

1 **ESTHETICIAN LICENSING ACT**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Sheryl L. Allen**

5 AN ACT RELATING TO OCCUPATIONS AND PROFESSIONS; REGULATING AND  
6 LICENSING THE PRACTICE OF ESTHETICS; ADDING ESTHETICIANS TO THE  
7 COSMETOLOGY/BARBERING LICENSING BOARD; RENAMING THE BOARD;  
8 SETTING FORTH QUALIFICATIONS FOR LICENSURE; PROVIDING EXEMPTIONS  
9 FROM LICENSURE; DEFINING UNPROFESSIONAL AND UNLAWFUL CONDUCT;  
10 REQUIRING THE BOARD TO STUDY THE NUMBER FOR SCHOOLING HOURS  
11 REQUIRED FOR LICENSURE; AND MAKING TECHNICAL CHANGES.

12 This act affects sections of Utah Code Annotated 1953 as follows:

13 AMENDS:

14 **58-11a-101**, as enacted by Chapter 96, Laws of Utah 1996

15 **58-11a-102**, as enacted by Chapter 96, Laws of Utah 1996

16 **58-11a-201**, as enacted by Chapter 96, Laws of Utah 1996

17 **58-11a-301**, as enacted by Chapter 96, Laws of Utah 1996

18 **58-11a-302**, as enacted by Chapter 96, Laws of Utah 1996

19 **58-11a-303**, as enacted by Chapter 96, Laws of Utah 1996

20 **58-11a-304**, as enacted by Chapter 96, Laws of Utah 1996

21 **58-11a-305**, as enacted by Chapter 96, Laws of Utah 1996

22 **58-11a-306**, as enacted by Chapter 96, Laws of Utah 1996

23 **58-11a-501**, as enacted by Chapter 96, Laws of Utah 1996

24 ENACTS:

25 **58-11a-502**, Utah Code Annotated 1953

26 This act enacts uncodified material.

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

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

2 **58-11a-101. Title.**

3 This chapter is known as the "[Cosmetologist/Barber] Cosmetologist/Barber/Esthetician  
4 Licensing Act."

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

6 **58-11a-102. Definitions.**

7 (1) "Approved cosmetologist/barber apprenticeship" means an apprenticeship that meets  
8 the requirements of Section 58-11a-306(1) and the requirements established by rule.

9 (2) "Approved esthetician apprenticeship" means an apprenticeship that meets the  
10 requirements of Section 58-11a-306(2) and the requirements established by rule.

11 [(2)] (3) "Board" means the [~~Cosmetology/Barbering~~] Cosmetology/Barbering /Esthetics  
12 Licensing Board created in Section 58-11a-201.

13 [(3)] (4) "Cosmetologist/barber" means a person who is licensed under this chapter to  
14 engage in the practice of cosmetology/barbering.

15 [(4)] (5) "Cosmetologist/barber apprentice" means a person who is licensed under this  
16 chapter to engage in the practice of cosmetology/barbering in an approved cosmetologist/barber  
17 apprenticeship.

18 [(5)] (6) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed  
19 under this chapter to teach cosmetology/barbering at a licensed cosmetology/barber school.

20 [(6)] (7) "Cosmetology/barber shop" means a place, shop, or establishment in which  
21 cosmetology, barbering, or both, are practiced.

22 [(7)] (8) "Direct supervision" means that the supervisor of the cosmetology/barber  
23 apprentice or esthetician apprentice or instructor of a cosmetology/barber student or esthetician  
24 student is immediately available for consultation, advice, instruction, and evaluation.

25 [(8)] (9) "Electrologist" means a person who is licensed under this chapter to engage in  
26 the practice of electrology.

27 (10) "Esthetician" means a person who is licensed under this chapter to engage in the  
28 practice of esthetics.

29 (11) "Esthetician apprentice" means a person who is licensed under this chapter to engage  
30 in practice of esthetics in an approved esthetician apprenticeship.

31 (12) "Esthetician instructor" means an esthetician who is licensed under this chapter to

1 teach esthetics at a licensed esthetics school.

2 (13) "Esthetics shop" means a place, shop, or establishment in which esthetics is practiced.

3 ~~[(9)]~~ (14) "Licensed cosmetology/barber school" means a cosmetology/barber school

4 licensed under this chapter.

5 (15) "Licensed esthetics school" means an esthetics school licensed under this chapter.

6 ~~[(10)]~~ (16) "Practice of cosmetology/barbering" means:

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

9 (b) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or other  
10 appliances;

11 (c) arching eyebrows, or tinting eyebrows or eyelashes, or both;

12 (d) removing hair from the face, neck, shoulders, arms, or legs of a person by the use of  
13 depilatories or shaving equipment;

14 (e) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces or  
15 both on the human head; or

16 (f) practicing hair weaving or hair fusing or servicing previously medically implanted hair.

17 ~~[(11)]~~ (17) "Practice of cosmetology/barbering instruction" means instructing

18 cosmetology/barbering in a licensed cosmetology/barber school.

19 ~~[(12)]~~ (18) "Practice of electrology" means the removal of superfluous hair from the body  
20 of a person by the use of electricity.

21 (19) "Practice of esthetics" means any one of the following skin care procedures done on  
22 the face, neck, torso, abdomen, back, arms, hands, legs, feet, nails, eyebrows, or eyelashes:

23 (a) cleansing, stimulating, manipulating, exercising, or applying oils, antiseptics, clays,  
24 masks, exfolients, depilatories, or other preparations, or procedures including waxes, sanding,  
25 tweezing, whether by hand massage or by mechanical or electrical appliances on the skin or nails;

26 or

27 (b) removing superfluous hair by means other than electrolysis.

28 (20) "Practice of esthetics instruction" means instructing esthetics in a licensed esthetics  
29 school.

30 ~~[(13)]~~ (21) "Recognized cosmetology/barber school" means a cosmetology/barber school  
31 located in another state, whose students, upon graduation, are recognized as having completed the

1 educational requirements for licensure in that state.

2 [(14)] (22) "Recognized electrology school" means an electrology school:

3 (a) located in this state whose curriculum consists of 500 hours of instruction approved  
4 by rule; or

5 (b) located in another state:

6 (i) whose curriculum consists of 500 hours of instruction; and

7 (ii) whose students, upon graduation, are recognized as having completed the educational  
8 requirements for licensure in that state.

9 (23) "Recognized esthetics school" means an esthetics school located in another state,  
10 whose students, upon graduation, are recognized as having completed the educational requirements  
11 for licensure in that state.

12 [(15)] (24) "Unlawful conduct" is as defined in [Section] Sections 58-1-501 and  
13 58-11a-502.

14 [(16)] (25) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-11a-501  
15 and as may be further defined by rule.

16 Section 3. Section **58-11a-201** is amended to read:

17 **58-11a-201. Board.**

18 (1) There is created the [~~Cosmetology/Barbering~~] Cosmetology/Barbering/Esthetics  
19 Licensing Board consisting of:

20 (a) three cosmetologists/barbers;

21 (b) one cosmetologist/barber instructor;

22 (c) one representative of a licensed cosmetology/barber school;

23 (d) two estheticians;

24 (e) one representative of a licensed esthetics school;

25 [~~(d)~~] (f) one electrologist; and

26 [~~(e) one member~~] (g) two members from the general public.

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

28 (3) The duties and responsibilities of the board are in accordance with Sections 58-1-202  
29 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating  
30 basis to:

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

1 conduct of a licensee; and

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

3 (4) A board member who has, under Subsection (3), reviewed a complaint or advised in  
4 its investigation may be disqualified from participating with the board when the board serves as  
5 a presiding officer in an adjudicative proceeding concerning the complaint.

6 Section 4. Section **58-11a-301** is amended to read:

7 **58-11a-301. Licensure required -- License classifications.**

8 (1) Except as specifically provided in Section 58-1-307 or 58-11a-305, a license is  
9 required to engage in the practice of:

- 10 (a) cosmetology/ barbering;
- 11 (b) cosmetology/barbering instruction; [or]
- 12 (c) electrology[-];
- 13 (d) esthetics; or
- 14 (e) esthetics instruction.

15 (2) The division shall issue to a person who qualifies under this chapter a license in the  
16 following classifications:

- 17 (a) cosmetologist/barber;
- 18 (b) cosmetologist/barber apprentice;
- 19 (c) cosmetologist/barber instructor;
- 20 [~~e~~] (d) cosmetology/barber school[-];
- 21 [~~d~~] (e) electrologist; [and]
- 22 (f) esthetician;
- 23 (g) esthetician apprentice;
- 24 (h) esthetician instructor; and
- 25 (i) esthetics school.

26 Section 5. Section **58-11a-302** is amended to read:

27 **58-11a-302. Qualifications for licensure.**

- 28 (1) Each applicant for licensure as a cosmetologist/barber shall:
- 29 (a) submit an application in a form prescribed by the division;
- 30 (b) pay a fee determined by the department under Section 63-38-3.2;
- 31 (c) be of good moral character;

- 1 (d) provide satisfactory documentation of:
- 2 (i) graduation from a licensed or recognized cosmetology/barber school whose curriculum
- 3 consists of a minimum of 2,000 hours of instruction over a period of not less than 12 months;
- 4 (ii) (A) having graduated from a recognized cosmetology/barber school whose curriculum
- 5 consists of less than 2,000 hours of instruction; and
- 6 (B) having practiced as a licensed cosmetologist/barber for a period of not less than 4,000
- 7 hours; or
- 8 (iii) having completed an approved cosmetology/barber apprenticeship; and
- 9 (e) meet the examination requirement established by rule.
- 10 (2) Each applicant for licensure as a cosmetologist/barber apprentice shall:
- 11 (a) submit an application in a form prescribed by the division;
- 12 (b) pay a fee determined by the department under Section 63-38-3.2;
- 13 (c) be of good moral character;
- 14 (d) meet the examination requirement established by rule; and
- 15 (e) provide satisfactory documentation of having enrolled in an approved
- 16 cosmetology/barber apprenticeship.
- 17 (3) Each applicant for licensure as a cosmetologist/barber instructor shall:
- 18 (a) submit an application in a form prescribed by the division;
- 19 (b) pay a fee determined by the department under Section 63-38-3.2;
- 20 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 21 cosmetologist/barber;
- 22 (d) be of good moral character;
- 23 (e) provide satisfactory documentation of completion of:
- 24 (i) an instructor training program conducted by a cosmetology/barber school consisting
- 25 of a minimum of 1,000 hours; or
- 26 (ii) a minimum of 4,000 hours of experience as a cosmetologist/barber; and
- 27 (f) meet the examination requirement established by rule.
- 28 (4) Each applicant for licensure as an electrologist shall:
- 29 (a) submit an application in a form prescribed by the division;
- 30 (b) pay a fee determined by the department under Section 63-38-3.2;
- 31 (c) be of good moral character;

- 1 (d) provide satisfactory documentation of having graduated from a recognized electrology
- 2 school after completing a curriculum of 500 hours of instruction approved by rule; and
- 3 (e) meet the examination requirement established by rule.
- 4 (5) Each applicant for licensure as a cosmetologist/barber school shall:
- 5 (a) submit an application in a form prescribed by the division;
- 6 (b) pay a fee determined by the department under Section 63-38-3.2; and
- 7 (c) provide satisfactory documentation:
- 8 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 9 (ii) of business licensure from the city, town, or county in which the school is located;
- 10 (iii) that the applicant's physical facilities comply with the requirements established by
- 11 rule; and
- 12 (iv) that the applicant meets the standards for cosmetology/barber schools, including staff
- 13 and accreditation requirements, established by rule.
- 14 (6) Each applicant for licensure as an esthetician shall:
- 15 (a) submit an application in a form prescribed by the division;
- 16 (b) pay a fee determined by the department under Section 63-38-3.2;
- 17 (c) provide satisfactory documentation of:
- 18 (i) graduation from a licensed or recognized esthetic school whose curriculum consists of
- 19 not less than 15 weeks of esthetic instruction with a minimum of 600 hours, which meets the
- 20 standards established by division rule or completion of equivalent education and training in
- 21 compliance with division rule;
- 22 (ii) completion of an approved esthetic apprenticeship; or
- 23 (iii) for individuals requesting licensure as an esthetician prior to March 31, 1999, one of
- 24 the following:
- 25 (A) a minimum of 1,200 hours of experience in the practice of esthetics in this state or any
- 26 other state; or
- 27 (B) a minimum of 1,200 hours of experience as an apprentice to an esthetician who has
- 28 practiced esthetics in this state for a minimum of two years; and
- 29 (d) meet the examination requirement established by division rule.
- 30 (7) Each applicant for licensure as an esthetician apprentice shall:
- 31 (a) submit an application in a form prescribed by the division;

1 (b) pay a fee determined by the department under Section 63-38-3.2;

2 (c) meet the examination requirement established by rule; and

3 (d) provide satisfactory documentation of having enrolled in an approved esthetic  
4 apprenticeship.

5 (8) Each applicant for licensure as an esthetician instructor shall:

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

7 (b) pay a fee determined by the department under Section 63-38-3.2;

8 (c) provide satisfactory documentation that the applicant is currently licensed as an  
9 esthetician;

10 (d) provide satisfactory documentation of completion of:

11 (i) an instructor training program conducted by a licensed or recognized esthetics school  
12 consisting of a minimum of 300 hours; or

13 (ii) have a minimum of 4,000 hours of experience as an esthetician; and

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

15 (9) Each applicant for licensure as an esthetics school shall:

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

17 (b) pay a fee determined by the department under Section 63-38-3.2; and

18 (c) provide satisfactory documentation:

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

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

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

23 (iv) that the applicant meets the standards for esthetics schools, including staff and  
24 accreditation requirements, establish by division rule made in collaboration with the board.

25 Section 6. Section **58-11a-303** is amended to read:

26 **58-11a-303. Terms of license -- Expiration -- Renewal.**

27 (1) (a) The division shall issue each license under this chapter in accordance with a  
28 two-year renewal cycle established by rule, except that a cosmetology/barber or esthetician  
29 instructor license is a one-time certificate and does not expire unless the licensee fails to maintain  
30 a current cosmetology/barber license.

31 (b) The division may by rule extend or shorten a renewal period by as much as one year



1 to stagger the renewal cycles it administers.

2 (2) At the time of renewal a cosmetology/barber school shall:

3 (a) show satisfactory evidence of accreditation with the National Accrediting Commission  
4 of Cosmetology Arts and Sciences or other accrediting commissions recognized by the State Board  
5 of Regents for postsecondary schools; and

6 (b) provide satisfactory documentation that the applicant meets the standards for  
7 cosmetology/barber schools established by rule.

8 (3) At the time of renewal an esthetics school shall show satisfactory evidence that the  
9 applicant meets the standards for esthetics schools established by rule by the division, in  
10 collaboration with the board, including any rules regarding accreditation.

11 [~~(3)~~] (4) Each license expires on the expiration date shown on the license unless the  
12 licensee renews it in accordance with Section 58-1-308.

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

14 **58-11a-304. Exemptions from licensure.**

15 (1) In addition to the exemptions from licensure in Section 58-1-307, the following  
16 persons may engage in the practice of cosmetology/barbering without being licensed under this  
17 chapter:

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

21 [~~(2)~~] (b) commissioned physicians and surgeons serving in the armed forces of the United  
22 States or another federal agency;

23 [~~(3)~~] (c) registered nurses, undertakers, and morticians licensed under the laws of this state  
24 when engaged in the practice of the profession for which they are licensed;

25 [~~(4)~~] (d) persons who visit the state to engage in instructional seminars or competitions of  
26 a limited duration;

27 [~~(5)~~] (e) persons who engage in the practice of cosmetology/barbering without  
28 compensation;

29 [~~(6)~~] (f) persons instructing adult education classes and other educational programs  
30 directed toward persons who are not licensed in cosmetology/barbering and that are not intended  
31 to train persons to become licensed to engage in cosmetology/barbering, provided:

1           ~~[(a)]~~ (i) each instructor is licensed as a cosmetologist/barber; and  
 2           ~~[(b)]~~ (ii) attendees receive no credit toward the educational requirement for licensure; and  
 3           ~~[(7)]~~ (g) persons instructing in workshops, seminars, training meetings, and other  
 4 educational programs whose purpose is to provide continuing professional development to licensed  
 5 cosmetologist/barbers or electrologists.

6           (2) In addition to the exemptions from licensure in Section 58-1-307, the following  
 7 individuals may engage in the practice of esthetics, without being licensed under this chapter:

8           (a) persons licensed under the laws of this state to engage in the practice of medicine,  
 9 surgery, ~~h~~ **MASSAGE**, ~~h~~ osteopathy, or chiropractic when engaged in the practice of the profession for  
 9a which they  
 10 are licensed;

11           (b) commissioned physicians and surgeons serving in the armed forces of the United States  
 12 or another federal agency;

13           (c) persons who visit the state to engage in instructional seminars, advanced esthetics  
 14 classes, trade shows, or competitions of a limited duration;

15           (d) persons instructing adult education classes and other educational programs directed  
 16 toward people who are not licensed in esthetics and that are not intended to train persons to  
 17 become licensed to practice esthetics, provided:

18           (i) each instructor is licensed as an esthetician; and

19           (ii) attendees receive no credit toward the educational requirement for licensure;

20           (e) persons who engage in the practice of esthetics without compensation; and

21           (f) persons employed by a licensed esthetic school to teach theory classes in anatomy,  
 22 physiology, pathology, nutrition, or chemistry, who are licensed or certified in their own  
 23 profession.

24           Section 8. Section **58-11a-305** is amended to read:

25           **58-11a-305. Requirement to display license.**

26           Each licensee under this chapter shall prominently display the licensee's license at the  
 27 location where the licensee ~~[is engaged]~~ engages in the practice ~~[of cosmetology/barbering,~~  
 28 ~~electrology, or cosmetology/barbering instruction]~~ for which that license is issued under this  
 29 chapter.

30           Section 9. Section **58-11a-306** is amended to read:

31           **58-11a-306. Apprenticeship.**

1           (1) A cosmetologist/barber apprenticeship shall:  
 2           ~~[(1)]~~ (a) consist of not less than ~~h [f] 2,500 [f] [1,200] h~~ hours of training in not less than  
 2a ~~h [f] 15 [f] [nine] h~~  
 3 months; and  
 4           ~~[(2)]~~ (b) be conducted by a supervisor who:  
 5           ~~[(a)]~~ (i) is licensed under this chapter as a cosmetologist/barber instructor; and  
 6           ~~[(b)]~~ (ii) provides direct supervision of the cosmetologist/barber apprentice during the  
 7 apprenticeship program.

8           (2) An esthetician apprenticeship shall:  
 9           (a) consist of not less than ~~h [2,500] 1,200 h~~ hours of training in not less than ~~h [15] NINE h~~  
 9a ~~months; and~~  
 10           (b) be conducted by a supervisor who:  
 11           (i) is licensed under this chapter as an esthetician instructor; and  
 12           (ii) provides direct supervision of the esthetician apprentice during the apprenticeship  
 13 program.

14           Section 10. Section **58-11a-501** is amended to read:

15           **58-11a-501. Unprofessional conduct.**

16           Unprofessional conduct includes:

- 17           (1) failing as a cosmetology/barber school or esthetics school to obtain or maintain  
 18 accreditation ~~[as a cosmetology/barber school]~~ as required by rule;
- 19           (2) failing as a cosmetology/barber school or esthetics school to comply with the standards  
 20 of accreditation applicable to ~~[cosmetology/barber]~~ such schools;
- 21           (3) failing as a cosmetology/barber school or esthetics school to provide adequate  
 22 instruction to enrolled students;
- 23           (4) failing as a cosmetology/barber apprentice supervisor or esthetician apprentice  
 24 supervisor to provide direct supervision to the apprentice;
- 25           (5) failing as a cosmetology/barber instructor or esthetician instructor to provide direct  
 26 supervision to ~~[cosmetology/barber or cosmetology/barber instructor]~~ students under their  
 27 instruction;
- 28           ~~[(6) failing as a cosmetology/barber apprentice or supervisor to comply with the~~  
 29 ~~apprentice's or supervisor's requirements under an approved apprenticeship program;]~~
- 30           ~~[(7)]~~ (6) keeping a shop or school, its furnishing, tools, utensils, linen, or appliances in an  
 31 unsanitary condition;

1            [(8)] (7) failing to comply with Title 26, Utah Health Code; [and]  
 2            [(9)] (8) failing to display licenses or certificates as required under Section 58-11a-305[-];  
 3            (9) failing to comply with physical facility requirements established by rule;  
 4            (10) failing to maintain mechanical or electrical equipment in safe operating condition;  
 5            (11) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths,  
 6 showers, or saunas; h [and]

6a            **(12) FAILING AS AN APPRENTICE SUPERVISOR TO COMPLY WITH DIVISION RULES**  
**RELATING**

6b **TO APPRENTICESHIP PROGRAMS UNDER THIS CHAPTER; AND h**

7            h [(12)] (13) h prescribing or administering prescription drugs.

8            Section 11. Section **58-11a-502** is enacted to read:

9            **58-11a-502. Unlawful conduct.**

10            "Unlawful conduct" includes touching, or applying an instrument or device to the following  
 11 areas of the body:

12            (1) the genitals or the anus; and

13            (2) the breast of a female patron, except in cases in which the female patron states to a  
 14 licensee that the patron requests breast skin procedures and signs a written consent form  
 15 authorizing the licensee to perform breast skin procedures.

16            Section 12. **Study by the board.**

17            The board shall study the number of course hours in a recognized or licensed esthetics  
 18 school required for licensure as an esthetician. The board shall report the results of its study and  
 19 make a recommendation regarding the appropriate number of course hours to the Business, Labor  
 20 and Economic Development Interim Committee of the Legislature at or before the November,  
 21 1998, meeting of the committee.

**Legislative Review Note**  
**as of 1-29-98 1:36 PM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**