

PROFESSIONAL LICENSING AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This bill amends the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act.

Highlighted Provisions:

This bill:

- ▶ permits an esthetics school to provide a certain percent of its curriculum online; and
- ▶ amends unprofessional conduct provisions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-11a-501, as last amended by Laws of Utah 2009, Chapter 130

ENACTS:

58-11a-302.5, Utah Code Annotated 1953

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

Section 1. Section **58-11a-302.5** is enacted to read:

58-11a-302.5. Qualification for licensure as esthetics school -- Online curriculum.



28 (1) ~~§~~ → **For purposes of this section, "distance education" means instruction that**
 28a **occurs at a location other than the school's campus and includes observation of an esthetician**
 28b **performing licensed services.**

28c (2) ← ~~§~~ An applicant for licensure as an esthetics school under Subsection 58-11a-302(13)
 29 and an esthetics school licensed under this chapter may offer up to ~~§~~ → [39] 35 ← ~~§~~ % of its total
 29a curriculum

30 online ~~§~~ → :

30a **(a) for instruction in theory; and**

30b **(b) ← ~~§~~ in accordance with standards adopted by nationally recognized accrediting**
 31 **organizations** ~~§~~ → .

31a **(3) An applicant for licensure as an esthetics school and an esthetics school licensed**
 31b **under this chapter may provide distance education as approved by the division by**
 31c **administrative rule, which rules shall require, at a minimum that:**

31d **(a) interactions with the instructor must be validated by measureable participation,**
 31e **including clock hours, credit hour, or competency based criteria;**

31f **(b) all assessments that will be used for calculating a student's grade point average must**
 31g **be executed while the student is physically on campus;**

31h **(c) the student shall participate in learning activities while physically present at the**
 31i **contracted campus at least once every 10 business days for the length of a scheduled class day**
 31j **as outlined in the enrollment contract;**

31k **(d) all transcripts or other documents, listing academic attainment received, must**
 31l **identify the distance education component; and**

31m **(e) prior to enrollment, students are provided with a disclaimer that academic**
 31n **achievement earned via distance education may not be accepted for reciprocity or eligible for**
 31o **licensure in other states** ← ~~§~~ .

32 ~~§~~ → [2] (3) ← ~~§~~ The provisions of this section do not:

33 **(a) require the board to allow other schools licensed under this chapter to offer**
 34 **curriculum online; or**

35 **(b) limit the authority of the board to allow other schools licensed under this chapter to**
 36 **offer curriculum online.**

37 Section 2. Section **58-11a-501** is amended to read:

38 **58-11a-501. Unprofessional conduct.**

39 Unprofessional conduct includes:

40 (1) failing as a licensed school to obtain or maintain accreditation as required by rule;

- 41 (2) failing as a licensed school to comply with the standards of accreditation applicable
42 to such schools;
- 43 (3) failing as a licensed school to provide adequate instruction to enrolled students;
- 44 (4) failing as an apprentice supervisor to provide direct supervision to the apprentice;
- 45 (5) failing as an instructor to provide direct supervision to students who are providing
46 services to an individual under [~~their instruction~~] the instructor's supervision;
- 47 (6) failing as an apprentice supervisor to comply with division rules relating to
48 apprenticeship programs under this chapter;
- 49 (7) keeping a salon or school, its furnishing, tools, utensils, linen, or appliances in an
50 unsanitary condition;
- 51 (8) failing to comply with Title 26, Utah Health Code;
- 52 (9) failing to display licenses or certificates as required under Section [58-11a-305](#);
- 53 (10) failing to comply with physical facility requirements established by rule;
- 54 (11) failing to maintain mechanical or electrical equipment in safe operating condition;
- 55 (12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths,
56 showers, or saunas;
- 57 (13) prescribing or administering prescription drugs;
- 58 (14) failing to comply with all applicable state and local health or sanitation laws;

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

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

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

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

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

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

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

72 (19) using as a barber, cosmetologist/barber, or nail technician any laser procedure or
73 intense, pulsed light source, except that nothing in this chapter precludes an individual licensed
74 under this chapter from using a nonprescriptive laser device.

Legislative Review Note
Office of Legislative Research and General Counsel