

HB0352S01 compared with HB0352

~~deleted text~~ shows text that was in HB0352 but was deleted in HB0352S01.

inserted text shows text that was not in HB0352 but was inserted into HB0352S01.

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Representative James A. Dunnigan proposes the following substitute bill:

COSMETOLOGY AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ modifies provisions related to approved apprenticeships;
- ▶ requires an apprentice to register with the Division of Occupational and Professional Licensing before beginning an approved apprenticeship;
- ▶ lowers the training hour requirements and modifies other requirements for obtaining certain instructor licenses; and
- ▶ modifies exemptions from licensure.

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Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-11a-102, as last amended by Laws of Utah 2013, Chapter 13

58-11a-301, as last amended by Laws of Utah 2009, Chapter 130

58-11a-302, as last amended by Laws of Utah 2015, Chapter 258

~~{ **58-11a-304**, as last amended by Laws of Utah 2013, Chapter 13~~

{ **58-11a-306**, as last amended by Laws of Utah 2009, Chapter 130

58-11a-501, as last amended by Laws of Utah 2009, Chapter 130

58-11a-502, as last amended by Laws of Utah 2014, Chapter 100

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

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

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(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.

(3) "Approved master 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.

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(4) "Approved nail technician 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) "Barber" means a person who is licensed under this chapter to engage in the practice of barbering.

(6) "Barber instructor" means a barber who is licensed under this chapter to ~~[teach barbering at a licensed barber school or in an apprenticeship program as defined in Section 58-11a-306]~~ engage in the practice of barbering instruction.

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

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

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

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

(11) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed under this chapter to ~~[teach cosmetology/barbering at a licensed cosmetology/barber school, licensed barber school, licensed nail technology school, or in an apprenticeship program as defined in Subsection 58-11a-306(2)]~~ engage in the practice of cosmetology/barbering instruction.

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

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

(14) "Electrologist instructor" means an electrologist who is licensed under this chapter to ~~[teach electrology at a licensed electrology school]~~ engage in the practice of electrology instruction.

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

(16) "Esthetician instructor" means a master esthetician who is licensed under this

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chapter to [~~teach the practice of esthetics and the practice of master-level esthetics at a licensed esthetics school, a licensed cosmetology/barber school, or in an apprenticeship program as defined in Subsection 58-11a-306(3)] engage in the practice of esthetics instruction.~~

(17) "Fund" means the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Education and Enforcement Fund created in Section 58-11a-103.

(18) (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; and
- (xiii) the use of decorative beads, accessories, and nonhair extensions.

(c) "Hair braiding" does not include:

- (i) the use of:
 - (A) wefts;
 - (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:

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(A) alter the color of the hair; or

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

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

(20) "Licensed electrology school" means an electrology school licensed under this chapter.

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

(22) "Licensed nail technology school" means a nail technology school licensed under this chapter.

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

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

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

(26) "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; and

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

(27) "Practice of barbering instruction" means ~~[instructing]~~ teaching the practice of barbering ~~[in]~~ at a licensed barber school, at a licensed cosmetology/barber school, or [in an apprenticeship program as defined in Subsection 58-11a-306(1)] for an approved barber apprenticeship.

(28) "Practice of basic esthetics" means any one of the following skin care procedures done on the ~~[head, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes]~~ 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

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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 a combination of these procedures~~]; or

(f) except as provided in Subsection (28)(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.

(29) (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[~~; or a combination of these procedures~~];

(iv) removing hair from the [~~face, neck, shoulders, arms, back, torso, feet, bikini line, or legs~~] 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.

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

- (i) the practice of basic esthetics; and
- (ii) 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.

(30) "Practice of cosmetology/barbering instruction" means ~~[instructing]~~ teaching the practice of cosmetology/barbering [as defined in Subsection (29) in]:

(a) at a licensed cosmetology/barber school [or in an apprenticeship program as defined in Subsection 58-11a-306(2)], a licensed barber school, or a licensed nail technology school; or

(b) for an approved cosmetologist/barber apprenticeship.

(31) "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.

(32) "Practice of electrology instruction" means ~~[instructing]~~ teaching the practice of electrology [in] at a licensed electrology school.

(33) "Practice of esthetics instruction" means ~~[instructing esthetics in]~~ 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 [instructing master-level esthetics in a licensed esthetics school or in an apprenticeship program as defined in Subsections 58-11a-306(2), (3), and (4).]

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

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

(i) any of the following when done for cosmetic purposes on the ~~[head, face, neck, torso, abdomen, back, arms, hands, legs, feet, eyebrows, or eyelashes]~~ 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;

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(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 evaluation before the tattoo removal procedure;

and

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

(b) Notwithstanding the provisions of Subsection (34)(a), a master-level esthetician may perform procedures listed in Subsection (34)(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.

(35) "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.

(36) "Practice of nail technology instruction" means ~~[instructing]~~ teaching the practice of nail technology [in] at a licensed nail technician school, at a licensed cosmetology/barber school, or [in an apprenticeship program as defined in Subsection 58-11a-306(5)] for an approved nail technician apprenticeship.

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(37) "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.

(38) "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.

(39) "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.

(40) "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.

(41) "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.

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

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

(44) "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.

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

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) operating a barbering school;]~~

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

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

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- ~~[(v†)]~~ (v) electrology;
- ~~[(b)]~~ ~~operate a cosmetology/barbering school;~~
- ~~[(c)]~~ ~~engage in the practice of;~~
- ~~[(†)]~~ (vi) electrology instruction;
- ~~[(††)]~~ (vii) esthetics;
- ~~[(†††)]~~ (viii) master-level esthetics;
- ~~[(†††)]~~ (ix) esthetics instruction;
- ~~[(††)]~~ (x) nail technology; or
- ~~[(†††)]~~ (xi) nail technology instruction; or
- ~~[(††)]~~ (b) operate:
 - (i) a barbering school;
 - (ii) a cosmetology/barbering school;
- ~~[(†)]~~ (iii) an electrology school;
- ~~[(††)]~~ (iv) an esthetics school; or
- ~~[(†††)]~~ (v) 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) nail technology;

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(o) nail technology instructor; and

(p) 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.

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

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) be of good moral character;

(d) 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)(d)(ii)(A); or

(iii) completion of an approved barber apprenticeship; and

(e) meet the examination requirement established by rule.

(2) Each applicant for licensure as a barber instructor 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 that the applicant is currently licensed as a barber;

(d) be of good moral character;

(e) 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 ~~[500]~~ 250 hours or the equivalent number of credit

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hours; ~~for~~

~~— (ii) [or]~~

(ii) an on-the-job instructor training program conducted by a licensed instructor, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours; or

~~[(ii)]~~ (iii) a minimum of 2,000 hours of experience as a barber; and

(f) 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 (19).

(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) be of good moral character;

(d) provide satisfactory documentation of:

(i) ~~[(A)]~~ 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 ~~[, if the applicant was not a currently enrolled student of a cosmetology/barber school on January 1, 2013; or];~~

~~[(B)]~~ graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 2,000 hours of instruction, or the equivalent number of

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~~credit hours, with full flexibility within those hours, if the applicant's hours of instruction commenced before January 1, 2013, and the applicant was a currently enrolled student of a cosmetology/barber school on January 1, 2013;]~~

(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)(d)(ii)(A); or

(iii) completion of an approved cosmetology/barber apprenticeship; and

(e) 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) 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) be of good moral character;

(e) 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 ~~[1,000]~~ 400 hours or the equivalent number of credit hours; ~~for~~

~~— (ii) or~~

(ii) an on-the-job instructor training program conducted by a licensed instructor, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours; or

[(ii)] (iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and

(f) 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:

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(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 (19).

(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) be of good moral character;

(d) 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

(e) 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) 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) be of good moral character;

(e) 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 [175] 150 hours or the equivalent number of credit hours; ~~for~~

~~(ii) or~~

(ii) an on-the-job instructor training program conducted by a licensed instructor, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours; or

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

(f) 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 (19).

(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) be of good moral character;

(d) 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)(d)(iii)(A); and

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

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

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- (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) be of good moral character;
 - (d) 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;
 - (e) 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
 - (f) 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) 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) be of good moral character;
 - (e) 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; ~~or~~
~~— (ii) [or]~~
(ii) an on-the-job instructor training program conducted by a licensed instructor, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit

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hours; or

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

(f) 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 (19).

(14) 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) be of good moral character;

(d) 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 (14)(d)(ii)(A); or

(iii) completion of an approved nail technician apprenticeship; and

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- (e) meet the examination requirement established by division rule.
- (15) Each applicant for licensure as a nail technician instructor 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 that the applicant is currently licensed as a nail technician;
 - (d) be of good moral character;
 - (e) 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]~~ 75 hours or the equivalent number of credit hours; ~~for~~
~~— (ii) [or]~~
(ii) an on-the-job instructor training program conducted by a licensed instructor, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;
or
 - ~~[(ii)] (iii)~~ a minimum of 600 hours of experience in nail technology; and
 - (f) meet the examination requirement established by rule.
- (16) 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 (19).
- (17) 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

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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.

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

(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 (18)(a).

(19) 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 53A, Chapter 11, Students in Public Schools; 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.

(20) 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.

Section 4. Section ~~{58-11a-304}~~58-11a-306 is amended to read:

~~{~~58-11a-304. Exemptions from licensure:

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

~~_____ [(1)] (a) 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)] (b) a commissioned physician or surgeon serving in the armed forces of the United States or another federal agency;~~

~~_____ [(3)] (c) 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)] (d) a person who visits the state to engage in instructional seminars, advanced~~

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~~classes, trade shows, or competitions of a limited duration;~~

~~——— [(5)] (e) a person who engages in the practice of barbering, cosmetology/barbering, esthetics, master-level esthetics, electrology, or nail technology without compensation;~~

~~——— [(6)] (f) 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)] (i) an attendee receives no credit toward educational requirements for licensure under this chapter;~~

~~——— [(b)] (ii) 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)] (iii) the instructor [is]:~~

~~——— (A) is properly licensed; or~~

~~——— [(ii) the instructor] (B) receives no compensation;~~

~~——— [(7)] (g) 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, estheticians, master estheticians, electrologists, or nail technicians;~~

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

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

~~——— [(10)] (j) an employee of a company that is primarily engaged in the business of selling products used in the practice of barbering, cosmetology/barbering, 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)] (k) a person who:~~

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~~— [(a)] (i) is qualified to engage in the practice of barbering, cosmetology/barbering, esthetics, master-level esthetics, electrology, or nail technology in another jurisdiction as evidenced by licensure, certification, or lawful practice in the other jurisdiction;~~

~~— [(b)] (ii) is employed by, or under contract with, a motion picture company; and~~

~~— [(c)] (iii) engages in the practice of barbering, cosmetology/barbering, esthetics, master-level esthetics, electrology, or nail technology in the state:~~

~~— [(i)] (A) solely to assist in the production of a motion picture; and~~

~~— [(ii)] (B) for no more than 120 days per calendar year; and~~

~~— [(12)] (1) a person who:~~

~~— [(a)] (i) engages in hair braiding; and~~

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

~~— (2) An employee of a licensed or recognized school is exempt from an instructor license under this chapter if the employee is:~~

~~— (a) providing instruction to fulfil requirements of an instructor training program as described in Section 58-11a-302 under the direct supervision of a licensed instructor; and~~

~~— (b) licensed to engage in the practice for which the employee is providing instruction.~~

~~— Section 5. Section **58-11a-306** is amended to read:~~

‡ **58-11a-306. Apprenticeship.**

(1) An approved barber apprenticeship shall:

(a) consist of not less than 1,250 hours of training in not less than eight months; 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 [~~one-on-one~~] 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 in not less than 15 months; 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 [~~one-on-one~~] supervision of the cosmetologist/barber

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apprentice during the apprenticeship program.

(3) An approved esthetician apprenticeship shall:

(a) consist of not less than 800 hours of training in not less than five months; 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 [~~one-on-one~~] supervision of the esthetician apprentice

during the apprenticeship program.

(4) An approved master esthetician apprenticeship shall:

(a) consist of not less than 1,500 hours of training in not less than 10 months; 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 [~~one-on-one~~] supervision of the master esthetician

apprentice during the apprenticeship program.

(5) An approved nail technician apprenticeship shall:

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

(b) be conducted by a supervisor who:

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

(ii) provides one-on-one direct [~~one-on-two~~] supervision of the nail technician apprentice during the apprenticeship program.

(6) 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.

(7) Notwithstanding Subsection (6), if a person seeking to qualify for licensure by

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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.

Section ~~675~~5. Section **58-11a-501** is amended to read:

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 under their instruction;
- (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

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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; ~~or~~

(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.

Section ~~(7)~~6. Section **58-11a-502** is amended to read:

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) ~~[knowingly employing any other]~~ aiding or abetting a person ~~[to engage]~~ engaging in ~~[or practice]~~ the practice of, or ~~[attempt]~~ attempting to engage in ~~[or practice]~~ the practice of, any occupation or profession licensed under this chapter if the employee is not licensed to do so under this chapter or exempt from licensure;

(3) 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

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(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;

(4) using or possessing a solution composed of at least 10% methyl methacrylate on a client;

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

(6) 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

(7) failing as a salon or school where nail technology is practiced or taught to maintain a source capture system required under Section 15A-3-401, including failing to maintain and clean a source capture system's air filter according to the manufacturer's instructions.

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Legislative Review Note

Office of Legislative Research and General Counsel†