

1 **COSMETOLOGY AND HAIR BRAIDING**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: James A. Dunnigan**

5 Senate Sponsor: John L. Valentine

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and
10 Nail Technician Licensing Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ reduces the curriculum requirement for being licensed as a cosmetologist from
15 2,000 hours to 1,600 hours for a student who begins study after January 1, 2013;
- 16 ▶ reduces the experience requirement for certain licensure applicants;
- 17 ▶ requires that licensed schools under the act be recognized as institutions of
18 postsecondary study by meeting certain requirements;
- 19 ▶ adds an exemption from licensure for a person who engages in hair braiding and
20 does not engage in other activity requiring licensure;
- 21 ▶ adds certain eyelash and eyebrow treatments to the practice of basic esthetics;
- 22 ▶ modifies what constitutes unlawful conduct under the act; and
- 23 ▶ makes technical changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill provides an immediate effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

- 30 **58-11a-102**, as last amended by Laws of Utah 2012, Chapter 362
 - 31 **58-11a-302**, as last amended by Laws of Utah 2010, Chapter 145
 - 32 **58-11a-304**, as last amended by Laws of Utah 2012, Chapter 110
 - 33 **58-11a-502**, as last amended by Laws of Utah 2012, Chapter 362
 - 34 **58-11a-503**, as last amended by Laws of Utah 2008, Chapter 382
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36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **58-11a-102** is amended to read:

38 **58-11a-102. Definitions.**

39 As used in this chapter:

40 (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship
41 that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection
42 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the
43 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
44 Administrative Rulemaking Act.

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

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

53 (4) "Approved nail technician apprenticeship" means an apprenticeship that meets the
54 requirements of Subsection 58-11a-306(5) and the requirements established by rule by the
55 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
56 Administrative Rulemaking Act.

57 (5) "Barber" means a person who is licensed under this chapter to engage in the

58 practice of barbering.

59 (6) "Barber instructor" means a barber who is licensed under this chapter to teach
60 barbering at a licensed barber school or in an apprenticeship program as defined in Section
61 58-11a-306.

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

64 (8) "Cosmetic laser procedure" includes a nonablative procedure as defined in Section
65 58-67-102.

66 (9) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.

67 (10) "Cosmetologist/barber" means a person who is licensed under this chapter to
68 engage in the practice of cosmetology/barbering.

69 (11) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed
70 under this chapter to teach cosmetology/barbering at a licensed cosmetology/barber school,
71 licensed barber school, licensed nail technology school, or in an apprenticeship program as
72 defined in Subsection 58-11a-306(2).

73 (12) "Direct supervision" means that the supervisor of an apprentice or the instructor of
74 a student is immediately available for consultation, advice, instruction, and evaluation.

75 (13) "Electrologist" means a person who is licensed under this chapter to engage in the
76 practice of electrology.

77 (14) "Electrologist instructor" means an electrologist who is licensed under this chapter
78 to teach electrology at a licensed electrology school.

79 (15) "Esthetician" means a person who is licensed under this chapter to engage in the
80 practice of esthetics.

81 (16) "Esthetician instructor" means a master esthetician who is licensed under this
82 chapter to teach the practice of esthetics and the practice of master-level esthetics at a licensed
83 esthetics school, a licensed cosmetology/barber school, or in an apprenticeship program as
84 defined in Subsection 58-11a-306(3).

85 (17) "Fund" means the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and

86 Nail Technician Education and Enforcement Fund created in Section 58-11a-103.

87 (18) (a) "Hair braiding" means the twisting, weaving, or interweaving of a person's
88 natural human hair.

89 (b) "Hair braiding" includes the following methods or styles:

90 (i) African-style braiding;

91 (ii) box braids;

92 (iii) cornrows;

93 (iv) dreadlocks;

94 (v) french braids;

95 (vi) invisible braids;

96 (vii) micro braids;

97 (viii) single braids;

98 (ix) single plaits;

99 (x) twists;

100 (xi) visible braids;

101 (xii) the use of lock braids; and

102 (xiii) the use of decorative beads, accessories, and nonhair extensions.

103 (c) "Hair braiding" does not include:

104 (i) the use of:

105 (A) wefts;

106 (B) synthetic tape;

107 (C) synthetic glue;

108 (D) keratin bonds;

109 (E) fusion bonds; or

110 (F) heat tools;

111 (ii) the cutting of human hair; or

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

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

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

115 [~~(18)~~] (19) "Licensed barber or cosmetology/barber school" means a barber or
116 cosmetology/barber school licensed under this chapter.

117 [~~(19)~~] (20) "Licensed electrology school" means an electrology school licensed under
118 this chapter.

119 [~~(20)~~] (21) "Licensed esthetics school" means an esthetics school licensed under this
120 chapter.

121 [~~(21)~~] (22) "Licensed nail technology school" means a nail technology school licensed
122 under this chapter.

123 [~~(22)~~] (23) "Master esthetician" means an individual who is licensed under this chapter
124 to engage in the practice of master-level esthetics.

125 [~~(23)~~] (24) "Nail technician" means an individual who is licensed under this chapter to
126 engage in the practice of nail technology.

127 [~~(24)~~] (25) "Nail technician instructor" means a nail technician licensed under this
128 chapter to teach the practice of nail technology in a licensed nail technology school, a licensed
129 cosmetology/barber school, or in an apprenticeship program as defined in Subsection
130 58-11a-306(5).

131 [~~(25)~~] (26) "Practice of barbering" means:

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

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

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

136 [~~(26)~~] (27) "Practice of barbering instruction" means instructing barbering in a licensed
137 barber school, licensed cosmetology/barber school, or in an apprenticeship program as defined
138 in Subsection 58-11a-306(1).

139 [~~(27)~~] (28) "Practice of basic esthetics" means any one of the following skin care
140 procedures done on the head, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes for
141 cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

142 (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or
143 masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the
144 application of eyelash extensions, natural nail manicures or pedicures, or callous removal by
145 buffing or filing;

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

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

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

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

154 ~~[(e)]~~ (f) except as provided in Subsection ~~[(27)(e)]~~ (28)(f)(i), cosmetic laser procedures
155 under the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the
156 following:

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

158 (ii) anti-aging resurfacing enhancements;

159 (iii) photo rejuvenation; or

160 (iv) tattoo removal.

161 ~~[(28)]~~ (29) (a) "Practice of cosmetology/barbering" means:

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

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

167 (iii) arching eyebrows, ~~[or]~~ tinting eyebrows or eyelashes, perming eyelashes, applying
168 eyelash extensions, or ~~[any]~~ a combination of these procedures;

169 (iv) removing hair from the face, neck, shoulders, arms, back, torso, feet, bikini line, or

170 legs of a person by the use of depilatories, waxing, or shaving equipment;

171 (v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces

172 or both on the human head; or

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

174 hair.

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

176 (i) the practice of basic esthetics; and

177 (ii) the practice of nail technology.

178 (c) An individual is not required to be licensed as a cosmetologist/barber to engage in

179 the practice of threading.

180 [~~(29)~~] (30) "Practice of cosmetology/barbering instruction" means instructing

181 cosmetology/barbering as defined in Subsection [~~(28)~~] (29) in a licensed cosmetology/barber

182 school or in an apprenticeship program as defined in Subsection 58-11a-306(2).

183 [~~(30)~~] (31) "Practice of electrology" means:

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

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

188 [~~(31)~~] (32) "Practice of electrology instruction" means instructing electrology in a

189 licensed electrology school.

190 [~~(32)~~] (33) "Practice of esthetics instruction" means instructing esthetics in a licensed

191 esthetics school, a licensed cosmetology/barber school, or instructing master-level esthetics in a

192 licensed esthetics school or in an apprenticeship program as defined in Subsections

193 58-11a-306(2), (3), and (4).

194 [~~(33)~~] (34) (a) "Practice of master-level esthetics" means:

195 (i) any of the following when done for cosmetic purposes on the head, face, neck,

196 torso, abdomen, back, arms, hands, legs, feet, eyebrows, or eyelashes and not for the treatment

197 of medical, physical, or mental ailments:

- 198 (A) body wraps as defined by rule;
- 199 (B) hydrotherapy as defined by rule;
- 200 (C) chemical exfoliation as defined by rule;
- 201 (D) advanced pedicures as defined by rule;
- 202 (E) sanding, including microdermabrasion;
- 203 (F) advanced extraction;
- 204 (G) other esthetic preparations or procedures with the use of:
 - 205 (I) the hands; or
 - 206 (II) a mechanical or electrical apparatus which is approved for use by division rule for
 - 207 beautifying or similar work performed on the body for cosmetic purposes and not for the
 - 208 treatment of a medical, physical, or mental ailment; or
 - 209 (H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a
 - 210 physician's evaluation before the procedure, as needed, unless specifically required under
 - 211 Section 58-1-506, and limited to the following:
 - 212 (I) superfluous hair removal;
 - 213 (II) anti-aging resurfacing enhancements;
 - 214 (III) photo rejuvenation; or
 - 215 (IV) tattoo removal with a physician's evaluation before the tattoo removal procedure;
 - 216 and
 - 217 (ii) lymphatic massage by manual or other means as defined by rule.
 - 218 (b) Notwithstanding the provisions of Subsection [~~(33)~~] (34)(a), a master-level
 - 219 esthetician may perform procedures listed in Subsection [~~(33)~~] (34)(a)(i)(H) if done under the
 - 220 supervision of a cosmetic supervisor acting within the scope of the cosmetic supervisor license.
 - 221 (c) The term "practice of master-level esthetics" includes the practice of esthetics, but
 - 222 an individual is not required to be licensed as an esthetician or master-level esthetician to
 - 223 engage in the practice of threading.
 - 224 [~~(34)~~] (35) "Practice of nail technology" means to trim, cut, clean, manicure, shape,
 - 225 massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of

226 hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the
227 application and removal of sculptured or artificial nails.

228 ~~[(35)]~~ (36) "Practice of nail technology instruction" means instructing nail technology
229 in a licensed nail technician school, licensed cosmetology/barber school, or in an
230 apprenticeship program as defined in Subsection 58-11a-306(5).

231 ~~[(36)]~~ (37) "Recognized barber school" means a barber school located in a state other
232 than Utah, whose students, upon graduation, are recognized as having completed the
233 educational requirements for licensure in that state.

234 ~~[(37)]~~ (38) "Recognized cosmetology/barber school" means a cosmetology/barber
235 school located in a state other than Utah, whose students, upon graduation, are recognized as
236 having completed the educational requirements for licensure in that state.

237 ~~[(38)]~~ (39) "Recognized electrology school" means an electrology school located in a
238 state other than Utah, whose students, upon graduation, are recognized as having completed the
239 educational requirements for licensure in that state.

240 ~~[(39)]~~ (40) "Recognized esthetics school" means an esthetics school located in a state
241 other than Utah, whose students, upon graduation, are recognized as having completed the
242 educational requirements for licensure in that state.

243 ~~[(40)]~~ (41) "Recognized nail technology school" means a nail technology school
244 located in a state other than Utah, whose students, upon graduation, are recognized as having
245 completed the educational requirements for licensure in that state.

246 ~~[(41)]~~ (42) "Salon" means a place, shop, or establishment in which
247 cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

248 ~~[(42)]~~ (43) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

249 ~~[(43)]~~ (44) "Unprofessional conduct" is as defined in Sections 58-1-501 and
250 58-11a-501 and as may be further defined by rule by the division in collaboration with the
251 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

252 Section 2. Section **58-11a-302** is amended to read:

253 **58-11a-302. Qualifications for licensure.**

- 254 (1) Each applicant for licensure as a barber shall:
- 255 (a) submit an application in a form prescribed by the division;
- 256 (b) pay a fee determined by the department under Section 63J-1-504;
- 257 (c) be of good moral character;
- 258 (d) provide satisfactory documentation of:
- 259 (i) graduation from a licensed or recognized barber school, or a licensed or recognized
- 260 cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of
- 261 instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;
- 262 (ii) (A) ~~[having graduated]~~ graduation from a recognized barber school located in a
- 263 state other than Utah whose curriculum consists of less than 1,000 hours of instruction or the
- 264 equivalent number of credit hours; and
- 265 ~~[(B) having practiced as a licensed barber for a period of not less than 2,000 hours; or]~~
- 266 (B) practice as a licensed barber in a state other than Utah for not less than the number
- 267 of hours required to equal 1,000 total hours when added to the hours of instruction described in
- 268 Subsection (1)(ii)(A); or
- 269 (iii) ~~[having completed]~~ completion of an approved barber apprenticeship; and
- 270 (e) meet the examination requirement established by rule.
- 271 (2) Each applicant for licensure as a barber instructor shall:
- 272 (a) submit an application in a form prescribed by the division;
- 273 (b) pay a fee determined by the department under Section 63J-1-504;
- 274 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 275 barber;
- 276 (d) be of good moral character;
- 277 (e) provide satisfactory documentation of completion of:
- 278 (i) an instructor training program conducted by a licensed or recognized school as
- 279 defined by rule consisting of a minimum of 500 hours or the equivalent number of credit hours;
- 280 or
- 281 (ii) a minimum of 2,000 hours of experience as a barber; and

- 282 (f) meet the examination requirement established by rule.
- 283 (3) Each applicant for licensure as a barber school shall:
 - 284 (a) submit an application in a form prescribed by the division;
 - 285 (b) pay a fee determined by the department under Section 63J-1-504; and
 - 286 (c) provide satisfactory documentation:
 - 287 (i) of appropriate registration with the Division of Corporations and Commercial Code;
 - 288 (ii) of business licensure from the city, town, or county in which the school is located;
 - 289 (iii) that the applicant's physical facilities comply with the requirements established by
 - 290 rule; and
 - 291 (iv) that the applicant meets:
 - 292 (A) the standards for barber schools, including staff and accreditation requirements,
 - 293 established by rule[-]; and
 - 294 (B) the requirements for recognition as an institution of postsecondary study as
 - 295 described in Subsection (19).
 - 296 (4) Each applicant for licensure as a cosmetologist/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 63J-1-504;
 - 299 (c) be of good moral character;
 - 300 (d) provide satisfactory documentation of:
 - 301 (i) (A) graduation from a licensed or recognized cosmetology/barber school whose
 - 302 curriculum consists of a minimum of [2,000 hours of instruction, with full flexibility within the
 - 303 2,000 hours, or the equivalent number of credit hours over a period of not less than 50 weeks]
 - 304 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within
 - 305 those hours, if the applicant was not a currently enrolled student of a cosmetology/barber
 - 306 school on January 1, 2013; or
 - 307 (B) graduation from a licensed or recognized cosmetology/barber school whose
 - 308 curriculum consists of a minimum of 2,000 hours of instruction, or the equivalent number of
 - 309 credit hours, with full flexibility within those hours, if the applicant's hours of instruction

310 commenced before January 1, 2013, and the applicant was a currently enrolled student of a
311 cosmetology/barber school on January 1, 2013;

312 (ii) (A) [~~having graduated~~] graduation from a recognized cosmetology/barber school
313 located in a state other than Utah whose curriculum consists of less than [~~2,000 hours of~~
314 ~~instruction, with full flexibility within the 2,000 hours, or the equivalent number of credit~~
315 ~~hours] 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility
316 within those hours; and~~

317 [~~(B) having practiced as a licensed cosmetologist/barber for a period of not less than~~
318 ~~4,000 hours; or]~~

319 (B) practice as a licensed cosmetologist/barber in a state other than Utah for not less
320 than the number of hours required to equal 1,600 total hours when added to the hours of
321 instruction described in Subsection (4)(ii)(A); or

322 (iii) [~~having completed~~] completion of an approved cosmetology/barber
323 apprenticeship; and

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

325 (5) Each applicant for licensure as a cosmetologist/barber instructor shall:

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

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

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

330 (d) be of good moral character;

331 (e) provide satisfactory documentation of completion of:

332 (i) an instructor training program conducted by a licensed or recognized school as
333 defined by rule consisting of a minimum of 1,000 hours or the equivalent number of credit
334 hours; or

335 (ii) a minimum of [~~4,000~~] 3,000 hours of experience as a cosmetologist/barber; and

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

337 (6) Each applicant for licensure as a cosmetologist/barber school shall:

- 338 (a) submit an application in a form prescribed by the division;
- 339 (b) pay a fee determined by the department under Section 63J-1-504; and
- 340 (c) provide satisfactory documentation:
- 341 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 342 (ii) of business licensure from the city, town, or county in which the school is located;
- 343 (iii) that the applicant's physical facilities comply with the requirements established by
- 344 rule; and
- 345 (iv) that the applicant meets:
- 346 (A) the standards for cosmetology schools, including staff and accreditation
- 347 requirements, established by rule[-]; and
- 348 (B) the requirements for recognition as an institution of postsecondary study as
- 349 described in Subsection (19).
- 350 (7) Each applicant for licensure as an electrologist shall:
- 351 (a) submit an application in a form prescribed by the division;
- 352 (b) pay a fee determined by the department under Section 63J-1-504;
- 353 (c) be of good moral character;
- 354 (d) provide satisfactory documentation of having graduated from a licensed or
- 355 recognized electrology school after completing a curriculum of 600 hours of instruction or the
- 356 equivalent number of credit hours; and
- 357 (e) meet the examination requirement established by rule.
- 358 (8) Each applicant for licensure as an electrologist instructor shall:
- 359 (a) submit an application in a form prescribed by the division;
- 360 (b) pay a fee determined by the department under Section 63J-1-504;
- 361 (c) provide satisfactory documentation that the applicant is currently licensed as an
- 362 electrologist;
- 363 (d) be of good moral character;
- 364 (e) provide satisfactory documentation of completion of:
- 365 (i) an instructor training program conducted by a licensed or recognized school as

366 defined by rule consisting of a minimum of 175 hours or the equivalent number of credit hours;
367 or

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

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

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

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

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

373 (c) provide satisfactory documentation:

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

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

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

377 (iv) that the applicant meets:

378 (A) the standards for electrologist schools, including staff, curriculum, and

379 accreditation requirements, established by rule[-]; and

380 (B) the requirements for recognition as an institution of postsecondary study as

381 described in Subsection (19).

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

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

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

385 (c) be of good moral character;

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

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

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

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

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

391 (iii) (A) [~~having graduated~~] graduation from a recognized cosmetology/barber school

392 located in a state other than Utah whose curriculum consists of less than [~~2,000 hours of~~

393 ~~instruction with full flexibility within the 2,000 hours or the equivalent number of credit hours]~~

394 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within
395 those hours; and

396 ~~[(B) having practiced as a licensed cosmetologist/barber for a period of not less than~~
397 ~~4,000 hours; and]~~

398 (B) practice as a licensed cosmetologist/barber for not less than the number of hours
399 required to equal 1,600 total hours when added to the hours of instruction described in
400 Subsection (10)(iii)(A); and

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

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

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

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

405 (c) be of good moral character; ~~[and]~~

406 (d) provide satisfactory documentation of ~~[one of the following]:~~

407 (i) ~~[(A)]~~ completion of at least 1,200 hours of training, or the equivalent number of
408 credit hours ~~[over a period of not less than 30 weeks]~~, at a licensed or recognized esthetics
409 school~~[-or], except that up to 600 hours toward the 1,200 hours may have been completed:~~

410 ~~[(B) accepting up to 600 hours or credit hours towards the 1,200 hours of training or~~
411 ~~equivalent number of credit hours from an applicant who has graduated from a licensed or~~
412 ~~recognized cosmetology/barbering school whose curriculum consists of a minimum of 2,000~~
413 ~~hours of instruction with full flexibility within the 2,000 hours, or the equivalent number of~~
414 ~~credit hours; and]~~

415 ~~[(C) for practice of lymphatic massage, provide satisfactory documentation to show~~
416 ~~completion of 200 hours of training or equivalent number of credit hours in lymphatic massage~~
417 ~~as defined by division rule; or]~~

418 (A) at a licensed or recognized cosmetology/barbering school, if the applicant
419 graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or
420 the equivalent number of credit hours, with full flexibility within those hours; or

421 (B) at a licensed or recognized cosmetology/barber school located in a state other than

422 Utah, if the applicant graduated from the school and its curriculum contained full flexibility
423 within its hours of instruction; or

424 (ii) completion of an approved master esthetician apprenticeship;

425 [~~iii) accepting up to 600 hours or credit hours towards the 1,200 hours of training or~~
426 ~~equivalent number of credit hours from a recognized cosmetology/barber school located in a~~
427 ~~state other than Utah whose curriculum consists of less than 2,000 hours of instruction or the~~
428 ~~equivalent number of credit hours; or]~~

429 [~~iv) (A) having graduated from a recognized master esthetics school located in a state~~
430 ~~other than Utah whose curriculum consists of less than 1,200 hours of instruction, with full~~
431 ~~flexibility within the 1,200 hours or the equivalent number of credit hours; and]~~

432 [~~B) having practiced as a licensed master esthetician for a period of not less than~~
433 ~~4,000 hours; and]~~

434 (e) if the applicant will practice lymphatic massage, provide satisfactory documentation
435 to show completion of 200 hours of training, or the equivalent number of credit hours, in
436 lymphatic massage as defined by division rule; and

437 [~~e)] (f) meet the examination requirement established by division rule.~~

438 (12) Each applicant for licensure as an esthetician instructor shall:

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

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

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

443 (d) be of good moral character;

444 (e) provide satisfactory documentation of completion of:

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

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

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

450 (13) Each applicant for licensure as an esthetics school shall:
451 (a) submit an application in a form prescribed by the division;
452 (b) pay a fee determined by the department under Section 63J-1-504; and
453 (c) provide satisfactory documentation:
454 (i) of appropriate registration with the Division of Corporations and Commercial Code;
455 (ii) of business licensure from the city, town, or county in which the school is located;
456 (iii) that the applicant's physical facilities comply with the requirements established by
457 rule; and
458 (iv) that the applicant meets:
459 (A) the standards for esthetics schools, including staff, curriculum, and accreditation
460 requirements, established by division rule made in collaboration with the board[-]; and
461 (B) the requirements for recognition as an institution of postsecondary study as
462 described in Subsection (19).

463 (14) Each applicant for licensure as a nail technician shall:
464 (a) submit an application in a form prescribed by the division;
465 (b) pay a fee determined by the department under Section 63J-1-504;
466 (c) be of good moral character; [~~and~~]
467 (d) provide satisfactory documentation of:
468 (i) graduation from a licensed or recognized nail technology school, or a licensed or
469 recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of
470 instruction, or the equivalent number of credit hours [~~of not more than eight hours a day and~~
471 ~~six days a week during the program~~];
472 (ii) (A) [~~having graduated~~] graduation from a recognized nail technology school
473 located in a state other than Utah whose curriculum consists of less than 300 hours of
474 instruction or the equivalent number of credit hours; and
475 [~~(B) having practiced as a licensed nail technician for a period of not less than 1,000~~
476 ~~hours; or~~]
477 (B) practice as a licensed nail technician in a state other than Utah for not less than the

478 number of hours required to equal 300 total hours when added to the hours of instruction
479 described in Subsection (14)(d)(ii)(A); or
480 (iii) ~~[having completed]~~ completion of an approved nail technician apprenticeship; and
481 (e) meet the examination requirement established by division rule.
482 (15) Each applicant for licensure as a nail technician instructor shall:
483 (a) submit an application in a form prescribed by the division;
484 (b) pay a fee determined by the department under Section 63J-1-504;
485 (c) provide satisfactory documentation that the applicant is currently licensed as a nail
486 technician;
487 (d) be of good moral character;
488 (e) provide satisfactory documentation of completion of:
489 (i) an instructor training program conducted by a licensed or recognized school as
490 defined by rule consisting of a minimum of 150 hours or the equivalent number of credit hours;
491 or
492 (ii) a minimum of 600 hours of experience in nail technology; and
493 (f) meet the examination requirement established by rule.
494 (16) Each applicant for licensure as a nail technology school shall:
495 (a) submit an application in a form prescribed by the division;
496 (b) pay a fee determined by the department under Section 63J-1-504; and
497 (c) provide satisfactory documentation:
498 (i) of appropriate registration with the Division of Corporations and Commercial Code;
499 (ii) of business licensure from the city, town, or county in which the school is located;
500 (iii) that the applicant's facilities comply with the requirements established by rule; and
501 (iv) that the applicant meets:
502 (A) the standards for nail technology schools, including staff, curriculum, and
503 accreditation requirements, established by rule[-]; and
504 (B) the requirements for recognition as an institution of postsecondary study as
505 described in Subsection (19).

506 (17) Each applicant for licensure under this chapter whose education in the field for
507 which a license is sought was completed at a foreign school may satisfy the educational
508 requirement for licensure by demonstrating, to the satisfaction of the division, the educational
509 equivalency of the foreign school education with a licensed school under this chapter.

510 (18) (a) A licensed or recognized school under this section may accept credit hours
511 towards graduation for any profession listed in this section.

512 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
513 consistent with this section, the division may make rules governing the acceptance of credit
514 hours under Subsection (18)(a).

515 (19) A school licensed or applying for licensure under this chapter shall maintain
516 recognition as an institution of postsecondary study by meeting the following conditions:

517 (a) the school shall admit as a regular student only an individual who has earned a
518 recognized high school diploma or the equivalent of a recognized high school diploma, or who
519 is beyond the age of compulsory high school attendance as prescribed by Title 53A, Chapter
520 11; and

521 (b) the school shall be licensed by name, or in the case of an applicant, shall apply for
522 licensure by name, under this chapter to offer one or more training programs beyond the
523 secondary level.

524 Section 3. Section **58-11a-304** is amended to read:

525 **58-11a-304. Exemptions from licensure.**

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

529 (1) ~~[persons]~~ a person licensed under the laws of this state to engage in the practice of
530 medicine, surgery, osteopathy, or chiropractic when engaged in the practice of the profession
531 for which they are licensed;

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

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

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

539 (5) ~~[persons who engage]~~ a person who engages in the practice of barbering,
540 cosmetology/barbering, esthetics, master-level esthetics, electrology, or nail technology without
541 compensation;

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

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

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

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

552 (ii) the instructor receives no compensation;

553 (7) ~~[persons instructing]~~ a person providing instruction in workshops, seminars,
554 training meetings, ~~[and]~~ or other educational programs whose purpose is to provide continuing
555 professional development to licensed barbers, ~~[cosmetologist/barbers]~~ cosmetologists/barbers,
556 estheticians, master estheticians, electrologists, or nail technicians~~[, or electrologists];~~

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

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

562 58-11a-306;

563 (10) ~~[employees]~~ an employee of a company ~~[which]~~ that is primarily engaged in the
564 business of selling products used in the practice of barbering, cosmetology/barbering, esthetics,
565 master-level esthetics, electrology, or nail technology when demonstrating the company's
566 products to a potential ~~[customers; or]~~ customer, provided the employee makes no
567 representation to a potential customer that attending such a demonstration will certify or
568 qualify the attendee to perform a service for compensation that requires licensure under this
569 chapter;

570 (11) a person who:

571 (a) is qualified to engage in the practice of barbering, cosmetology/barbering, esthetics,
572 master-level esthetics, electrology, or nail technology in another jurisdiction as evidenced by
573 licensure, certification, or lawful practice in the other jurisdiction;

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

575 (c) engages in the practice of barbering, cosmetology/barbering, esthetics, master-level
576 esthetics, electrology, or nail technology in the state:

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

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

579 (12) a person who:

580 (a) engages in hair braiding; and

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

583 Section 4. Section **58-11a-502** is amended to read:

584 **58-11a-502. Unlawful conduct.**

585 Unlawful conduct includes:

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

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

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

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

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

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

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

603 (4) using or possessing as a nail technician a solution composed of at least 10% methyl
604 methacrylate on a client; [or]

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

606 (6) when acting as an instructor regarding a service requiring licensure under this
607 chapter, for a class or education program where attendees are not licensed under this chapter,
608 failing to inform each attendee in writing that:

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

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

614 Section 5. Section **58-11a-503** is amended to read:

615 **58-11a-503. Penalties.**

616 (1) Unless Subsection (2) applies, an individual who commits an act of unlawful
617 conduct under Section 58-11a-502 or who fails to comply with a citation issued under this

618 section after it is final is guilty of a class A misdemeanor.

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

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

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

630 (i) A person who is in violation of Subsection 58-11a-502(1), (2), ~~(4)~~, (5), or (6),
631 as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in
632 an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in
633 addition to or in lieu of, be ordered to cease and desist from violating Subsection
634 58-11a-502(1), (2), ~~(4)~~, (5), or (6).

635 (ii) Except for a cease and desist order, the licensure sanctions cited in Section
636 58-11a-401 may not be assessed through a citation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

673 (III) the division determines during an investigation that occurred after the initiation of

674 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent
675 violation of Subsection 58-11a-502(1), (2), [or] (4), (5), or (6); and

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

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

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

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

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

690 (d) A court shall award reasonable attorney fees and costs in an action brought to
691 enforce the provisions of this section.

692 **Section 6. Effective date.**

693 If approved by two-thirds of all the members elected to each house, this bill takes effect
694 upon approval by the governor, or the day following the constitutional time limit of Utah
695 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
696 the date of veto override.