail technology;  
292       ~~[(l)]~~ (o) nail technology instructor; and  
293       ~~[(m)]~~ (p) nail technology school.

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

295       **58-11a-302. Qualifications for licensure.**

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

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

298       (b) pay a fee determined by the department under Section 63-38-3.2;

299       (c) be of good moral character;

300       (d) provide satisfactory documentation of:

301       (i) graduation from a licensed or recognized barber school whose curriculum consists  
302 of a minimum of 1,000 hours of instruction or the equivalent number of credit hours over a  
303 period of not less than six months;

304       (ii) (A) having graduated from a recognized barber school whose curriculum consists  
305 of less than 1,000 hours of instruction or the equivalent number of credit hours; and

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

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

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

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

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

- 311 (b) pay a fee determined by the department under Section 63-38-3.2;  
312 (c) provide satisfactory documentation that the applicant is currently licensed as a  
313 barber;  
314 (d) be of good moral character;  
315 (e) provide satisfactory documentation of completion of:  
316 (i) an instructor training program conducted by a barber school consisting of a  
317 minimum of 500 hours or the equivalent number of credit hours; or  
318 (ii) a minimum of 2,000 hours of experience as a barber; and  
319 (f) meet the examination requirement established by rule.  
320 (3) Each applicant for licensure as a barber school shall:  
321 (a) submit an application in a form prescribed by the division;  
322 (b) pay a fee determined by the department under Section 63-38-3.2; and  
323 (c) provide satisfactory documentation:  
324 (i) of appropriate registration with the Division of Corporations and Commercial Code;  
325 (ii) of business licensure from the city, town, or county in which the school is located;  
326 (iii) that the applicant's physical facilities comply with the requirements established by  
327 rule; and  
328 (iv) that the applicant meets the standards for barber schools, including staff and  
329 accreditation requirements, established by rule.  
330 [(+)] (4) Each applicant for licensure as a cosmetologist/barber shall:  
331 (a) submit an application in a form prescribed by the division;  
332 (b) pay a fee determined by the department under Section 63-38-3.2;  
333 (c) be of good moral character;  
334 (d) provide satisfactory documentation of:  
335 (i) graduation from a licensed or recognized cosmetology/barber school whose  
336 curriculum consists of a minimum of 2,000 hours of instruction, with full flexibility within the  
337 2,000 hours, or the equivalent number of credit hours over a period of not less than 12 months;  
338 (ii) (A) having graduated from a recognized cosmetology/barber school whose

curriculum consists of less than 2,000 hours of instruction, with full flexibility within the 2,000 hours, or the equivalent number of credit hours; and

(B) having practiced as a licensed cosmetologist/barber for a period of not less than 4,000 hours; or

(iii) having completed an approved cosmetology/barber apprenticeship; and

(e) meet the examination requirement established by rule.

~~[(2)]~~ (5) Each applicant for licensure as a cosmetologist/barber instructor shall:

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

(b) pay a fee determined by the department under Section 63-38-3.2;

(c) provide satisfactory documentation that the applicant is currently licensed as a cosmetologist/barber;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a cosmetology/barber school consisting of a minimum of 1,000 hours or the equivalent number of credit hours; or

(ii) a minimum of 4,000 hours of experience as a cosmetologist/barber; and

(f) meet the examination requirement established by rule.

~~[(3)]~~ (6) Each applicant for licensure as a cosmetologist/barber school shall:

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

(b) pay a fee determined by the department under Section 63-38-3.2; and

(c) provide satisfactory documentation:

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

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

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

(iv) that the applicant meets the standards for ~~[cosmetology/barber]~~ cosmetology schools, including staff and accreditation requirements, established by rule.

~~[(4)]~~ (7) Each applicant for licensure as an electrologist shall:

(a) submit an application in a form prescribed by the division;  
(b) pay a fee determined by the department under Section 63-38-3.2;  
(c) be of good moral character;  
(d) provide satisfactory documentation of having graduated from a licensed or recognized electrology school after completing a curriculum of ~~[500]~~ 600 hours of instruction or the equivalent number of credit hours; and

(e) meet the examination requirement established by rule.

~~[(5)]~~ (8) Each applicant for licensure as an electrologist instructor shall:

(a) submit an application in a form prescribed by the division;  
(b) pay a fee determined by the department under Section 63-38-3.2;  
(c) provide satisfactory documentation that the applicant is currently licensed as an electrologist;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by an electrology school consisting of a minimum of 175 hours or the equivalent number of credit hours; or

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

(f) meet the examination requirement established by rule.

~~[(6)]~~ (9) Each applicant for licensure as an electrologist school shall:

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

(b) pay a fee determined by the department under Section 63-38-3.2; and

(c) provide satisfactory documentation:

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

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

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

(iv) that the applicant meets the standards for electrologist schools, including staff, curriculum, and accreditation requirements, established by rule.

~~[(7)]~~ (10) Each applicant for licensure as an esthetician shall:

- 395 (a) submit an application in a form prescribed by the division;  
396 (b) pay a fee determined by the department under Section 63-38-3.2;  
397 (c) be of good moral character; and  
398 (d) provide satisfactory documentation of one of the following:  
399 (i) (A) graduation from a licensed or recognized esthetic school whose curriculum  
400 consists of not less than 15 weeks of esthetic instruction with a minimum of 600 hours or the  
401 equivalent number of credit hours; and  
402 (B) having met the examination requirement established by division rule;  
403 (ii) (A) completion of an approved esthetician apprenticeship; and  
404 (B) having met the examination requirement established by division rule; or  
405 (iii) having met the examination requirement established by division rule prior to  
406 December 31, 2001.
- 407 ~~[(8)]~~ (11) Each applicant for licensure as a master esthetician shall:  
408 (a) submit an application in a form prescribed by the division;  
409 (b) pay a fee determined by the department under Section 63-38-3.2;  
410 (c) be of good moral character; and  
411 (d) provide satisfactory documentation of one of the following:  
412 (i) (A) completion of 1,200 hours of training or the equivalent number of credit hours[;  
413 ~~including 200 hours of training or the equivalent number of credit hours in lymphatic massage;~~  
414 at a licensed or recognized esthetics school; ~~and~~  
415 (B) having met the examination requirement established by division rule; and  
416 (C) for practice of lymphatic massage, provide satisfactory documentation to show  
417 completion of 200 hours of training or equivalent number of credit hours in lymphatic  
418 massage;  
419 (ii) (A) completion of an approved master esthetician apprenticeship; and  
420 (B) having met the examination requirement established by division rule; or  
421 (iii) having met the examination requirement established by division rule prior to  
422 December 31, 2001.

423           ~~[(9)]~~ (12) Each applicant for licensure as an esthetician instructor shall:

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

425           (b) pay a fee determined by the department under Section 63-38-3.2;

426           (c) provide satisfactory documentation that the applicant is currently licensed as a  
427 master esthetician;

428           (d) be of good moral character;

429           (e) provide satisfactory documentation of completion of:

430           (i) an instructor training program conducted by a licensed or recognized esthetics  
431 school consisting of a minimum of 300 hours or the equivalent number of credit hours; or

432           (ii) a minimum of 1,000 hours of experience in esthetics; and

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

434           ~~[(10)]~~ (13) Each applicant for licensure as an esthetics school shall:

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

436           (b) pay a fee determined by the department under Section 63-38-3.2; and

437           (c) provide satisfactory documentation:

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

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

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

442           (iv) that the applicant meets the standards for esthetics schools, including staff,  
443 curriculum, and accreditation requirements, established by division rule made in collaboration  
444 with the board.

445           ~~[(11)]~~ (14) Each applicant for licensure as a nail technician shall:

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

447           (b) pay a fee determined by the department under Section 63-38-3.2;

448           (c) be of good moral character; and

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

450           (i) (A) graduation from a licensed or recognized nail technology school whose

curriculum consists of not less than 300 hours or the equivalent number of credit hours of not more than eight hours a day and six days a week during the program; and

(B) having met the examination requirement established by division rule;

(ii) (A) having completed an approved nail technician apprenticeship; and

(B) having met the examination requirement established by division rule; or

(iii) having met the examination requirement established by division rule prior to December 31, 2001.

~~[(12)]~~ (15) Each applicant for licensure as a nail technician instructor shall:

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

(b) pay a fee determined by the department under Section 63-38-3.2;

(c) provide satisfactory documentation that the applicant is currently licensed as a nail technician;

(d) be of good moral character;

(e) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized nail technology school consisting of a minimum of ~~[400]~~ 150 hours or the equivalent number of credit hours; or

(ii) a minimum of ~~[400]~~ 600 hours of experience in nail technology; and

(f) meet the examination requirement established by rule.

~~[(13)]~~ (16) Each applicant for licensure as a nail technology school shall:

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

(b) pay a fee determined by the department under Section 63-38-3.2; and

(c) provide satisfactory documentation:

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

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

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

(iv) that the applicant meets the standards for nail technology schools, including staff, curriculum, and accreditation requirements, established by rule.

479           ~~[(14)]~~ (17) Each applicant for licensure under this chapter whose education in the field  
480 for which a license is sought was completed at a foreign school may satisfy the educational  
481 requirement for licensure by demonstrating, to the satisfaction of the division, the educational  
482 equivalency of the foreign school education with a licensed school under this chapter.

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

484           **58-11a-304. Exemptions from licensure.**

485           In addition to the exemptions from licensure in Section 58-1-307, the following persons  
486 may engage in the practice of barbering, cosmetology/barbering, esthetics, master-level  
487 esthetics, electrology, or nail technology without being licensed under this chapter:

488           (1) persons licensed under the laws of this state to engage in the practice of medicine,  
489 surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which  
490 they are licensed;

491           (2) commissioned physicians and surgeons serving in the armed forces of the United  
492 States or another federal agency;

493           (3) registered nurses, undertakers, and morticians licensed under the laws of this state  
494 when engaged in the practice of the profession for which they are licensed;

495           (4) persons who visit the state to engage in instructional seminars, advanced classes,  
496 trade shows, or competitions of a limited duration;

497           (5) persons who engage in the practice of barbering, cosmetology/barbering, esthetics,  
498 master-level esthetics, electrology, or nail technology without compensation;

499           (6) persons instructing adult education classes and other educational programs directed  
500 toward persons who are not licensed under this chapter and that are not intended to train  
501 persons to become licensed under this chapter, provided:

502           (a) attendees receive no credit toward the educational requirement for licensure under  
503 this chapter; and

504           (b) (i) the instructor is properly licensed; or

505           (ii) the instructor receives no compensation;

506           (7) persons instructing in workshops, seminars, training meetings, and other

educational programs whose purpose is to provide continuing professional development to licensed barbers, cosmetologist/barbers, estheticians, master estheticians, nail technicians, or electrologists;

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

(9) persons enrolled in an approved apprenticeship pursuant to Section 58-11a-306; and

(10) employees of a company which is primarily engaged in the business of selling products used in the practice of barbering, cosmetology/barbering, esthetics, master-level esthetics, electrology, or nail technology when demonstrating the company's products to potential customers.

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

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

(1) An approved barber apprenticeship shall:

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

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a barber instructor; and

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

~~[(1)]~~ (2) An approved cosmetologist/barber apprenticeship shall:

(a) consist of not less than 2,500 hours of training in not less than 15 months; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a cosmetologist/barber instructor; and

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

~~[(2)]~~ (3) An approved esthetician apprenticeship shall:

(a) consist of not less than 800 hours of training in not less than five months; and  
(b) be conducted by a supervisor who:  
(i) is licensed under this chapter as an esthetician instructor; and  
(ii) provides direct one-on-one supervision of the esthetician apprentice during the apprenticeship program.

~~[(3)]~~ (4) An approved master esthetician apprenticeship shall:

(a) consist of not less than 1,500 hours of training in not less than ten months; and  
(b) be conducted by a supervisor who:  
(i) is licensed under this chapter as a master-level esthetician instructor; and  
(ii) provides direct one-on-one supervision of the master esthetician apprentice during the apprenticeship program.

~~[(4)]~~ (5) An approved nail technician apprenticeship shall:

(a) consist of not less than 375 hours of training in not less than three months; and  
(b) be conducted by a supervisor who:  
(i) is licensed under this chapter as a nail technician instructor; and  
(ii) provides direct one-on-two supervision of the nail technician apprentice during the apprenticeship program.

Section 9. Section **58-11a-501** is amended to read:

**58-11a-501. Unprofessional conduct.**

Unprofessional conduct includes:

- (1) failing as a licensed school to obtain or maintain accreditation as required by rule;
- (2) failing as a licensed school to comply with the standards of accreditation applicable to such schools;
- (3) failing as a licensed school to provide adequate instruction to enrolled students;
- (4) failing as an apprentice supervisor to provide direct supervision to the apprentice;
- (5) failing as an instructor to provide direct supervision to students under their instruction;
- (6) failing as an apprentice supervisor to comply with division rules relating to

apprenticeship programs under this chapter;

(7) keeping a salon or school, its furnishing, tools, utensils, linen, or appliances in an unsanitary condition;

(8) failing to comply with Title 26, Utah Health Code;

(9) failing to display licenses or certificates as required under Section 58-11a-305;

(10) failing to comply with physical facility requirements established by rule;

(11) failing to maintain mechanical or electrical equipment in safe operating condition;

(12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths, showers, or saunas;

(13) prescribing or administering prescription drugs;

(14) failing to comply with all applicable state and local health or sanitation laws;

(15) engaging in any act or practice in a professional capacity that is outside the applicable scope of practice;

(16) engaging in any act or practice in a professional capacity which the licensee is not competent to perform through education or training;

(17) in connection with the use of a chemical exfoliant, unless under the supervision of a licensed health care practitioner acting within the scope of his or her license:

(a) using any acid, concentration of an acid, or combination of treatments which violates the standards established by rule;

(b) removing any layer of skin deeper than the stratum corneum of the epidermis; or

(c) using an exfoliant that contains phenol, TCA acid of over 15%, or BCA acid;

(18) in connection with the sanding of the skin, unless under the supervision of a licensed health care practitioner acting within the scope of his or her license, removing any layer of skin deeper than the stratum corneum of the epidermis; or

(19) using as a barber, cosmetologist/barber, esthetician, master esthetician, or nail technician any laser procedure or intense, pulsed light source.

Section 10. Section **58-11a-502** is amended to read:

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

Unlawful conduct includes:

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

(a) the person holds the appropriate license under this chapter; or

(b) an exemption in Section 58-1-307 or 58-11a-304 applies;

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

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

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

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

(4) using as a nail technician a solution composed of at least 10% methyl methacrylate on a client.

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

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

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

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

(3) Grounds for immediate suspension of a licensee's license by the division include

the issuance of a citation for violation of Subsection 58-11a-502(1), (2), or (4).

(4) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-11a-502(1), (2), or (4), or a rule or order issued with respect to Subsection 58-11a-502(1), (2), or (4), and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63, Chapter 46b, Administrative Procedures Act.

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

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

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

(ii) The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63, Chapter 46b, Administrative Procedures Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) (I) the division initiated an action for a first or second offense;

(II) no final order has been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of Subsection 58-11a-502(1), (2), or (4); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under

675 Subsection (4)(i)(i)(B)(I).

676 (ii) In issuing a final order for a second or subsequent offense under Subsection  
677 (4)(i)(i), the division shall comply with the requirements of this section.

678 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited  
679 into the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician  
680 Education and Enforcement Fund.

681 (b) A penalty which is not paid may be collected by the director by either referring the  
682 matter to a collection agency or bringing an action in the district court of the county in which  
683 the person against whom the penalty is imposed resides or in the county where the office of the  
684 director is located.

685 (c) A county attorney or the attorney general of the state is to provide legal assistance  
686 and advice to the director in an action to collect the penalty.

687 (d) A court shall award reasonable [~~attorney's~~] attorney fees and costs in an action  
688 brought to enforce the provisions of this section.