

Representative Marc K. Roberts proposes the following substitute bill:

LICENSING AND PRACTICE ACTS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions of the Cosmetology and Associated Professions Licensing Act and exemptions from licensure in the Massage Therapy Practice Act.

Highlighted Provisions:

This bill:

- ▶ modifies the requirements for an approved apprenticeship program under the cosmetology act;
- ▶ exempts a bowerwork practitioner from being required to be licensed as a massage therapist;
- ▶ amends provisions related to reflexology and foot zone therapy; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-11a-102, as last amended by Laws of Utah 2017, Chapters 215 and 342



26 **58-11a-306**, as last amended by Laws of Utah 2016, Chapter 274
27 **58-47b-304**, as last amended by Laws of Utah 2014, Chapters 330, 348 and last
28 amended by Coordination Clause, Laws of Utah 2014, Chapter 330



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

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

32 **58-11a-102. Definitions.**

33 As used in this chapter:

34 (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship
35 that meets the requirements of Subsection **58-11a-306**(1) for barbers or Subsection
36 **58-11a-306**(2) for cosmetologist/barbers and the requirements established by rule by the
37 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
38 Administrative Rulemaking Act.

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

43 (3) "Approved hair designer apprenticeship" means an apprenticeship that meets the
44 requirements of Subsection **58-11a-306**(4) and the requirements established by rule by the
45 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
46 Administrative Rulemaking Act.

47 [~~3~~] (4) "Approved master esthetician apprenticeship" means an apprenticeship that
48 meets the requirements of Subsection **58-11a-306**[~~(4)~~](5) and the requirements established by
49 rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3,
50 Utah Administrative Rulemaking Act.

51 [~~4~~] (5) "Approved nail technician apprenticeship" means an apprenticeship that meets
52 the requirements of Subsection **58-11a-306**[~~(5)~~](6) and the requirements established by rule by
53 the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
54 Administrative Rulemaking Act.

55 [~~5~~] (6) "Barber" means a person who is licensed under this chapter to engage in the
56 practice of barbering.

57 ~~[(6)]~~ (7) "Barber instructor" means a barber who is licensed under this chapter to
58 engage in the practice of barbering instruction.

59 ~~[(7)]~~ (8) "Board" means the Cosmetology and Associated Professions Licensing Board
60 created in Section [58-11a-201](#).

61 ~~[(8)]~~ (9) "Cosmetic laser procedure" includes a nonablative procedure as defined in
62 Section [58-67-102](#).

63 ~~[(9)]~~ (10) "Cosmetic supervisor" means a supervisor as defined in Section [58-1-505](#).

64 ~~[(10)]~~ (11) "Cosmetologist/barber" means a person who is licensed under this chapter
65 to engage in the practice of cosmetology/barbering.

66 ~~[(11)]~~ (12) "Cosmetologist/barber instructor" means a cosmetologist/barber who is
67 licensed under this chapter to engage in the practice of cosmetology/barbering instruction.

68 ~~[(12)]~~ (13) "Direct supervision" means that the supervisor of an apprentice or the
69 instructor of a student is immediately available for consultation, advice, instruction, and
70 evaluation.

71 ~~[(13)]~~ (14) "Electrologist" means a person who is licensed under this chapter to engage
72 in the practice of electrology.

73 ~~[(14)]~~ (15) "Electrologist instructor" means an electrologist who is licensed under this
74 chapter to engage in the practice of electrology instruction.

75 ~~[(15)]~~ (16) "Esthetician" means a person who is licensed under this chapter to engage
76 in the practice of esthetics.

77 ~~[(16)]~~ (17) "Esthetician instructor" means a master esthetician who is licensed under
78 this chapter to engage in the practice of esthetics instruction.

79 ~~[(17)]~~ (18) "Fund" means the Cosmetology and Associated Professions Education and
80 Enforcement Fund created in Section [58-11a-103](#).

81 ~~[(18)]~~ (19) (a) "Hair braiding" means the twisting, weaving, or interweaving of a
82 person's natural human hair.

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

84 (i) African-style braiding;

85 (ii) box braids;

86 (iii) cornrows;

87 (iv) dreadlocks;

- 88 (v) french braids;
89 (vi) invisible braids;
90 (vii) micro braids;
91 (viii) single braids;
92 (ix) single plaits;
93 (x) twists;
94 (xi) visible braids;
95 (xii) the use of lock braids; and
96 (xiii) the use of decorative beads, accessories, and nonhair extensions.
- 97 (c) "Hair braiding" does not include:
98 (i) the use of:
99 (A) wefts;
100 (B) synthetic tape;
101 (C) synthetic glue;
102 (D) keratin bonds;
103 (E) fusion bonds; or
104 (F) heat tools;
105 (ii) the cutting of human hair; or
106 (iii) the application of heat, dye, a reactive chemical, or other preparation to:
107 (A) alter the color of the hair; or
108 (B) straighten, curl, or alter the structure of the hair.
- 109 [~~(19)~~] (20) "Hair designer" means a person who is licensed under this chapter to
110 engage in the practice of hair design.
- 111 [~~(20)~~] (21) "Hair designer instructor" means a hair designer who is licensed under this
112 chapter to engage in the practice of hair design instruction.
- 113 [~~(21)~~] (22) "Licensed barber or cosmetology/barber school" means a barber or
114 cosmetology/barber school licensed under this chapter.
- 115 [~~(22)~~] (23) "Licensed electrology school" means an electrology school licensed under
116 this chapter.
- 117 [~~(23)~~] (24) "Licensed esthetics school" means an esthetics school licensed under this
118 chapter.

119 [~~(24)~~] (25) "Licensed hair design school" means a hair design school licensed under
120 this chapter.

121 [~~(25)~~] (26) "Licensed nail technology school" means a nail technology school licensed
122 under this chapter.

123 [~~(26)~~] (27) "Master esthetician" means an individual who is licensed under this chapter
124 to engage in the practice of master-level esthetics.

125 [~~(27)~~] (28) "Nail technician" means an individual who is licensed under this chapter to
126 engage in the practice of nail technology.

127 [~~(28)~~] (29) "Nail technician instructor" means a nail technician licensed under this
128 chapter to engage in the practice of nail technology instruction.

129 [~~(29)~~] (30) "Practice of barbering" means:

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

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

133 (c) removing hair from the face or neck of a person by the use of shaving equipment;
134 and

135 (d) when providing other services described in this Subsection [~~(29)~~] (30), gently
136 massaging the head, back of the neck, and shoulders by manual or mechanical means.

137 [~~(30)~~] (31) "Practice of barbering instruction" means teaching the practice of barbering
138 at a licensed barber school, at a licensed cosmetology/barber school, or for an approved barber
139 apprenticeship.

140 [~~(31)~~] (32) "Practice of basic esthetics" means any one of the following skin care
141 procedures done on the body for cosmetic purposes and not for the treatment of medical,
142 physical, or mental ailments:

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

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

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

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

153 (e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, or applying
154 eyelash or eyebrow extensions; or

155 (f) except as provided in Subsection [~~(31)~~] (32)(f)(i), cosmetic laser procedures under
156 the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the
157 following:

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

159 (ii) anti-aging resurfacing enhancements;

160 (iii) photo rejuvenation; or

161 (iv) tattoo removal.

162 [~~(32)~~] (33) (a) "Practice of cosmetology/barbering" means:

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

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

168 (iii) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, applying
169 eyelash or eyebrow extensions;

170 (iv) removing hair from the body of a person by the use of depilatories, waxing, or
171 shaving equipment;

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

174 (vi) practicing hair weaving or hair fusing or servicing previously medically implanted
175 hair.

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

177 (i) the practice of barbering;

178 (ii) the practice of basic esthetics; and

179 (iii) the practice of nail technology.

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

181 the practice of threading.

182 ~~[(33)]~~ (34) "Practice of cosmetology/barbering instruction" means teaching the practice
183 of cosmetology/barbering:

184 (a) at a licensed cosmetology/barber school, a licensed barber school, or a licensed nail
185 technology school; or

186 (b) for an approved cosmetologist/barber apprenticeship.

187 ~~[(34)]~~ (35) "Practice of electrology" means:

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

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

192 ~~[(35)]~~ (36) "Practice of electrology instruction" means teaching the practice of
193 electrology at a licensed electrology school.

194 ~~[(36)]~~ (37) "Practice of esthetics instruction" means teaching the practice of basic
195 esthetics or the practice of master-level esthetics:

196 (a) at a licensed esthetics school or a licensed cosmetology/barber school; or

197 (b) for an approved esthetician apprenticeship or an approved master esthetician
198 apprenticeship.

199 ~~[(37)]~~ (38) "Practice of hair design" means:

200 (a) styling, arranging, dressing, curling, waving, permanent waving, cleansing,
201 singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a
202 person;

203 (b) barbering, cutting, clipping, shaving, or trimming the hair by the use of scissors,
204 shears, clippers, or other appliances;

205 (c) cutting, curling, styling, fitting, measuring, or forming caps for wigs, hairpieces, or
206 both on the human head; or

207 (d) practicing hair weaving, hair fusing, or servicing previously medically implanted
208 hair.

209 ~~[(38)]~~ (39) "Practice of hair design instruction" means teaching the practice of hair
210 design at a licensed cosmetology/barber school, a licensed hair design school, or a licensed
211 barber school.

212 [~~(39)~~] (40) (a) "Practice of master-level esthetics" means:

213 (i) any of the following when done for cosmetic purposes on the body and not for the

214 treatment of medical, physical, or mental ailments:

215 (A) body wraps as defined by rule;

216 (B) hydrotherapy as defined by rule;

217 (C) chemical exfoliation as defined by rule;

218 (D) advanced pedicures as defined by rule;

219 (E) sanding, including microdermabrasion;

220 (F) advanced extraction;

221 (G) other esthetic preparations or procedures with the use of:

222 (I) the hands; or

223 (II) a mechanical or electrical apparatus which is approved for use by division rule for

224 beautifying or similar work performed on the body for cosmetic purposes and not for the

225 treatment of a medical, physical, or mental ailment; or

226 (H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a

227 physician's evaluation before the procedure, as needed, unless specifically required under

228 Section 58-1-506, and limited to the following:

229 (I) superfluous hair removal;

230 (II) anti-aging resurfacing enhancements;

231 (III) photo rejuvenation; or

232 (IV) tattoo removal with a physician's, advanced practice nurse's, or physician

233 assistant's evaluation before the tattoo removal procedure, as required by Subsection

234 58-1-506(3)(a); and

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

236 (b) Notwithstanding the provisions of Subsection [~~(39)~~] (40)(a), a master-level

237 esthetician may perform procedures listed in Subsection [~~(39)~~] (40)(a)(i)(H) if done under the

238 supervision of a cosmetic supervisor acting within the scope of the cosmetic supervisor license.

239 (c) The term "practice of master-level esthetics" includes the practice of esthetics, but

240 an individual is not required to be licensed as an esthetician or master-level esthetician to

241 engage in the practice of threading.

242 [~~(40)~~] (41) "Practice of nail technology" means to trim, cut, clean, manicure, shape,

243 massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of
244 hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the
245 application and removal of sculptured or artificial nails.

246 ~~[(41)]~~ (42) "Practice of nail technology instruction" means teaching the practice of nail
247 technology at a licensed nail technician school, at a licensed cosmetology/barber school, or for
248 an approved nail technician apprenticeship.

249 ~~[(42)]~~ (43) "Recognized barber school" means a barber school located in a state other
250 than Utah, whose students, upon graduation, are recognized as having completed the
251 educational requirements for licensure in that state.

252 ~~[(43)]~~ (44) "Recognized cosmetology/barber school" means a cosmetology/barber
253 school located in a state other than Utah, whose students, upon graduation, are recognized as
254 having completed the educational requirements for licensure in that state.

255 ~~[(44)]~~ (45) "Recognized electrology school" means an electrology school located in a
256 state other than Utah, whose students, upon graduation, are recognized as having completed the
257 educational requirements for licensure in that state.

258 ~~[(45)]~~ (46) "Recognized esthetics school" means an esthetics school located in a state
259 other than Utah, whose students, upon graduation, are recognized as having completed the
260 educational requirements for licensure in that state.

261 ~~[(46)]~~ (47) "Recognized hair design school" means a hair design school located in a
262 state other than Utah, whose students, upon graduation, are recognized as having completed the
263 educational requirements for licensure in that state.

264 ~~[(47)]~~ (48) "Recognized nail technology school" means a nail technology school
265 located in a state other than Utah, whose students, upon graduation, are recognized as having
266 completed the educational requirements for licensure in that state.

267 ~~[(48)]~~ (49) "Salon" means a place, shop, or establishment in which
268 cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

269 ~~[(49)]~~ (50) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

270 ~~[(50)]~~ (51) "Unprofessional conduct" is as defined in Sections 58-1-501 and
271 58-11a-501 and as may be further defined by rule by the division in collaboration with the
272 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

273 Section 2. Section 58-11a-306 is amended to read:

274 **58-11a-306. Apprenticeship.**

275 (1) An approved barber apprenticeship shall:

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

277 (b) be conducted by a supervisor who:

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

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

282 (2) An approved cosmetologist/barber apprenticeship shall:

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

284 (b) be conducted by a supervisor who:

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

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

288 (3) An approved esthetician apprenticeship shall:

289 (a) consist of not less than 800 hours of training in not less than five months; and

290 (b) be conducted by a supervisor who:

291 (i) is licensed under this chapter as an esthetician instructor; and

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

294 (4) An approved hair designer apprenticeship shall:

295 (a) consist of not less than 1,500 hours of training in not less than 10 months; and

296 (b) be conducted by a supervisor who:

297 (i) is licensed under this chapter as a hair designer instructor or a cosmetology/barber
298 instructor; and

299 (ii) provides one-on-one direct supervision of the hair designer apprentice during the
300 apprenticeship program.

301 [~~4~~] (5) An approved master esthetician apprenticeship shall:

302 (a) consist of not less than 1,500 hours of training in not less than 10 months; and

303 (b) be conducted by a supervisor who:

304 (i) is licensed under this chapter as a master-level esthetician instructor; and

305 (ii) provides one-on-one direct supervision of the master esthetician apprentice during
306 the apprenticeship program.

307 ~~[(5)]~~ (6) An approved nail technician apprenticeship shall:

308 (a) consist of not less than 375 hours of training in not less than three months; and

309 (b) be conducted by a supervisor who:

310 (i) is licensed under this chapter as a nail technician instructor or a cosmetology/barber
311 instructor; ~~[and]~~

312 (ii) provides ~~[one-on-one]~~ direct supervision of the nail technician apprentice during
313 the apprenticeship program~~[-]; and~~

314 (iii) provides direct supervision to no more than two nail technician apprentices during
315 the apprenticeship program.

316 ~~[(6)]~~ (7) A person seeking to qualify for licensure by apprenticing in an approved
317 apprenticeship under this chapter shall:

318 (a) register with the division before beginning the training requirements by:

319 (i) submitting a form prescribed by the division, which includes the name of the
320 licensed supervisor; and

321 (ii) paying a fee determined by the department under Section 63J-1-504;

322 (b) complete the apprenticeship within five years of the date on which the division
323 approves the registration; and

324 (c) notify the division within 30 days if the licensed supervisor changes after the
325 registration is approved by the division.

326 ~~[(7)]~~ (8) Notwithstanding Subsection ~~[(6)]~~ (7), if a person seeking to qualify for
327 licensure by apprenticing in an approved apprenticeship under this chapter ~~[registers]~~ is
328 registered with the division before January 1, 2017, any training requirements completed by the
329 person as an apprentice in an approved apprenticeship before registration may be applied to
330 successful completion of the approved apprenticeship.

331 Section 3. Section **58-47b-304** is amended to read:

332 **58-47b-304. Exemptions from licensure.**

333 (1) In addition to the exemptions from licensure in Section 58-1-307, the following
334 individuals may engage in the practice of massage therapy as defined under this chapter,
335 subject to the stated circumstances and limitations, without being licensed, but may not

336 represent themselves as a massage therapist or massage apprentice:

337 (a) a physician or surgeon licensed under Title 58, Chapter 67, Utah Medical Practice
338 Act;

339 (b) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or under Title 58,
340 Chapter 44a, Nurse Midwife Practice Act;

341 (c) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
342 Act;

343 (d) a physical therapist assistant licensed under Title 58, Chapter 24b, Physical Therapy
344 Practice Act, while under the general supervision of a physical therapist;

345 (e) an osteopathic physician or surgeon licensed under Title 58, Chapter 68, Utah
346 Osteopathic Medical Practice Act;

347 (f) a chiropractic physician licensed under Title 58, Chapter 73, Chiropractic Physician
348 Practice Act;

349 (g) a hospital staff member employed by a hospital, who practices massage as part of
350 the staff member's responsibilities;

351 (h) an athletic trainer licensed under Title 58, Chapter 40a, Athletic Trainer Licensing
352 Act;

353 (i) a student in training enrolled in a massage therapy school approved by the division;

354 (j) a naturopathic physician licensed under Title 58, Chapter 71, Naturopathic Physician
355 Practice Act;

356 (k) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
357 Therapy Practice Act;

358 (l) an individual performing gratuitous massage; and

359 (m) an individual:

360 (i) certified by or through, and in good standing with, an industry organization that is
361 recognized by the division, and that represents a profession with established standards and
362 ethics[;];

363 [~~(ii) (A) who limits the manipulation of the soft tissues of the body to the hands, feet,
364 and outer ears only, including the practice of reflexology and foot zone therapy; or]~~

365 (A) who is certified to practice reflexology and whose practice is limited to the scope
366 of practice of reflexology;

367 (B) who is certified to practice a type of zone therapy, including foot zone therapy, and
368 whose practice is limited to the scope of practice for which the individual is certified;

369 [~~(B)~~] (C) who is certified to practice ortho-bionomy and whose practice is limited to
370 the scope of practice of ortho-bionomy; or

371 (D) who is certified to practice bowerwork and whose practice is limited to the scope
372 of practice of bowerwork;

373 [~~(iii)~~] (ii) whose clients remain fully clothed from the shoulders to the knees; and

374 [~~(iv)~~] (iii) whose clients do not receive gratuitous massage from the individual.

375 (2) This chapter may not be construed to authorize any individual licensed under this
376 chapter to engage in any manner in the practice of medicine as defined by the laws of this state.

377 (3) This chapter may not be construed to:

378 (a) require insurance coverage or reimbursement for massage therapy from third party
379 payors; or

380 (b) prevent an insurance carrier from offering coverage for massage therapy.