

Representative Merlynn T. Newbold proposes the following substitute bill:

1 **BARBER, COSMETOLOGIST/BARBER,**
2 **ESTHETICIAN, ELECTROLOGIST, AND**
3 **NAIL TECHNICIAN LICENSING ACT**
4 **AMENDMENTS**

5 2009 GENERAL SESSION

6 STATE OF UTAH

7 **Chief Sponsor: Merlynn T. Newbold**

8 Senate Sponsor: Gregory S. Bell

9
10 **LONG TITLE**

11 **General Description:**

12 This bill modifies provisions of the Barber, Cosmetologist/Barber, Esthetician,
13 Electrologist, and Nail Technician Licensing Act.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ modifies definitions in the Barber, Cosmetologist/Barber, Esthetician, Electrologist,
17 and Nail Technician Licensing Act, to include barber instructor,
18 cosmetologist/barber instructor, esthetician instructor, nail technician instructor, the
19 practice of barbering instruction, the practice of cosmetology/barbering instruction,
20 the practice of electrology, the practice of electrology instruction, the practice of
21 esthetics instruction, and the practice of nail technology;
- 22 ▶ modifies qualifications for licensure as a barber, a cosmetologist/barber, an
23 esthetician, a master esthetician, and a nail technician;
- 24 ▶ modifies apprenticeship provisions for barbershop apprenticeships and nail
25 technician apprenticeships;



- 26 ▶ modifies unprofessional and unlawful conduct provisions; and
- 27 ▶ makes certain technical changes.

28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

- 34 **58-11a-102**, as last amended by Laws of Utah 2008, Chapter 382
- 35 **58-11a-301**, as last amended by Laws of Utah 2007, Chapter 209
- 36 **58-11a-302**, as last amended by Laws of Utah 2008, Chapter 382
- 37 **58-11a-306**, as last amended by Laws of Utah 2007, Chapter 209
- 38 **58-11a-501**, as last amended by Laws of Utah 2007, Chapter 209
- 39 **58-11a-502**, as last amended by Laws of Utah 2007, Chapter 209



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

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

43 **58-11a-102. Definitions.**

44 As used in this chapter:

45 (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship
46 that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection
47 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the
48 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
49 Administrative Rulemaking Act.

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

54 (3) "Approved master esthetician apprenticeship" means an apprenticeship that meets
55 the requirements of Subsection 58-11a-306(4) and the requirements established by rule by the
56 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah

57 Administrative Rulemaking Act.

58 (4) "Approved nail technician apprenticeship" means an apprenticeship that meets the
59 requirements of Subsection 58-11a-306(5) and the requirements established by rule by the
60 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah

61 Administrative Rulemaking Act.

62 (5) "Barber" means a person who is licensed under this chapter to engage in the
63 practice of barbering.

64 (6) "Barber instructor" means a barber who is licensed under this chapter to teach
65 barbering at a licensed barber school or in an apprenticeship program as defined in Section
66 58-11a-306.

67 (7) "Board" means the Barber, Cosmetology/Barbering, Esthetics, Electrology, and
68 Nail Technology Licensing Board created in Section 58-11a-201.

69 (8) "Cosmetologist/barber" means a person who is licensed under this chapter to
70 engage in the practice of cosmetology/barbering.

71 (9) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed
72 under this chapter to teach cosmetology/barbering at a licensed cosmetology/barber school,
73 licensed barber school, licensed nail technology school, or in an apprenticeship program as
74 defined in Subsection 58-11a-306(2).

75 (10) "Direct supervision" means that the supervisor of an apprentice or the instructor of
76 a student is immediately available for consultation, advice, instruction, and evaluation.

77 (11) "Electrologist" means a person who is licensed under this chapter to engage in the
78 practice of electrology.

79 (12) "Electrologist instructor" means an electrologist who is licensed under this chapter
80 to teach electrology at a licensed electrology school.

81 (13) "Esthetician" means a person who is licensed under this chapter to engage in the
82 practice of esthetics.

83 (14) "Esthetician instructor" means a master esthetician who is licensed under this
84 chapter to teach the practice of esthetics and the practice of master-level esthetics at a licensed
85 esthetics school, a licensed cosmetology/barber school, or in an apprenticeship program as
86 defined in Subsection 58-11a-306(3).

87 (15) "Fund" means the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and

88 Nail Technician Education and Enforcement Fund created in Section 58-11a-103.

89 (16) "Licensed barber or cosmetology/barber school" means a barber or
90 cosmetology/barber school licensed under this chapter.

91 (17) "Licensed electrology school" means an electrology school licensed under this
92 chapter.

93 (18) "Licensed esthetics school" means an esthetics school licensed under this chapter.

94 (19) "Licensed nail technology school" means a nail technology school licensed under
95 this chapter.

96 (20) "Master esthetician" means an individual who is licensed under this chapter to
97 engage in the practice of master-level esthetics.

98 (21) "Nail technician" means an individual who is licensed under this chapter to engage
99 in the practice of nail technology.

100 (22) "Nail technician instructor" means a nail technician licensed under this chapter to
101 teach the practice of nail technology in a licensed nail technology school, a licensed
102 cosmetology/barber school, or in an apprenticeship program as defined in Subsection
103 58-11a-306(5).

104 (23) "Practice of barbering" means:

105 (a) cutting, clipping, or trimming the hair of the head of any person by the use of
106 scissors, shears, clippers, or other appliances; ~~and~~

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

108 ~~(b)~~ (c) removing hair from the face or neck of a person by the use of shaving
109 equipment.

110 (24) "Practice of barbering instruction" means instructing barbering in a licensed
111 barber school, licensed cosmetology/barber school, or in an apprenticeship program as defined
112 in Subsection 58-11a-306(1).

113 (25) "Practice of basic esthetics" means any one of the following skin care procedures
114 done on the head, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes for cosmetic
115 purposes and not for the treatment of medical, physical, or mental ailments:

116 (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or
117 masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing,
118 natural nail manicures or pedicures, or callous removal by buffing or filing;

- 119 (b) limited chemical exfoliation as defined by rule;
- 120 (c) removing superfluous hair by means other than electrolysis [~~or laser procedures;~~
- 121 ~~or~~];
- 122 (d) other esthetic preparations or procedures with the use of the hands, a
- 123 high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not
- 124 for the treatment of medical, physical, or mental ailments[-]; or

125 (e) cosmetic laser procedures under direct supervision of a licensed health care
126 practitioner as defined by rule, limited to the following:

- 127 (i) superfluous hair removal; or
- 128 (ii) anti-aging resurfacing enhancements; or
- 129 (iii) photo rejuvenation; or
- 130 (iv) tattoo removal.

131 (26) (a) "Practice of cosmetology/barbering" means:

- 132 (i) styling, arranging, dressing, curling, waving, permanent waving, cleansing,
- 133 singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a
- 134 person;
- 135 (ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or
- 136 other appliances;
- 137 (iii) arching eyebrows, or tinting eyebrows or eyelashes, or both;
- 138 (iv) removing hair from the face, neck, shoulders, arms, back, torso, feet, bikini line,
- 139 or legs of a person by the use of depilatories, waxing, or shaving equipment;
- 140 (v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces
- 141 or both on the human head; or
- 142 (vi) practicing hair weaving or hair fusing or servicing previously medically implanted
- 143 hair.

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

- 145 (i) the practice of basic esthetics; and
- 146 (ii) the practice of nail technology.

147 (27) "Practice of cosmetology/barbering instruction" means instructing
148 cosmetology/barbering as defined in Subsection (26) in a licensed cosmetology/barber school
149 or in an apprenticeship program as defined in Subsection 58-11a-306(2).

150 (28) "Practice of electrology" means:

151 (a) the removal of superfluous hair from the body of a person by the use of
152 electricity[-], waxing, shaving, or tweezing; or

153 (b) cosmetic laser procedures under the general supervision of a licensed health care
154 practitioner as defined by rule, limited to superfluous hair removal.

155 (29) "Practice of electrology instruction" means instructing electrology in a licensed
156 electrology school.

157 (30) "Practice of esthetics instruction" means instructing esthetics [~~or~~] in a licensed
158 esthetics school, a licensed cosmetology/barber school, or instructing master-level esthetics in a
159 licensed esthetics school or in an apprenticeship program as defined in Subsections
160 58-11a-306(2), (3), and (4).

161 (31) (a) "Practice of master-level esthetics" means:

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

165 (A) body wraps as defined by rule;

166 (B) hydrotherapy as defined by rule;

167 (C) chemical exfoliation as defined by rule;

168 (D) advanced pedicures as defined by rule;

169 (E) sanding, including microdermabrasion;

170 (F) advanced extraction; [~~or~~]

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

172 (I) the hands; or

173 (II) a mechanical or electrical apparatus which is approved for use by division rule for
174 beautifying or similar work performed on the body for cosmetic purposes and not for the
175 treatment of a medical, physical, or mental ailment; [~~and~~] or

176 (H) cosmetic laser procedures under the general supervision of a licensed health care
177 practitioner as defined by rule, with a physician's evaluation before the procedure, as needed,
178 and limited to the following:

179 (I) superfluous hair removal; or

180 (II) anti-aging resurfacing enhancements; or

181 (III) photo rejuvenation; or
182 (IV) tattoo removal with a physician's evaluation before the tattoo removal procedure;
183 and

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

185 (b) Notwithstanding the provisions of Subsection (31)(a), a master-level esthetician
186 may perform procedures listed in Subsection (31)(a)(i) for noncosmetic purposes if done under
187 the supervision of a licensed health care practitioner acting within the scope of the licensed
188 health care practitioner's license as defined by rule.

189 (c) The term "practice of master-level esthetics" includes the practice of esthetics.

190 (32) "Practice of nail technology" means to trim, cut, clean, manicure, shape, massage,
191 or enhance the appearance of the hands, feet, and nails of an individual by the use of hands,
192 mechanical, or electrical preparation, antiseptic, lotions, or creams, including the application
193 and removal of sculptured or artificial nails.

194 (33) "Practice of nail technology instruction" means instructing nail technology in a
195 licensed nail technician school, licensed cosmetology/barber school, or in an apprenticeship
196 program as defined in Subsection 58-11a-306(5).

197 (34) "Recognized barber school" means a barber school located in a state other than
198 Utah, whose students, upon graduation, are recognized as having completed the educational
199 requirements for licensure in that state.

200 (35) "Recognized cosmetology/barber school" means a cosmetology/barber school
201 located in a state other than Utah, whose students, upon graduation, are recognized as having
202 completed the educational requirements for licensure in that state.

203 (36) "Recognized electrology school" means an electrology school located in a state
204 other than Utah, whose students, upon graduation, are recognized as having completed the
205 educational requirements for licensure in that state.

206 (37) "Recognized esthetics school" means an esthetics school located in a state other
207 than Utah, whose students, upon graduation, are recognized as having completed the
208 educational requirements for licensure in that state.

209 (38) "Recognized nail technology school" means a nail technology school located in a
210 state other than Utah, whose students, upon graduation, are recognized as having completed the
211 educational requirements for licensure in that state.

212 (39) "Salon" means a place, shop, or establishment in which cosmetology/barbering,
213 esthetics, electrology, or nail technology is practiced.

214 (40) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

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

218 Section 2. Section **58-11a-301** is amended to read:

219 **58-11a-301. Licensure required -- License classifications.**

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

222 (a) engage in the practice of:

223 (i) barbering;

224 (ii) barbering instruction;

225 (iii) operating a barbering school;

226 (iv) cosmetology/barbering;

227 (v) cosmetology/barbering instruction; or

228 (vi) electrology; [~~or~~]

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

230 [~~(2) Beginning October 1, 2001, except as specifically provided in Section 58-1-307 or~~
231 ~~58-11a-304, a license is required to:~~]

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

233 (i) electrology instruction;

234 (ii) esthetics;

235 (iii) master-level esthetics;

236 (iv) esthetics instruction;

237 (v) nail technology; or

238 (vi) nail technology instruction; or

239 [~~(b)~~] (d) operate:

240 (i) an electrology school;

241 (ii) an esthetics school; or

242 (iii) a nail technology school.

243 [~~(3)~~] (2) The division shall issue to a person who qualifies under this chapter a license
 244 in the following classifications:

- 245 (a) barber;
- 246 (b) barber instructor;
- 247 (c) barber school;
- 248 (d) cosmetologist/barber;
- 249 (e) cosmetologist/barber instructor;
- 250 (f) cosmetology/barber school;
- 251 (g) electrologist;
- 252 (h) electrologist instructor;
- 253 (i) electrology school;
- 254 (j) esthetician;
- 255 (k) master esthetician;
- 256 (l) esthetician instructor;
- 257 (m) esthetics school;
- 258 (n) nail technology;
- 259 (o) nail technology instructor; and
- 260 (p) nail technology school.

261 Section 3. Section **58-11a-302** is amended to read:

262 **58-11a-302. Qualifications for licensure.**

- 263 (1) Each applicant for licensure as a barber shall:
 - 264 (a) submit an application in a form prescribed by the division;
 - 265 (b) pay a fee determined by the department under Section 63J-1-303;
 - 266 (c) be of good moral character;
 - 267 (d) provide satisfactory documentation of:
 - 268 (i) graduation from a licensed or recognized barber school or a licensed or recognized
 269 cosmetology/barber school whose curriculum consists of a minimum of 1,000 hours of
 270 instruction or the equivalent number of credit hours over a period of not less than [~~six months~~]
 271 25 weeks;
 - 272 (ii) (A) having graduated from a recognized barber school located in a state other than
 273 Utah whose curriculum consists of less than 1,000 hours of instruction or the equivalent

- 274 number of credit hours; and
- 275 (B) having practiced as a licensed barber for a period of not less than 2,000 hours; or
- 276 (iii) having completed an approved barber apprenticeship; and
- 277 (e) meet the examination requirement established by rule.
- 278 (2) Each applicant for licensure as a barber instructor shall:
- 279 (a) submit an application in a form prescribed by the division;
- 280 (b) pay a fee determined by the department under Section 63J-1-303;
- 281 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 282 barber;
- 283 (d) be of good moral character;
- 284 (e) provide satisfactory documentation of completion of:
- 285 (i) an instructor training program conducted by a ~~barber~~ licensed or recognized
- 286 school as defined by rule consisting of a minimum of 500 hours or the equivalent number of
- 287 credit hours; or
- 288 (ii) a minimum of 2,000 hours of experience as a barber; and
- 289 (f) meet the examination requirement established by rule.
- 290 (3) Each applicant for licensure as a barber school shall:
- 291 (a) submit an application in a form prescribed by the division;
- 292 (b) pay a fee determined by the department under Section 63J-1-303; and
- 293 (c) provide satisfactory documentation:
- 294 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 295 (ii) of business licensure from the city, town, or county in which the school is located;
- 296 (iii) that the applicant's physical facilities comply with the requirements established by
- 297 rule; and
- 298 (iv) that the applicant meets the standards for barber schools, including staff and
- 299 accreditation requirements, established by rule.
- 300 (4) Each applicant for licensure as a cosmetologist/barber shall:
- 301 (a) submit an application in a form prescribed by the division;
- 302 (b) pay a fee determined by the department under Section 63J-1-303;
- 303 (c) be of good moral character;
- 304 (d) provide satisfactory documentation of:

305 (i) graduation from a licensed or recognized cosmetology/barber school whose
306 curriculum consists of a minimum of 2,000 hours of instruction, with full flexibility within the
307 2,000 hours, or the equivalent number of credit hours over a period of not less than [~~12~~
308 months] 50 weeks;

309 (ii) (A) having graduated from a recognized cosmetology/barber school located in a
310 state other than Utah whose curriculum consists of less than 2,000 hours of instruction, with
311 full flexibility within the 2,000 hours, or the equivalent number of credit hours; and

312 (B) having practiced as a licensed cosmetologist/barber for a period of not less than
313 4,000 hours; or

314 (iii) having completed an approved cosmetology/barber apprenticeship; and

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

316 (5) Each applicant for licensure as a cosmetologist/barber instructor shall:

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

318 (b) pay a fee determined by the department under Section 63J-1-303;

319 (c) provide satisfactory documentation that the applicant is currently licensed as a
320 cosmetologist/barber;

321 (d) be of good moral character;

322 (e) provide satisfactory documentation of completion of:

323 (i) an instructor training program conducted by a [~~cosmetology/barber~~] licensed or
324 recognized school as defined by rule consisting of a minimum of 1,000 hours or the equivalent
325 number of credit hours; or

326 (ii) a minimum of 4,000 hours of experience as a cosmetologist/barber; and

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

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

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

330 (b) pay a fee determined by the department under Section 63J-1-303; and

331 (c) provide satisfactory documentation:

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

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

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

336 (iv) that the applicant meets the standards for cosmetology schools, including staff and
337 accreditation requirements, established by rule.

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

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

340 (b) pay a fee determined by the department under Section 63J-1-303;

341 (c) be of good moral character;

342 (d) provide satisfactory documentation of having graduated from a licensed or
343 recognized electrology school after completing a curriculum of 600 hours of instruction or the
344 equivalent number of credit hours; and

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

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

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

348 (b) pay a fee determined by the department under Section 63J-1-303;

349 (c) provide satisfactory documentation that the applicant is currently licensed as an
350 electrologist;

351 (d) be of good moral character;

352 (e) provide satisfactory documentation of completion of:

353 (i) an instructor training program conducted by ~~[an electrology]~~ a licensed or
354 recognized school as defined by rule consisting of a minimum of 175 hours or the equivalent
355 number of credit hours; or

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

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

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

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

360 (b) pay a fee determined by the department under Section 63J-1-303; and

361 (c) provide satisfactory documentation:

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

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

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

365 (iv) that the applicant meets the standards for electrologist schools, including staff,
366 curriculum, and accreditation requirements, established by rule.

- 367 (10) Each applicant for licensure as an esthetician shall:
- 368 (a) submit an application in a form prescribed by the division;
- 369 (b) pay a fee determined by the department under Section 63J-1-303;
- 370 (c) be of good moral character; [~~and~~]
- 371 (d) provide satisfactory documentation of one of the following:
- 372 (i) [~~(A)~~] graduation from a licensed or recognized esthetic school or a licensed or
- 373 recognized cosmetology/barber school whose curriculum consists of not less than 15 weeks of
- 374 esthetic instruction with a minimum of 600 hours or the equivalent number of credit hours;
- 375 [~~and~~]
- 376 [~~(B) having met the examination requirement established by division rule;~~]
- 377 (ii) [~~(A)~~] completion of an approved esthetician apprenticeship; [~~and~~] or
- 378 [~~(B) having met the examination requirement established by division rule; or~~]
- 379 [~~(iii) having met the examination requirement established by division rule prior to~~
- 380 December 31, 2001.]
- 381 (iii) (A) having graduated from a recognized cosmetology/barber school located in a
- 382 state other than Utah whose curriculum consists of less than 2,000 hours of instruction with full
- 383 flexibility within the 2,000 hours or the equivalent number of credit hours; and
- 384 (B) having practiced as a licensed cosmetologist/barber for a period of not less than
- 385 4,000 hours; and
- 386 (e) meet the examination requirement established by division rule.
- 387 (11) Each applicant for licensure as a master esthetician shall:
- 388 (a) submit an application in a form prescribed by the division;
- 389 (b) pay a fee determined by the department under Section 63J-1-303;
- 390 (c) be of good moral character; and
- 391 (d) provide satisfactory documentation of one of the following:
- 392 (i) (A) completion of at least 1,200 hours of training or the equivalent number of credit
- 393 hours over a period of not less than 30 weeks at a licensed or recognized esthetics school; or
- 394 (B) accepting up to 600 hours or credit hours towards the 1,200 hours of training or
- 395 equivalent number of credit hours from an applicant who has graduated from a licensed or
- 396 recognized cosmetology/barbering school whose curriculum consists of a minimum of 2,000
- 397 hours of instruction with full flexibility within the 2,000 hours, or the equivalent number of

398 credit hours; and

399 ~~[(B) having met the examination requirement established by division rule; and]~~

400 (C) for practice of lymphatic massage, provide satisfactory documentation to show
401 completion of 200 hours of training or equivalent number of credit hours in lymphatic massage
402 as defined by division rule; or

403 (ii) ~~[(A)]~~ completion of an approved master esthetician apprenticeship; ~~[and] or~~

404 ~~[(B) having met the examination requirement established by division rule; or]~~

405 ~~[(iii) having met the examination requirement established by division rule prior to~~

406 ~~December 31, 2001.]~~

407 (iii) accepting up to 600 hours or credit hours towards the 1,200 hours of training or
408 equivalent number of credit hours from a recognized cosmetology/barber school located in a
409 state other than Utah whose curriculum consists of less than 2,000 hours of instruction or the
410 equivalent number of credit hours; and

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

412 (12) Each applicant for licensure as an esthetician instructor shall:

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

414 (b) pay a fee determined by the department under Section 63J-1-303;

415 (c) provide satisfactory documentation that the applicant is currently licensed as a
416 master esthetician;

417 (d) be of good moral character;

418 (e) provide satisfactory documentation of completion of:

419 (i) an instructor training program conducted by a licensed or recognized ~~[esthetics]~~
420 school as defined by rule, consisting of a minimum of 300 hours or the equivalent number of
421 credit hours; or

422 (ii) a minimum of 1,000 hours of experience in esthetics; and

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

424 (13) Each applicant for licensure as an esthetics school shall:

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

426 (b) pay a fee determined by the department under Section 63J-1-303; and

427 (c) provide satisfactory documentation:

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

429 (ii) of business licensure from the city, town, or county in which the school is located;
430 (iii) that the applicant's physical facilities comply with the requirements established by
431 rule; and

432 (iv) that the applicant meets the standards for esthetics schools, including staff,
433 curriculum, and accreditation requirements, established by division rule made in collaboration
434 with the board.

435 (14) Each applicant for licensure as a nail technician shall:

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

437 (b) pay a fee determined by the department under Section 63J-1-303;

438 (c) be of good moral character; and

439 (d) provide satisfactory documentation of ~~[one of the following]~~:

440 (i) ~~[(A)]~~ graduation from a licensed or recognized nail technology school or a licensed
441 or recognized cosmetology/barber school whose curriculum consists of not less than 300 hours
442 or the equivalent number of credit hours of not more than eight hours a day and six days a
443 week during the program; ~~[and] or~~

444 ~~[(B) having met the examination requirement established by division rule;]~~

445 (ii) (A) having graduated from a recognized nail technology school located in a state
446 other than Utah whose curriculum consists of less than 300 hours of instruction or the
447 equivalent number of credit hours; and

448 (B) having practiced as a licensed nail technician for a period of not less than 1,000
449 hours; or

450 ~~[(ii)-(A)]~~ (iii) having completed an approved nail technician apprenticeship; and

451 ~~[(B) having met]~~ (e) meet the examination requirement established by division rule[;
452 or].

453 ~~[(iii) having met the examination requirement established by division rule prior to~~
454 ~~December 31, 2001.]~~

455 (15) Each applicant for licensure as a nail technician instructor shall:

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

457 (b) pay a fee determined by the department under Section 63J-1-303;

458 (c) provide satisfactory documentation that the applicant is currently licensed as a nail
459 technician;

- 460 (d) be of good moral character;
- 461 (e) provide satisfactory documentation of completion of:
- 462 (i) an instructor training program conducted by a licensed or recognized [nail
- 463 technology] school as defined by rule consisting of a minimum of 150 hours or the equivalent
- 464 number of credit hours; or
- 465 (ii) a minimum of 600 hours of experience in nail technology; and
- 466 (f) meet the examination requirement established by rule.

467 (16) Each applicant for licensure as a nail technology school shall:

- 468 (a) submit an application in a form prescribed by the division;
- 469 (b) pay a fee determined by the department under Section 63J-1-303; and
- 470 (c) provide satisfactory documentation:
- 471 (i) of appropriate registration with the Division of Corporations and Commercial Code;
- 472 (ii) of business licensure from the city, town, or county in which the school is located;
- 473 (iii) that the applicant's facilities comply with the requirements established by rule; and
- 474 (iv) that the applicant meets the standards for nail technology schools, including staff,
- 475 curriculum, and accreditation requirements, established by rule.

476 (17) Each applicant for licensure under this chapter whose education in the field for
477 which a license is sought was completed at a foreign school may satisfy the educational
478 requirement for licensure by demonstrating, to the satisfaction of the division, the educational
479 equivalency of the foreign school education with a licensed school under this chapter.

480 Section 4. Section **58-11a-306** is amended to read:

481 **58-11a-306. Apprenticeship.**

- 482 (1) An approved barber apprenticeship shall:
- 483 (a) consist of not less than 1,250 hours of training in not less than eight months; and
- 484 (b) be conducted by a supervisor who:
- 485 (i) is licensed under this chapter as a barber instructor or a cosmetology/barber
- 486 instructor; and
- 487 (ii) provides direct one-on-one supervision of the barber apprentice during the
- 488 apprenticeship program.
- 489 (2) An approved cosmetologist/barber apprenticeship shall:
- 490 (a) consist of not less than 2,500 hours of training in not less than 15 months; and

- 491 (b) be conducted by a supervisor who:
492 (i) is licensed under this chapter as a cosmetologist/barber instructor; and
493 (ii) provides direct one-on-one supervision of the cosmetologist/barber apprentice
494 during the apprenticeship program.
- 495 (3) An approved esthetician apprenticeship shall:
496 (a) consist of not less than 800 hours of training in not less than five months; and
497 (b) be conducted by a supervisor who:
498 (i) is licensed under this chapter as an esthetician instructor; and
499 (ii) provides direct one-on-one supervision of the esthetician apprentice during the
500 apprenticeship program.
- 501 (4) An approved master esthetician apprenticeship shall:
502 (a) consist of not less than 1,500 hours of training in not less than ten months; and
503 (b) be conducted by a supervisor who:
504 (i) is licensed under this chapter as a master-level esthetician instructor; and
505 (ii) provides direct one-on-one supervision of the master esthetician apprentice during
506 the apprenticeship program.
- 507 (5) An approved nail technician apprenticeship shall:
508 (a) consist of not less than 375 hours of training in not less than three months; and
509 (b) be conducted by a supervisor who:
510 (i) is licensed under this chapter as a nail technician instructor or a cosmetology/barber
511 instructor; and
512 (ii) provides direct one-on-two supervision of the nail technician apprentice during the
513 apprenticeship program.
- 514 Section 5. Section **58-11a-501** is amended to read:
515 **58-11a-501. Unprofessional conduct.**
516 Unprofessional conduct includes:
517 (1) failing as a licensed school to obtain or maintain accreditation as required by rule;
518 (2) failing as a licensed school to comply with the standards of accreditation applicable
519 to such schools;
520 (3) failing as a licensed school to provide adequate instruction to enrolled students;
521 (4) failing as an apprentice supervisor to provide direct supervision to the apprentice;

- 522 (5) failing as an instructor to provide direct supervision to students under their
523 instruction;
- 524 (6) failing as an apprentice supervisor to comply with division rules relating to
525 apprenticeship programs under this chapter;
- 526 (7) keeping a salon or school, its furnishing, tools, utensils, linen, or appliances in an
527 unsanitary condition;
- 528 (8) failing to comply with Title 26, Utah Health Code;
- 529 (9) failing to display licenses or certificates as required under Section 58-11a-305;
- 530 (10) failing to comply with physical facility requirements established by rule;
- 531 (11) failing to maintain mechanical or electrical equipment in safe operating condition;
- 532 (12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths,
533 showers, or saunas;
- 534 (13) prescribing or administering prescription drugs;
- 535 (14) failing to comply with all applicable state and local health or sanitation laws;
- 536 (15) engaging in any act or practice in a professional capacity that is outside the
537 applicable scope of practice;
- 538 (16) engaging in any act or practice in a professional capacity which the licensee is not
539 competent to perform through education or training;
- 540 (17) in connection with the use of a chemical exfoliant, unless under the supervision of
541 a licensed health care practitioner acting within the scope of his or her license:
- 542 (a) using any acid, concentration of an acid, or combination of treatments which
543 violates the standards established by rule;
- 544 (b) removing any layer of skin deeper than the stratum corneum of the epidermis; or
- 545 (c) using an exfoliant that contains phenol, TCA acid of over 15%, or BCA acid;
- 546 (18) in connection with the sanding of the skin, unless under the supervision of a
547 licensed health care practitioner acting within the scope of his or her license, removing any
548 layer of skin deeper than the stratum corneum of the epidermis; or
- 549 (19) using as a barber, cosmetologist/barber, [~~esthetician, master esthetician,~~] or nail
550 technician any laser procedure or intense, pulsed light source, except that nothing in this
551 chapter precludes an individual licensed under this chapter from using a nonprescriptive laser
552 device.

553 Section 6. Section **58-11a-502** is amended to read:

554 **58-11a-502. Unlawful conduct.**

555 Unlawful conduct includes:

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

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

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

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

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

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

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

573 (4) using or possessing as a nail technician a solution composed of at least 10% methyl
574 methacrylate on a client.

Fiscal Note

**H.B. 356 1st Sub. (Buff) - Barber, Cosmetologist/barber, Esthetician,
Electrologist, and Nail Technician Licensing Act Amendments**

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
