

Effective 5/9/2017

Chapter 11a
Cosmetology and Associated Professions Licensing Act

Part 1
General Provisions

58-11a-101 Title.

This chapter is known as the "Cosmetology and Associated Professions Licensing Act."

Amended by Chapter 342, 2017 General Session

58-11a-102 Definitions.

As used in this chapter:

- (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) "Approved esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(4) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) "Approved hair designer apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(3) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) "Approved master esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(5) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (5) "Approved nail technician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(6) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (6) "Barber" means a person who is licensed under this chapter to engage in the practice of barbering.
- (7) "Barber instructor" means a barber who is licensed under this chapter to engage in the practice of barbering instruction.
- (8) "Board" means the Cosmetology and Associated Professions Licensing Board created in Section 58-11a-201.
- (9) "Cosmetic laser procedure" includes a nonablative procedure as defined in Section 58-67-102.
- (10) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.
- (11) "Cosmetologist/barber" means a person who is licensed under this chapter to engage in the practice of cosmetology/barbering.
- (12) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed under this chapter to engage in the practice of cosmetology/barbering instruction.

- (13) "Direct supervision" means that the supervisor of an apprentice or the instructor of a student is immediately available for consultation, advice, instruction, and evaluation.
- (14) "Electrologist" means a person who is licensed under this chapter to engage in the practice of electrology.
- (15) "Electrologist instructor" means an electrologist who is licensed under this chapter to engage in the practice of electrology instruction.
- (16) "Esthetician" means a person who is licensed under this chapter to engage in the practice of esthetics.
- (17) "Esthetician instructor" means a master esthetician who is licensed under this chapter to engage in the practice of esthetics instruction.
- (18) "Fund" means the Cosmetology and Associated Professions Education and Enforcement Fund created in Section 58-11a-103.
- (19)
 - (a) "Hair braiding" means the twisting, weaving, or interweaving of a person's natural human hair.
 - (b) "Hair braiding" includes the following methods or styles:
 - (i) African-style braiding;
 - (ii) box braids;
 - (iii) cornrows;
 - (iv) dreadlocks;
 - (v) french braids;
 - (vi) invisible braids;
 - (vii) micro braids;
 - (viii) single braids;
 - (ix) single plaits;
 - (x) twists;
 - (xi) visible braids;
 - (xii) the use of lock braids;
 - (xiii) the use of decorative beads, accessories, and extensions; and
 - (xiv) the use of wefts if applied without the use of glue or tape.
 - (c) "Hair braiding" does not include:
 - (i) the use of:
 - (A) wefts if applied with the use of glue or tape;
 - (B) synthetic tape;
 - (C) synthetic glue;
 - (D) keratin bonds;
 - (E) fusion bonds; or
 - (F) heat tools;
 - (ii) the cutting of human hair; or
 - (iii) the application of heat, dye, a reactive chemical, or other preparation to:
 - (A) alter the color of the hair; or
 - (B) straighten, curl, or alter the structure of the hair.
- (20) "Hair designer" means a person who is licensed under this chapter to engage in the practice of hair design.
- (21) "Hair designer instructor" means a hair designer who is licensed under this chapter to engage in the practice of hair design instruction.
- (22) "Licensed barber or cosmetology/barber school" means a barber or cosmetology/barber school licensed under this chapter.
- (23) "Licensed electrology school" means an electrology school licensed under this chapter.

- (24) "Licensed esthetics school" means an esthetics school licensed under this chapter.
- (25) "Licensed hair design school" means a hair design school licensed under this chapter.
- (26) "Licensed nail technology school" means a nail technology school licensed under this chapter.
- (27) "Master esthetician" means an individual who is licensed under this chapter to engage in the practice of master-level esthetics.
- (28) "Nail technician" means an individual who is licensed under this chapter to engage in the practice of nail technology.
- (29) "Nail technician instructor" means a nail technician licensed under this chapter to engage in the practice of nail technology instruction.
- (30) "Practice of barbering" means:
 - (a) cutting, clipping, or trimming the hair of the head of any person by the use of scissors, shears, clippers, or other appliances;
 - (b) draping, shampooing, scalp treatments, basic wet styling, and blow drying;
 - (c) removing hair from the face or neck of a person by the use of shaving equipment; and
 - (d) when providing other services described in this Subsection (30), gently massaging the head, back of the neck, and shoulders by manual or mechanical means.
- (31) "Practice of barbering instruction" means teaching the practice of barbering at a licensed barber school, at a licensed cosmetology/barber school, or for an approved barber apprenticeship.
- (32) "Practice of basic esthetics" means any one of the following skin care procedures done on the body for cosmetic purposes and not for the treatment of medical, physical, or mental ailments:
 - (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the application of eyelash or eyebrow extensions, natural nail manicures or pedicures, or callous removal by buffing or filing;
 - (b) limited chemical exfoliation as defined by rule;
 - (c) removing superfluous hair by means other than electrolysis, except that an individual is not required to be licensed as an esthetician to engage in the practice of threading;
 - (d) other esthetic preparations or procedures with the use of the hands, a high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not for the treatment of medical, physical, or mental ailments;
 - (e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, or applying eyelash or eyebrow extensions; or
 - (f) except as provided in Subsection (32)(f)(i), cosmetic laser procedures under the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the following:
 - (i) superfluous hair removal which shall be under indirect supervision;
 - (ii) anti-aging resurfacing enhancements;
 - (iii) photo rejuvenation; or
 - (iv) tattoo removal.
- (33)
 - (a) "Practice of cosmetology/barbering" means:
 - (i) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;
 - (ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or other appliances;
 - (iii) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, applying eyelash or eyebrow extensions;

- (iv) removing hair from the body of a person by the use of depilatories, waxing, or shaving equipment;
 - (v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces or both on the human head; or
 - (vi) practicing hair weaving or hair fusing or servicing previously medically implanted hair.
- (b) The term "practice of cosmetology/barbering" includes:
- (i) the practice of barbering;
 - (ii) the practice of basic esthetics; and
 - (iii) the practice of nail technology.
- (c) An individual is not required to be licensed as a cosmetologist/barber to engage in the practice of threading.
- (34) "Practice of cosmetology/barbering instruction" means teaching the practice of cosmetology/barbering:
- (a) at a licensed cosmetology/barber school, a licensed barber school, or a licensed nail technology school; or
 - (b) for an approved cosmetologist/barber apprenticeship.
- (35) "Practice of electrology" means:
- (a) the removal of superfluous hair from the body of a person by the use of electricity, waxing, shaving, or tweezing; or
 - (b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to superfluous hair removal.
- (36) "Practice of electrology instruction" means teaching the practice of electrology at a licensed electrology school.
- (37) "Practice of esthetics instruction" means teaching the practice of basic esthetics or the practice of master-level esthetics:
- (a) at a licensed esthetics school or a licensed cosmetology/barber school; or
 - (b) for an approved esthetician apprenticeship or an approved master esthetician apprenticeship.
- (38) "Practice of hair design" means:
- (a) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;
 - (b) barbering, cutting, clipping, shaving, or trimming the hair by the use of scissors, shears, clippers, or other appliances;
 - (c) cutting, curling, styling, fitting, measuring, or forming caps for wigs, hairpieces, or both on the human head; or
 - (d) practicing hair weaving, hair fusing, or servicing previously medically implanted hair.
- (39) "Practice of hair design instruction" means teaching the practice of hair design at a licensed cosmetology/barber school, a licensed hair design school, or a licensed barber school.
- (40)
- (a) "Practice of master-level esthetics" means:
- (i) any of the following when done for cosmetic purposes on the body and not for the treatment of medical, physical, or mental ailments:
 - (A) body wraps as defined by rule;
 - (B) hydrotherapy as defined by rule;
 - (C) chemical exfoliation as defined by rule;
 - (D) advanced pedicures as defined by rule;
 - (E) sanding, including microdermabrasion;
 - (F) advanced extraction;
 - (G) other esthetic preparations or procedures with the use of:

- (I) the hands; or
- (II) a mechanical or electrical apparatus which is approved for use by division rule for beautifying or similar work performed on the body for cosmetic purposes and not for the treatment of a medical, physical, or mental ailment; or
- (H) cosmetic laser procedures under the supervision of a cosmetic supervisor with a physician's evaluation before the procedure, as needed, unless specifically required under Section 58-1-506, and limited to the following:
 - (I) superfluous hair removal;
 - (II) anti-aging resurfacing enhancements;
 - (III) photo rejuvenation; or
 - (IV) tattoo removal with a physician's, advanced practice nurse's, or physician assistant's evaluation before the tattoo removal procedure, as required by Subsection 58-1-506(3)(a); and
- (ii) lymphatic massage by manual or other means as defined by rule.
- (b) Notwithstanding the provisions of Subsection (40)(a), a master-level esthetician may perform procedures listed in Subsection (40)(a)(i)(H) if done under the supervision of a cosmetic supervisor acting within the scope of the cosmetic supervisor license.
- (c) The term "practice of master-level esthetics" includes the practice of esthetics, but an individual is not required to be licensed as an esthetician or master-level esthetician to engage in the practice of threading.
- (41) "Practice of nail technology" means to trim, cut, clean, manicure, shape, massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the application and removal of sculptured or artificial nails.
- (42) "Practice of nail technology instruction" means teaching the practice of nail technology at a licensed nail technician school, at a licensed cosmetology/barber school, or for an approved nail technician apprenticeship.
- (43) "Recognized barber school" means a barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.
- (44) "Recognized cosmetology/barber school" means a cosmetology/barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.
- (45) "Recognized electrology school" means an electrology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.
- (46) "Recognized esthetics school" means an esthetics school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.
- (47) "Recognized hair design school" means a hair design school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.
- (48) "Recognized nail technology school" means a nail technology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.
- (49) "Salon" means a place, shop, or establishment in which cosmetology/barbering, esthetics, electrology, or nail technology is practiced.
- (50) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

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

Amended by Chapter 115, 2021 General Session

58-11a-103 Education and enforcement fund.

- (1) There is created an expendable special revenue fund known as the "Cosmetology and Associated Professions Education and Enforcement Fund."
- (2) The fund consists of money from administrative penalties collected pursuant to this chapter.
- (3) The fund shall earn interest and all interest earned on fund money shall be deposited into the fund.
- (4) The director may, with concurrence of the board, make distributions from the fund for the following purposes:
 - (a) education and training of licensees under this chapter;
 - (b) education and training of the public or other interested persons in matters concerning the laws governing the practices licensed under this chapter; and
 - (c) enforcement of this chapter by:
 - (i) investigating unprofessional or unlawful conduct; and
 - (ii) providing legal representation to the division when the division takes legal action against a person engaging in unprofessional or unlawful conduct.
- (5) The division shall report annually to the appropriate appropriations subcommittee of the Legislature concerning the fund.

Amended by Chapter 342, 2017 General Session

**Part 2
Board**

58-11a-201 Board.

- (1) There is created the Cosmetology and Associated Professions Licensing Board consisting of the following nine members:
 - (a) one barber or cosmetologist/barber;
 - (b)
 - (i) one barber or cosmetologist/barber instructor; or
 - (ii) one representative of a licensed barber or cosmetology/barber school;
 - (c) one master esthetician;
 - (d)
 - (i) one esthetician instructor; or
 - (ii) one representative of a licensed esthetics school;
 - (e) one nail technician;
 - (f)
 - (i) one nail technician instructor; or
 - (ii) one representative of a licensed nail technician school;
 - (g) one electrologist; and
 - (h) two members from the general public.

- (2)
 - (a) The board shall be appointed and serve in accordance with Section 58-1-201.
 - (b)
 - (i) At least one of the members of the board appointed under Subsections (1)(b), (d), and (f) shall be an instructor at or a representative of a public school.
 - (ii) At least one of the members of the board appointed under Subsections (1)(b), (d), and (f) shall be an instructor at or a representative of a private school.
- (3) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:
 - (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
 - (b) advise the division in its investigation of these complaints.
- (4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Amended by Chapter 342, 2017 General Session

Part 3 Licensing

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

- (1) Except as specifically provided in Section 58-1-307 or 58-11a-304, a license is required to:
 - (a) engage in the practice of:
 - (i) barbering;
 - (ii) barbering instruction;
 - (iii) cosmetology/barbering;
 - (iv) cosmetology/barbering instruction;
 - (v) electrology;
 - (vi) electrology instruction;
 - (vii) esthetics;
 - (viii) master-level esthetics;
 - (ix) esthetics instruction;
 - (x) hair design;
 - (xi) hair design instruction;
 - (xii) nail technology; or
 - (xiii) nail technology instruction; or
 - (b) operate:
 - (i) a barbering school;
 - (ii) a cosmetology/barbering school;
 - (iii) an electrology school;
 - (iv) an esthetics school;
 - (v) a hair design school; or
 - (vi) a nail technology school.

- (2) The division shall issue to a person who qualifies under this chapter a license in the following classifications:
- (a) barber;
 - (b) barber instructor;
 - (c) barber school;
 - (d) cosmetologist/barber;
 - (e) cosmetologist/barber instructor;
 - (f) cosmetology/barber school;
 - (g) electrologist;
 - (h) electrologist instructor;
 - (i) electrology school;
 - (j) esthetician;
 - (k) master esthetician;
 - (l) esthetician instructor;
 - (m) esthetics school;
 - (n) hair designer;
 - (o) hair designer instructor;
 - (p) hair design school;
 - (q) nail technology;
 - (r) nail technology instructor; and
 - (s) nail technology school.
- (3) A person who participates as an apprentice in an approved apprenticeship under this chapter shall register with the division as described in Section 58-11a-306.

Amended by Chapter 342, 2017 General Session

58-11a-302 Qualifications for licensure.

- (1) Each applicant for licensure as a barber shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation of:
 - (i) graduation from a licensed or recognized barber school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;
 - (ii)
 - (A) graduation from a recognized barber school located in a state other than Utah whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of credit hours; and
 - (B) practice as a licensed barber in a state other than Utah for not less than the number of hours required to equal 1,000 total hours when added to the hours of instruction described in Subsection (1)(c)(ii)(A); or
 - (iii) completion of an approved barber apprenticeship; and
 - (d) meet one of the following requirements established by rule:
 - (i) pass an examination that consists of a written theory portion and a practical portion; or
 - (ii) pass a practical examination and provide the written attestation of a licensed barber or cosmetologist/barber instructor who participated in the school or training under Subsection (1)(c), stating that the applicant has the necessary training and skill to be a licensed barber.

- (2) Each applicant for licensure as a barber instructor shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation that the applicant is currently licensed as a barber;
 - (d) provide satisfactory documentation of completion of:
 - (i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours;
 - (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours; or
 - (iii) a minimum of 2,000 hours of experience as a barber; and
 - (e) meet the examination requirement established by rule.
- (3) Each applicant for licensure as a barber school shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504; and
 - (c) provide satisfactory documentation:
 - (i) of appropriate registration with the Division of Corporations and Commercial Code;
 - (ii) of business licensure from the city, town, or county in which the school is located;
 - (iii) that the applicant's physical facilities comply with the requirements established by rule; and
 - (iv) that the applicant meets:
 - (A) the standards for barber schools, including staff and accreditation requirements, established by rule; and
 - (B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).
- (4) Each applicant for licensure as a cosmetologist/barber shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation of:
 - (i) graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;
 - (ii)
 - (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and
 - (B) practice as a licensed cosmetologist/barber in a state other than Utah for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (4)(c)(ii)(A); or
 - (iii) completion of an approved cosmetology/barber apprenticeship; and
 - (d) meet the examination requirement established by rule.
- (5) Each applicant for licensure as a cosmetologist/barber instructor shall:
 - (a) submit an application in a form prescribed by the division;
 - (b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation that the applicant is currently licensed as a cosmetologist/barber;
 - (d) provide satisfactory documentation of completion of:
 - (i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours;

- (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours; or
 - (iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and
 - (e) meet the examination requirement established by rule.
- (6) Each applicant for licensure as a cosmetologist/barber school shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504; and
 - (c) provide satisfactory documentation:
 - (i) of appropriate registration with the Division of Corporations and Commercial Code;
 - (ii) of business licensure from the city, town, or county in which the school is located;
 - (iii) that the applicant's physical facilities comply with the requirements established by rule; and
 - (iv) that the applicant meets:
 - (A) the standards for cosmetology schools, including staff and accreditation requirements, established by rule; and
 - (B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).
- (7) Each applicant for licensure as an electrologist shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation of having graduated from a licensed or recognized electrology school after completing a curriculum of 600 hours of instruction or the equivalent number of credit hours; and
 - (d) meet the examination requirement established by rule.
- (8) Each applicant for licensure as an electrologist instructor shall:
- (a) submit an application in a form prescribed by the division;
 - (b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation that the applicant is currently licensed as an electrologist;
 - (d) provide satisfactory documentation of completion of:
 - (i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours;
 - (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours; or
 - (iii) a minimum of 1,000 hours of experience as an electrologist; and
 - (e) meet the examination requirement established by rule.
- (9) Each applicant for licensure as an electrologist school shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504; and
 - (c) provide satisfactory documentation:
 - (i) of appropriate registration with the Division of Corporations and Commercial Code;
 - (ii) of business licensure from the city, town, or county in which the school is located;
 - (iii) that the applicant's facilities comply with the requirements established by rule; and
 - (iv) that the applicant meets:
 - (A) the standards for electrologist schools, including staff, curriculum, and accreditation requirements, established by rule; and
 - (B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

- (10) Each applicant for licensure as an esthetician shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation of one of the following:
 - (i) graduation from a licensed or recognized esthetic school or a licensed or recognized cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic instruction with a minimum of 600 hours or the equivalent number of credit hours;
 - (ii) completion of an approved esthetician apprenticeship; or
 - (iii)
 - (A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and
 - (B) practice as a licensed cosmetologist/barber for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (10)(c)(iii)(A); and
 - (d) meet the examination requirement established by division rule.
- (11) Each applicant for licensure as a master esthetician shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation of:
 - (i) completion of at least 1,200 hours of training, or the equivalent number of credit hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the 1,200 hours may have been completed:
 - (A) at a licensed or recognized cosmetology/barbering school, if the applicant graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; or
 - (B) at a licensed or recognized cosmetology/barber school located in a state other than Utah, if the applicant graduated from the school and its curriculum contained full flexibility within its hours of instruction; or
 - (ii) completion of an approved master esthetician apprenticeship;
 - (d) if the applicant will practice lymphatic massage, provide satisfactory documentation to show completion of 200 hours of training, or the equivalent number of credit hours, in lymphatic massage as defined by division rule; and
 - (e) meet the examination requirement established by division rule.
- (12) Each applicant for licensure as an esthetician instructor shall:
- (a) submit an application in a form prescribed by the division;
 - (b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation that the applicant is currently licensed as a master esthetician;
 - (d) provide satisfactory documentation of completion of:
 - (i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;
 - (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or
 - (iii) a minimum of 1,000 hours of experience in esthetics; and
 - (e) meet the examination requirement established by rule.
- (13) Each applicant for licensure as an esthetics school shall:

- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504; and
 - (c) provide satisfactory documentation:
 - (i) of appropriate registration with the Division of Corporations and Commercial Code;
 - (ii) of business licensure from the city, town, or county in which the school is located;
 - (iii) that the applicant's physical facilities comply with the requirements established by rule; and
 - (iv) that the applicant meets:
 - (A) the standards for esthetics schools, including staff, curriculum, and accreditation requirements, established by division rule made in collaboration with the board; and
 - (B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).
- (14) Each applicant for licensure as a hair designer shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation of:
 - (i) graduation from a licensed or recognized cosmetology/barber, hair design, or barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;
 - (ii)
 - (A) graduation from a recognized cosmetology/barber, hair design, or barbering school located in a state other than Utah whose curriculum consists of less than 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and
 - (B) practice as a licensed cosmetologist/barber or hair designer in a state other than Utah for not less than the number of hours required to equal 1,200 total hours when added to the hours of instruction described in Subsection (14)(c)(ii)(A);
 - (iii) being a state licensed cosmetologist/barber; or
 - (iv) completion of an approved hair designer apprenticeship; and
 - (d) meet the examination requirements established by rule.
- (15) Each applicant for licensure as a hair designer instructor shall:
- (a) submit an application in a form prescribed by the division;
 - (b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation that the applicant is currently licensed as a hair designer or as a cosmetologist/barber;
 - (d) provide satisfactory documentation of completion of:
 - (i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;
 - (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or
 - (iii) a minimum of 2,500 hours of experience as a hair designer or as a cosmetologist/barber; and
 - (e) meet the examination requirement established by rule.
- (16) Each applicant for licensure as a hair design school shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504; and
 - (c) provide satisfactory documentation:
 - (i) of appropriate registration with the Division of Corporations and Commercial Code;

- (ii) of business licensure from the city, town, or county in which the school is located;
 - (iii) that the applicant's physical facilities comply with the requirements established by rule; and
 - (iv) that the applicant meets:
 - (A) the standards for a hair design school, including staff and accreditation requirements, established by rule; and
 - (B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).
- (17) Each applicant for licensure as a nail technician shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation of:
 - (i) graduation from a licensed or recognized nail technology school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of instruction, or the equivalent number of credit hours;
 - (ii)
 - (A) graduation from a recognized nail technology school located in a state other than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent number of credit hours; and
 - (B) practice as a licensed nail technician in a state other than Utah for not less than the number of hours required to equal 300 total hours when added to the hours of instruction described in Subsection (17)(c)(ii)(A); or
 - (iii) completion of an approved nail technician apprenticeship; and
 - (d) meet the examination requirement established by division rule.
- (18) Each applicant for licensure as a nail technician instructor shall:
- (a) submit an application in a form prescribed by the division;
 - (b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;
 - (c) provide satisfactory documentation that the applicant is currently licensed as a nail technician;
 - (d) provide satisfactory documentation of completion of:
 - (i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;
 - (ii) an on-the-job instructor training program conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours; or
 - (iii) a minimum of 600 hours of experience in nail technology; and
 - (e) meet the examination requirement established by rule.
- (19) Each applicant for licensure as a nail technology school shall:
- (a) submit an application in a form prescribed by the division;
 - (b) pay a fee determined by the department under Section 63J-1-504; and
 - (c) provide satisfactory documentation:
 - (i) of appropriate registration with the Division of Corporations and Commercial Code;
 - (ii) of business licensure from the city, town, or county in which the school is located;
 - (iii) that the applicant's facilities comply with the requirements established by rule; and
 - (iv) that the applicant meets:
 - (A) the standards for nail technology schools, including staff, curriculum, and accreditation requirements, established by rule; and
 - (B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

- (20) Each applicant for licensure under this chapter whose education in the field for which a license is sought was completed at a foreign school may satisfy the educational requirement for licensure by demonstrating, to the satisfaction of the division, the educational equivalency of the foreign school education with a licensed school under this chapter.
- (21)
- (a) A licensed or recognized school under this section shall accept credit hours towards graduation for documented, relevant, and substantially equivalent coursework previously completed by:
 - (i) a student that did not complete the student's education while attending a different school; or
 - (ii) a licensee of any other profession listed in this section, based on the licensee's schooling, apprenticeship, or experience.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the division may make rules governing the acceptance of credit hours under Subsection (21)(a).
- (22) A school licensed or applying for licensure under this chapter shall maintain recognition as an institution of postsecondary study by meeting the following conditions:
- (a) the school shall admit as a regular student only an individual who has earned a recognized high school diploma or the equivalent of a recognized high school diploma, or who is beyond the age of compulsory high school attendance as prescribed by Title 53G, Chapter 6, Part 2, Compulsory Education; and
 - (b) the school shall be licensed by name, or in the case of an applicant, shall apply for licensure by name, under this chapter to offer one or more training programs beyond the secondary level.
- (23) A person seeking to qualify for licensure under this chapter by apprenticing in an approved apprenticeship shall register with the division as described in Section 58-11a-306.
- (24) The department may only charge a fee to a person applying for licensure as any type of instructor under this chapter if the person is not a licensed instructor in any other profession under this chapter.
- (25) In order to encourage economic development in the state, the department may offer any required examination under this section, which is prepared by a national testing organization, in languages in addition to English.

Amended by Chapter 285, 2021 General Session

Amended by Chapter 409, 2021 General Session

58-11a-302.5 Online curriculum for a licensed school.

A barber school, cosmetology/barber school, electrologist school, esthetics school, hair design school, or nail technology school licensed under this chapter may offer up to 50% of the school's total per program curriculum online in accordance with standards adopted by an applicable nationally recognized accrediting organization.

Amended by Chapter 5, 2020 Special Session 6

58-11a-303 Terms of license -- Expiration -- Renewal.

- (1)
- (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule, except that an instructor license is a one-time certificate

and does not expire unless the licensee fails to keep current the license that qualified the licensee to be an instructor under Section 58-11a-302.

- (b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.
- (2) At the time of renewal, a licensed school shall show satisfactory evidence that the school meets the standards for that type of school, including staff, curriculum, and accreditation requirements, established by rule.
- (3) Each license expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

Amended by Chapter 204, 2001 General Session

58-11a-304 Exemptions from licensure.

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

- (1) a person licensed under the laws of this state to engage in the practice of medicine, surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which they are licensed;
- (2) a commissioned physician or surgeon serving in the armed forces of the United States or another federal agency;
- (3) a registered nurse, undertaker, or mortician licensed under the laws of this state when engaged in the practice of the profession for which the person is licensed;
- (4) a person who visits the state to engage in instructional seminars, advanced classes, trade shows, or competitions of a limited duration;
- (5) a person who engages in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology without compensation;
- (6) a person instructing an adult education class or other educational program directed toward persons who are not licensed under this chapter and that is not intended to train persons to become licensed under this chapter, provided:
 - (a) an attendee receives no credit toward educational requirements for licensure under this chapter;
 - (b) the instructor informs each attendee in writing that taking such a class or program will not certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter; and
 - (c)
 - (i) the instructor is properly licensed; or
 - (ii) the instructor receives no compensation;
- (7) a person providing instruction in workshops, seminars, training meetings, or other educational programs whose purpose is to provide continuing professional development to licensed barbers, cosmetologists/barbers, hair designers, estheticians, master estheticians, electrologists, or nail technicians;
- (8) a person enrolled in a licensed barber, cosmetology/barber, or hair design school when participating in an on the job training internship under the direct supervision of a licensed barber, cosmetologist/barber, or hair designer upon completion of a basic program under the standards established by rule by the division in collaboration with the board;
- (9) a person enrolled in an approved apprenticeship pursuant to Section 58-11a-306;

- (10) an employee of a company that is primarily engaged in the business of selling products used in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology when demonstrating the company's products to a potential customer, provided the employee makes no representation to a potential customer that attending such a demonstration will certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter;
- (11) a person who:
 - (a) is qualified to engage in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology in another jurisdiction as evidenced by licensure, certification, or lawful practice in the other jurisdiction;
 - (b) is employed by, or under contract with, a motion picture company; and
 - (c) engages in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology, or nail technology in the state:
 - (i) solely to assist in the production of a motion picture; and
 - (ii) for no more than 120 days per calendar year;
- (12) a person who:
 - (a) engages in hair braiding; and
 - (b) unless it is expressly exempted under this section or Section 58-1-307, does not engage in other activity requiring licensure under this chapter; and
- (13) a person who:
 - (a) dries, styles, arranges, dresses, curls, hot irons, shampoos, or conditions hair;
 - (b) does not cut the hair;
 - (c) does not apply dye to alter the color of the hair;
 - (d) does not apply reactive chemicals to straighten, curl, or alter the structure of the hair;
 - (e) unless it is expressly exempted under this section or Section 58-1-307, does not engage in other activity requiring licensure under this chapter; and
 - (f) provides evidence to the division that the person has received a hair safety permit from completing a hair safety program that:
 - (i) is approved by the division;
 - (ii) consists of no more than two hours of instruction;
 - (iii) is offered by a provider approved by the division; and
 - (iv) includes an examination that requires a passing score of 75%; and
 - (g) displays in a conspicuous location in the person's place of business:
 - (i) a valid hair safety permit as described in Subsection (13)(f); and
 - (ii) a sign notifying the public that the person's services are not provided by an individual who has a license under this chapter.

Amended by Chapter 227, 2021 General Session

58-11a-305 Requirement to display license.

Each licensee under this chapter shall prominently display the licensee's license at the location where the licensee engages in the practice for which that license is issued under this chapter.

Amended by Chapter 204, 2001 General Session

58-11a-306 Apprenticeship.

- (1) An approved barber apprenticeship shall:
 - (a) consist of not less than 1,250 hours of training; and

- (b) be conducted by a supervisor who:
 - (i) is licensed under this chapter as a barber instructor or a cosmetology/barber instructor; and
 - (ii) provides one-on-one direct supervision of the barber apprentice during the apprenticeship program.
- (2) An approved cosmetologist/barber apprenticeship shall:
 - (a) consist of not less than 2,500 hours of training; and
 - (b) be conducted by a supervisor who:
 - (i) is licensed under this chapter as a cosmetologist/barber instructor; and
 - (ii) provides one-on-one direct supervision of the cosmetologist/barber apprentice during the apprenticeship program.
- (3) An approved hair designer apprenticeship shall:
 - (a) consist of not less than 1,600 hours of training; and
 - (b) be conducted by a supervisor who:
 - (i) is licensed under this chapter as a hair designer instructor or a cosmetologist/barber instructor; and
 - (ii) provides one-on-one direct supervision of the hair designer apprentice during the apprenticeship program.
- (4) An approved esthetician apprenticeship shall:
 - (a) consist of not less than 800 hours of training; and
 - (b) be conducted by a supervisor who:
 - (i) is licensed under this chapter as an esthetician instructor; and
 - (ii) provides one-on-one direct supervision of the esthetician apprentice during the apprenticeship program.
- (5) An approved master esthetician apprenticeship shall:
 - (a) consist of not less than 1,500 hours of training; and
 - (b) be conducted by a supervisor who:
 - (i) is licensed under this chapter as a master-level esthetician instructor; and
 - (ii) provides one-on-one direct supervision of the master esthetician apprentice during the apprenticeship program.
- (6) An approved nail technician apprenticeship shall:
 - (a) consist of not less than 375 hours of training; and
 - (b) be conducted by a supervisor who:
 - (i) is licensed under this chapter as a nail technician instructor or a cosmetology/barber instructor;
 - (ii) provides direct supervision of the nail technician apprentice during the apprenticeship program; and
 - (iii) provides direct supervision to no more than two nail technician apprentices during the apprentice program.
- (7) A person seeking to qualify for licensure by apprenticing in an approved apprenticeship under this chapter shall:
 - (a) register with the division before beginning the training requirements by:
 - (i) submitting a form prescribed by the division, which includes the name of the licensed supervisor; and
 - (ii) paying a fee determined by the department under Section 63J-1-504;
 - (b) complete the apprenticeship within five years of the date on which the division approves the registration; and
 - (c) notify the division within 30 days if the licensed supervisor changes after the registration is approved by the division.

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

Amended by Chapter 339, 2020 General Session

Part 4 License Denial and Discipline

58-11a-401 Grounds for denial of license -- Disciplinary proceedings.

Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.

Enacted by Chapter 96, 1996 General Session

Part 5 Unprofessional and Unlawful Conduct - Penalties

58-11a-501 Unprofessional conduct.

Unprofessional conduct includes:

- (1) failing as a licensed school to obtain or maintain accreditation as required by rule;
- (2) failing as a licensed school to comply with the standards of accreditation applicable to such schools;
- (3) failing as a licensed school to provide adequate instruction to enrolled students;
- (4) failing as an apprentice supervisor to provide direct supervision to the apprentice;
- (5) failing as an instructor to provide direct supervision to students who are providing services to an individual under the instructor's supervision;
- (6) failing as an apprentice supervisor to comply with division rules relating to apprenticeship programs under this chapter;
- (7) keeping a salon or school, its furnishing, tools, utensils, linen, or appliances in an unsanitary condition;
- (8) failing to comply with Title 26, Utah Health Code;
- (9) failing to display licenses or certificates as required under Section 58-11a-305;
- (10) failing to comply with physical facility requirements established by rule;
- (11) failing to maintain mechanical or electrical equipment in safe operating condition;
- (12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths, showers, or saunas;
- (13) prescribing or administering prescription drugs;
- (14) failing to comply with all applicable state and local health or sanitation laws;
- (15) engaging in any act or practice in a professional capacity that is outside the applicable scope of practice;

- (16) engaging in any act or practice in a professional capacity which the licensee is not competent to perform through education or training;
- (17) in connection with the use of a chemical exfoliant, unless under the supervision of a licensed health care practitioner acting within the scope of his or her license:
 - (a) using any acid, concentration of an acid, or combination of treatments which violates the standards established by rule;
 - (b) removing any layer of skin deeper than the stratum corneum of the epidermis; or
 - (c) using an exfoliant that contains phenol, TCA acid of over 15%, or BCA acid;
- (18) in connection with the sanding of the skin, unless under the supervision of a licensed health care practitioner acting within the scope of his or her license, removing any layer of skin deeper than the stratum corneum of the epidermis;
- (19) using as a barber, cosmetologist/barber, or nail technician any laser procedure or intense, pulsed light source, except that nothing in this chapter precludes an individual licensed under this chapter from using a nonprescriptive laser device; or
- (20) failing to comply with a judgment order from a court of competent jurisdiction resulting from the failure to pay outstanding tuition or education costs incurred to comply with this chapter.

Amended by Chapter 238, 2016 General Session

Amended by Chapter 274, 2016 General Session

58-11a-502 Unlawful conduct.

Unlawful conduct includes:

- (1) practicing or engaging in, or attempting to practice or engage in activity for which a license is required under this chapter unless:
 - (a) the person holds the appropriate license under this chapter; or
 - (b) an exemption in Section 58-1-307 or 58-11a-304 applies;
- (2) touching, or applying an instrument or device to the following areas of a client's body:
 - (a) the genitals or the anus, except in cases where the patron states to a licensee that the patron requests a hair removal procedure and signs a written consent form, which must also include the witnessed signature of a legal guardian if the patron is a minor, authorizing the licensee to perform a hair removal procedure; or
 - (b) the breast of a female patron, except in cases in which the female patron states to a licensee that the patron requests breast skin procedures and signs a written consent form, which must also include the witnessed signature of a parent or legal guardian if the patron is a minor, authorizing the licensee to perform breast skin procedures;
- (3) using or possessing a solution composed of at least 10% methyl methacrylate on a client;
- (4) performing an ablative procedure as defined in Section 58-67-102;
- (5) when acting as an instructor regarding a service requiring licensure under this chapter, for a class or education program where attendees are not licensed under this chapter, failing to inform each attendee in writing that:
 - (a) taking the class or program without completing the requirements for licensure under this chapter is insufficient to certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter; and
 - (b) the attendee is required to obtain licensure under this chapter before performing the service for compensation; or
- (6) failing as a salon or school where nail technology is practiced or taught to maintain a source capture system required under Title 15A, State Construction and Fire Codes Act, including

failing to maintain and clean a source capture system's air filter according to the manufacturer's instructions.

Amended by Chapter 339, 2020 General Session

58-11a-503 Penalties.

- (1) Unless Subsection (2) applies, an individual who commits an act of unlawful conduct under Section 58-11a-502 or who fails to comply with a citation issued under this section after it is final is guilty of a class A misdemeanor.
- (2) Sexual conduct that violates Section 58-11a-502 and Title 76, Utah Criminal Code, shall be subject to the applicable penalties in Title 76, Utah Criminal Code.
- (3) Grounds for immediate suspension of a licensee's license by the division include the issuance of a citation for violation of Subsection 58-11a-502(1), (3), (4), (5), or (6).
- (4)
 - (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-11a-502(1), (3), (4), (5), or (6), or a rule or order issued with respect to Subsection 58-11a-502(1), (3), (4), (5), or (6), and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
 - (i) A person who is in violation of Subsection 58-11a-502(1), (3), (4), (5), or (6), as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-11a-502(1), (3), (4), (5), or (6).
 - (ii) Except for a cease and desist order, the licensure sanctions cited in Section 58-11a-401 may not be assessed through a citation.
 - (b)
 - (i) Each citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.
 - (ii) The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.
 - (iii) The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of a fine assessed by the citation within the time specified in the citation.
 - (c) Each citation issued under this section, or a copy of each citation, may be served upon a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure and may be made personally or upon the person's agent by a division investigator or by a person specially designated by the director or by mail.
 - (d)
 - (i) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.
 - (ii) The period to contest a citation may be extended by the division for cause.
 - (e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after it becomes final.

- (f) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.
- (g) No citation may be issued under this section after the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.
- (h) Fines shall be assessed by the director or the director's designee according to the following:
 - (i) for a first offense under Subsection (4)(a), a fine of up to \$1,000;
 - (ii) for a second offense under Subsection (4)(a), a fine of up to \$2,000; and
 - (iii) for any subsequent offense under Subsection (4)(a), a fine of up to \$2,000 for each day of continued offense.
- (i)
 - (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (4)(h), an offense constitutes a second or subsequent offense if:
 - (A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-11a-502(1), (3), (4), (5), or (6); or
 - (B)
 - (I) the division initiated an action for a first or second offense;
 - (II) no final order has been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);
 - (III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of Subsection 58-11a-502(1), (3), (4), (5), or (6); and
 - (IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (4)(i)(i)(B)(I).
 - (ii) In issuing a final order for a second or subsequent offense under Subsection (4)(i)(i), the division shall comply with the requirements of this section.
- (5)
 - (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited into the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Education and Enforcement Fund.
 - (b) A penalty which is not paid may be collected by the director by either:
 - (i) referring the matter to a collection agency; or
 - (ii) bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.
 - (c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.
 - (d) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Amended by Chapter 339, 2020 General Session