

**COSMETOLOGY AND HAIR BRAIDING**

2013 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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

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

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

46           **58-11a-101. Title.**

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

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

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

51           As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

126 under this chapter.

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

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

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

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

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

138 (i) African-style braiding;

139 (ii) box braids;

140 (iii) cornrows;

141 (iv) dreadlocks;

142 (v) french braids;

143 (vi) invisible braids;

144 (vii) micro braids;

145 (viii) single braids;

146 (ix) single plaits;

147 (x) twists; and

148 (xi) visible braids.

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

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

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

152 (iii) the cutting of human hair; or

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

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

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

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

157 interweaving of:

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

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

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

162 (i) the practice of hair braiding as defined in this section;

163 (ii) the use of lock braids;

164 (iii) the use of beads and other accessories; and

165 (iv) the use of extensions and wefts utilizing:

166 (A) synthetic tape;

167 (B) keratin bonds;

168 (C) fusion bonds; and

169 (D) heat tools.

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

171 (i) the cutting of human hair; or

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

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

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

175 ~~[(25)]~~ (33) "Practice of barbering" means:

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

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

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

180 ~~[(26)]~~ (34) "Practice of barbering instruction" means instructing barbering in a licensed  
181 barber school, licensed cosmetology/barber school, or in an apprenticeship program as defined  
182 in Subsection 58-11a-306(1).

183 ~~[(27)]~~ (35) "Practice of basic esthetics" means any one of the following skin care  
184 procedures done on the head, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes for  
185 cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

186 (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or  
187 masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the

188 application of eyelash extensions, natural nail manicures or pedicures, or callous removal by  
189 buffing or filing;

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

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

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

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

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

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

202 (ii) anti-aging resurfacing enhancements;

203 (iii) photo rejuvenation; or

204 (iv) tattoo removal.

205 ~~[(28)]~~ (36) (a) "Practice of cosmetology/barbering" means:

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

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

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

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

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

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

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

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

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

222 (iii) the practice of advanced hair braiding.

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

225 ~~[(29)]~~ (37) "Practice of cosmetology/barbering instruction" means instructing  
226 cosmetology/barbering as defined in Subsection ~~[(28)]~~ (36) in a licensed cosmetology/barber  
227 school or in an apprenticeship program as defined in Subsection 58-11a-306(2).

228 ~~[(30)]~~ (38) "Practice of electrology" means:

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

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

233 ~~[(31)]~~ (39) "Practice of electrology instruction" means instructing electrology in a  
234 licensed electrology school.

235 ~~[(32)]~~ (40) "Practice of esthetics instruction" means instructing esthetics in a licensed  
236 esthetics school, a licensed cosmetology/barber school, or instructing master-level esthetics in a  
237 licensed esthetics school or in an apprenticeship program as defined in Subsections  
238 58-11a-306(2), (3), and (4).

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

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

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

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

244 (i) dreadlock extensions; and

245 (ii) the use of extensions and wefts utilizing:

246 (A) elastic bands;

247 (B) sewing and crochet techniques; and

248 (C) synthetic glue that is not protein based and does not require heat.

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



250 (i) except for natural or synthetic hair extensions or wefts, the use of beads or other  
251 materials;

252 (ii) the use of keratin bonds or synthetic tape;

253 (iii) the use of fusion bonds;

254 (iv) the application of heat;

255 (v) the use of lock braids;

256 (vi) the cutting of human hair; or

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

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

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

260 (42) "Practice of hair braiding instruction" means instructing hair braiding or advanced  
261 hair braiding in a licensed hair braiding school, a licensed cosmetology/barber school, or in an  
262 apprenticeship program as defined in Subsections 58-11a-306(6) and (7).

263 ~~[(33)]~~ (43) (a) "Practice of master-level esthetics" means:

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

267 (A) body wraps as defined by rule;

268 (B) hydrotherapy as defined by rule;

269 (C) chemical exfoliation as defined by rule;

270 (D) advanced pedicures as defined by rule;

271 (E) sanding, including microdermabrasion;

272 (F) advanced extraction;

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

274 (I) the hands; or

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

278 (H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a  
279 physician's evaluation before the procedure, as needed, unless specifically required under  
280 Section 58-1-506, and limited to the following:

- 281 (I) superfluous hair removal;
- 282 (II) anti-aging resurfacing enhancements;
- 283 (III) photo rejuvenation; or
- 284 (IV) tattoo removal with a physician's evaluation before the tattoo removal procedure;
- 285 and
- 286 (ii) lymphatic massage by manual or other means as defined by rule.
- 287 (b) Notwithstanding the provisions of Subsection [~~(33)~~] (43)(a), a master-level
- 288 esthetician may perform procedures listed in Subsection [~~(33)~~] (43)(a)(i)(H) if done under the
- 289 supervision of a cosmetic supervisor acting within the scope of the cosmetic supervisor license.
- 290 (c) The term "practice of master-level esthetics" includes the practice of esthetics, but
- 291 an individual is not required to be licensed as an esthetician or master-level esthetician to
- 292 engage in the practice of threading.
- 293 [~~(34)~~] (44) "Practice of nail technology" means to trim, cut, clean, manicure, shape,
- 294 massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of
- 295 hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the
- 296 application and removal of sculptured or artificial nails.
- 297 [~~(35)~~] (45) "Practice of nail technology instruction" means instructing nail technology
- 298 in a licensed nail technician school, licensed cosmetology/barber school, or in an
- 299 apprenticeship program as defined in Subsection 58-11a-306(5).
- 300 [~~(36)~~] (46) "Recognized barber school" means a barber school located in a state other
- 301 than Utah, whose students, upon graduation, are recognized as having completed the
- 302 educational requirements for licensure in that state.
- 303 [~~(37)~~] (47) "Recognized cosmetology/barber school" means a cosmetology/barber
- 304 school located in a state other than Utah, whose students, upon graduation, are recognized as
- 305 having completed the educational requirements for licensure in that state.
- 306 [~~(38)~~] (48) "Recognized electrology school" means an electrology school located in a
- 307 state other than Utah, whose students, upon graduation, are recognized as having completed the
- 308 educational requirements for licensure in that state.
- 309 [~~(39)~~] (49) "Recognized esthetics school" means an esthetics school located in a state
- 310 other than Utah, whose students, upon graduation, are recognized as having completed the
- 311 educational requirements for licensure in that state.

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

315            [~~(40)~~] (51) "Recognized nail technology school" means a nail technology school  
316 located in a state other than Utah, whose students, upon graduation, are recognized as having  
317 completed the educational requirements for licensure in that state.

318            [~~(41)~~] (52) "Salon" means a place, shop, or establishment in which  
319 cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

320            [~~(42)~~] (53) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

321            [~~(43)~~] (54) "Unprofessional conduct" is as defined in Sections 58-1-501 and  
322 58-11a-501 and as may be further defined by rule by the division in collaboration with the  
323 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

325            **58-11a-103. Education and enforcement fund.**

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

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

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

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

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

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

338            (c) enforcement of this chapter by:

339            (i) investigating unprofessional or unlawful conduct; and

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

342            (5) The division shall report annually to the appropriate appropriations subcommittee

343 of the Legislature concerning the fund.

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

345 **58-11a-201. Board.**

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

348 (a) one barber or cosmetologist/barber;

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

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

351 (c) one master esthetician;

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

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

354 (e) one nail technician;

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

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

357 (g) one electrologist; and

358 (h) two members from the general public.

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

360 (b) (i) At least one of the members of the board appointed under Subsections (1)(b),

361 (d), and (f) shall be an instructor at or a representative of a public school.

362 (ii) At least one of the members of the board appointed under Subsections (1)(b), (d),

363 and (f) shall be an instructor at or a representative of a private school.

364 (3) The duties and responsibilities of the board are in accordance with Sections

365 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a

366 permanent or rotating basis to:

367 (a) assist the division in reviewing complaints concerning the unlawful or

368 unprofessional conduct of a licensee; and

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

370 (4) A board member who has, under Subsection (3), reviewed a complaint or advised

371 in its investigation may be disqualified from participating with the board when the board serves

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

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

374 **58-11a-301. Licensure required -- License classifications.**

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

377 (a) engage in the practice of:

378 (i) barbering;

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

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

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

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

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

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

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

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

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

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

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

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

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

392 (ii) cosmetology/barbering;

393 (iii) electrology;

394 (iv) esthetics;

395 (v) master-level esthetics;

396 (vi) hair braiding;

397 (vii) advanced hair braiding;

398 (viii) nail technology;

399 (ix) barbering instruction;

400 (x) cosmetology/barbering instruction;

401 (xi) electrology instruction;

402 (xii) esthetics instruction;

403 (xiii) hair braiding instruction; or

404 (xiv) nail technology instruction; or

- 405            ~~[(d)]~~ (b) operate:
- 406            ~~[(i) an electrology school;]~~
- 407            ~~[(ii) an esthetics school; or]~~
- 408            ~~[(iii) a nail technology school.]~~
- 409            (i) a barbering school;
- 410            (ii) a cosmetology/barbering school;
- 411            (iii) an electrology school;
- 412            (iv) an esthetics school;
- 413            (v) a hair braiding school; or
- 414            (vi) a nail technology school.
- 415            (2) The division shall issue to a person who qualifies under this chapter a license in the
- 416 following classifications:
- 417            (a) barber;
- 418            (b) barber instructor;
- 419            (c) barber school;
- 420            (d) cosmetologist/barber;
- 421            (e) cosmetologist/barber instructor;
- 422            (f) cosmetology/barber school;
- 423            (g) electrologist;
- 424            (h) electrologist instructor;
- 425            (i) electrology school;
- 426            (j) esthetician;
- 427            (k) master esthetician;
- 428            (l) esthetician instructor;
- 429            (m) esthetics school;
- 430            (n) hair braider;
- 431            (o) advanced hair braider;
- 432            (p) hair braiding instructor;
- 433            (q) hair braiding school;
- 434            ~~[(n)]~~ (r) nail technology;
- 435            ~~[(o)]~~ (s) nail technology instructor; and

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

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

438           **58-11a-302. Qualifications for licensure.**

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

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

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

442           (c) be of good moral character;

443           (d) provide satisfactory documentation of:

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

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

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

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

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

449 number of credit hours; and

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

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

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

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

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

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

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

457 barber;

458           (d) be of good moral character;

459           (e) provide satisfactory documentation of completion of:

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

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

462 or

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

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

465           (3) Each applicant for licensure as a barber school shall:

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

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



498 defined by rule consisting of a minimum of 1,000 hours or the equivalent number of credit  
499 hours; or

500 (ii) a minimum of 4,000 hours of experience as a cosmetologist/barber; and  
501 (f) meet the examination requirement established by rule.

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

503 (a) submit an application in a form prescribed by the division;  
504 (b) pay a fee determined by the department under Section 63J-1-504; and  
505 (c) provide satisfactory documentation:  
506 (i) of appropriate registration with the Division of Corporations and Commercial Code;  
507 (ii) of business licensure from the city, town, or county in which the school is located;  
508 (iii) that the applicant's physical facilities comply with the requirements established by  
509 rule; and  
510 (iv) that the applicant meets the standards for cosmetology schools, including staff and  
511 accreditation requirements, established by rule.

512 (7) Each applicant for licensure as an electrologist shall:

513 (a) submit an application in a form prescribed by the division;  
514 (b) pay a fee determined by the department under Section 63J-1-504;  
515 (c) be of good moral character;  
516 (d) provide satisfactory documentation of having graduated from a licensed or  
517 recognized electrology school after completing a curriculum of 600 hours of instruction or the  
518 equivalent number of credit hours; and  
519 (e) meet the examination requirement established by rule.

520 (8) Each applicant for licensure as an electrologist instructor shall:

521 (a) submit an application in a form prescribed by the division;  
522 (b) pay a fee determined by the department under Section 63J-1-504;  
523 (c) provide satisfactory documentation that the applicant is currently licensed as an  
524 electrologist;  
525 (d) be of good moral character;  
526 (e) provide satisfactory documentation of completion of:  
527 (i) an instructor training program conducted by a licensed or recognized school as  
528 defined by rule consisting of a minimum of 175 hours or the equivalent number of credit hours;

529 or

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

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

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

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

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

535 (c) provide satisfactory documentation:

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

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

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

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

540 curriculum, and accreditation requirements, established by rule.

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

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

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

544 (c) be of good moral character;

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

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

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

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

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

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

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

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

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

554 4,000 hours; and

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

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

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

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

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

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

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

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

653 Utah whose curriculum consists of less than 300 hours of instruction or the equivalent number  
654 of credit hours; and

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

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

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

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

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

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

661 (c) be of good moral character;

662 (d) provide satisfactory documentation of:

663 (i) graduation from a licensed or recognized hair braiding school or a licensed or

664 recognized cosmetology/barber school whose curriculum consists of at least 15 weeks of

665 hair-braiding related instruction and includes at least 600 hours of instruction or the equivalent

666 number of credit hours;

667 (ii) (A) graduation from a recognized hair braiding school located in a state other than

668 Utah whose curriculum consists of less than 600 hours of instruction or the equivalent number

669 of credit hours; and

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

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

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

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

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

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

676 (c) provide satisfactory documentation that the applicant is currently licensed as an

677 advanced hair braider;

678 (d) be of good moral character;

679 (e) provide satisfactory documentation of completion of:

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

681 defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit

682 hours; or

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

684 (f) meet the examination requirement established by rule.  
 685 (20) Each applicant for licensure as a hair braiding school shall:  
 686 (a) submit an application in a form prescribed by the division;  
 687 (b) pay a fee determined by the department under Section 63J-1-504; and  
 688 (c) provide satisfactory documentation:  
 689 (i) of appropriate registration with the Division of Corporations and Commercial Code;  
 690 (ii) of business licensure from the city, town, or county in which the school is located;  
 691 (iii) that the applicant's physical facilities comply with the requirements established by  
 692 rule; and  
 693 (iv) that the applicant meets the standards for hair braiding schools, including staff,  
 694 curriculum, and accreditation requirements, established by division rule.

695 ~~[(17)]~~ (21) Each applicant for licensure under this chapter whose education in the field  
 696 for which a license is sought was completed at a foreign school may satisfy the educational  
 697 requirement for licensure by demonstrating, to the satisfaction of the division, the educational  
 698 equivalency of the foreign school education with a licensed school under this chapter.

699 ~~[(18)]~~ (22) (a) A licensed or recognized school under this section may accept credit  
 700 hours towards graduation for any profession listed in this section.

701 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and  
 702 consistent with this section, the division may make rules governing the acceptance of credit  
 703 hours under Subsection ~~[(18)]~~ (22)(a).

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

705 **58-11a-304. Exemptions from licensure.**

706 In addition to the exemptions from licensure in Section 58-1-307, the following persons  
 707 may engage in the practice of barbering, cosmetology/barbering, esthetics, master-level  
 708 esthetics, electrology, hair braiding, advanced hair braiding, or nail technology without being  
 709 licensed under this chapter:

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

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

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

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

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

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

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

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

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

733 (ii) the instructor receives no compensation;

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

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

743 (9) ~~[persons]~~ a person enrolled in an approved apprenticeship pursuant to Section  
744 58-11a-306;

745 (10) ~~[employees]~~ an employee of a company ~~[which]~~ that is primarily engaged in the



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

752 (11) a person who:

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

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

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

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

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

762 (12) a person who:

763 (a) engages in natural hair braiding; and

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

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

767 **58-11a-306. Apprenticeship.**

768 (1) An approved barber apprenticeship shall:

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

770 (b) be conducted by a supervisor who:

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

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

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

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

- 777 (b) be conducted by a supervisor who:
- 778 (i) is licensed under this chapter as a cosmetologist/barber instructor; and
- 779 (ii) provides direct one-on-one supervision of the cosmetologist/barber apprentice
- 780 during the apprenticeship program.
- 781 (3) An approved esthetician apprenticeship shall:
- 782 (a) consist of not less than 800 hours of training in not less than five months; and
- 783 (b) be conducted by a supervisor who:
- 784 (i) is licensed under this chapter as an esthetician instructor; and
- 785 (ii) provides direct one-on-one supervision of the esthetician apprentice during the
- 786 apprenticeship program.
- 787 (4) An approved master esthetician apprenticeship shall:
- 788 (a) consist of not less than 1,500 hours of training in not less than 10 months; and
- 789 (b) be conducted by a supervisor who:
- 790 (i) is licensed under this chapter as a master-level esthetician instructor; and
- 791 (ii) provides direct one-on-one supervision of the master esthetician apprentice during
- 792 the apprenticeship program.
- 793 (5) An approved nail technician apprenticeship shall:
- 794 (a) consist of not less than 375 hours of training in not less than three months; and
- 795 (b) be conducted by a supervisor who:
- 796 (i) is licensed under this chapter as a nail technician instructor or a cosmetology/barber
- 797 instructor; and
- 798 (ii) provides direct one-on-two supervision of the nail technician apprentice during the
- 799 apprenticeship program.
- 800 (6) An approved hair braiding apprenticeship shall:
- 801 (a) consist of not less than 400 hours of training in not less than 10 weeks; and
- 802 (b) be conducted by a supervisor who:
- 803 (i) is licensed under this chapter as an advanced hair braiding instructor; and
- 804 (ii) provides direct one-on-one supervision of the hair braiding apprentice during the
- 805 apprenticeship program.
- 806 (7) An approved advanced hair braiding apprenticeship shall:
- 807 (a) consist of not less than 800 hours of training in not less than 20 weeks; and

808 (b) be conducted by a supervisor who:  
809 (i) is licensed under this chapter as an advanced hair braiding instructor; and  
810 (ii) provides direct one-on-one supervision of the hair braiding apprentice during the  
811 apprenticeship program.

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

813 **58-11a-502. Unlawful conduct.**

814 Unlawful conduct includes:

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

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

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

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

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

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

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

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

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

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

838 (a) taking the class or program without completing the requirements for licensure under

839 this chapter is insufficient to certify or qualify the attendee to perform a service for  
840 compensation that requires licensure under this chapter; and

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

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

844 **58-11a-503. Penalties.**

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

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

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

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

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

864 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
865 58-11a-401 may not be assessed through a citation.

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

869 (ii) The citation shall clearly state that the recipient must notify the division in writing

870 within 20 calendar days of service of the citation if the recipient wishes to contest the citation  
871 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

900 (II) no final order has been issued by the division in the action initiated under

901 Subsection (4)(i)(i)(B)(I);

902 (III) the division determines during an investigation that occurred after the initiation of  
903 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent  
904 violation of Subsection 58-11a-502(1), (2), [~~or~~] (4), (5), or (6); and

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

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

910 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited  
911 into the Barber, Cosmetologist/Barber, Esthetician, Electrologist, Hair Braider, and Nail  
912 Technician Education and Enforcement Fund.

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

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

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