

**TATTOO REMOVAL**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: J. Stuart Adams**

House Sponsor: Brad R. Wilson

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

This bill amends the Division of Occupational and Professional Licensing Act.

**Highlighted Provisions:**

This bill:

- ▶ authorizes an advanced practice registered nurse to perform certain functions associated with tattoo removal;
- ▶ authorizes a physician assistant acting under the supervision of a physician to perform certain functions associated with tattoo removal; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**58-1-506**, as enacted by Laws of Utah 2012, Chapter 362

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

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

Section 1. Section **58-1-506** is amended to read:



**58-1-506. Supervision of cosmetic medical procedures.**

(1) For purposes of this section:

(a) "Delegation group A" means the following who are licensed under this title, acting within their respective ~~[scope]~~ scopes of practice, and qualified under Subsections (2)(f)(i) and (iii):

(i) a physician assistant, if acting under the supervision of a physician and the procedure is included in the delegation of services agreement as defined in Section [58-70a-102](#);

(ii) a registered nurse;

(iii) a master esthetician; and

(iv) an electrologist, if evaluating for or performing laser hair removal.

(b) "Delegation group B" means:

(i) a practical nurse or an esthetician who is licensed under this title, acting within their respective ~~[scope]~~ scopes of practice, and qualified under Subsections (2)(f)(i) and (iii); and

(ii) a medical assistant who is qualified under Subsections (2)(f)(i) and (iii).

(c) "Direct cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee; and

(ii) is present and available for a face-to-face communication with the supervisee when and where a cosmetic medical procedure is performed.

(d) "General cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee;

(ii) is available in a timely and appropriate manner in person to evaluate and initiate care for a patient with a suspected adverse reaction or complication; and

(iii) is located within 60 minutes or 60 miles of the cosmetic medical facility.

~~[(f)]~~ (e) "Hair removal review" means:

(i) conducting an in-person, face-to-face interview of a patient based on the responses provided by the patient to a detailed medical history assessment that was prepared by the supervisor;

(ii) evaluating for contraindications and conditions that are part of the treatment plan; and

(iii) if the patient history or patient presentation deviates in any way from the treatment plan, referring the patient to the supervisor and receiving clearance from the supervisor before

starting the treatment.

~~[(e)]~~ (f) "Indirect cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee;

(ii) has given written instructions to the person being supervised;

(iii) is present within the cosmetic medical facility in which the person being supervised is providing services; and

(iv) is available to:

(A) provide immediate face-to-face communication with the person being supervised;

and

(B) evaluate the patient, as necessary.

(2) A supervisor supervising a nonablative cosmetic medical procedure for hair removal shall:

(a) have an unrestricted license to practice medicine or advanced practice registered nursing in the state;

(b) develop the medical treatment plan for the procedure;

(c) conduct a hair removal review, or delegate the hair removal review to a member of delegation group A, of the patient prior to initiating treatment or a series of treatments;

(d) personally perform the nonablative cosmetic medical procedure for hair removal, or authorize and delegate the procedure to a member of delegation group A or B;

(e) during the nonablative cosmetic medical procedure for hair removal provide general cosmetic medical procedure supervision to individuals in delegation group A performing the procedure, except physician assistants, who shall be supervised as provided in Chapter 70a, Physician Assistant Act, and indirect cosmetic medical procedure supervision to individuals in delegation group B performing the procedure; and

(f) verify that a person to whom the supervisor delegates an evaluation under Subsection (2)(c) or delegates a procedure under Subsection (2)(d) or (3)(b)(ii):

(i) has received appropriate training regarding the medical procedures developed under Subsection (2)(b);

(ii) has an unrestricted license under this title or is performing under the license of the supervising physician and surgeon; and

(iii) has maintained competence to perform the nonablative cosmetic medical

procedure through documented education and experience of at least 80 hours, as further defined by rule, regarding:

(A) the appropriate standard of care for performing nonablative cosmetic medical procedures;

(B) physiology of the skin;

(C) skin typing and analysis;

(D) skin conditions, disorders, and diseases;

(E) pre- and post-procedure care;

(F) infection control;

(G) laser and light physics training;

(H) laser technologies and applications;

(I) safety and maintenance of lasers;

(J) cosmetic medical procedures an individual is permitted to perform under this title;

(K) recognition and appropriate management of complications from a procedure; and

(L) ~~[cardio-pulmonary]~~ cardiopulmonary resuscitation (CPR).

(3) For a nonablative cosmetic medical procedure other than hair removal under Subsection (2):

(a) ~~[(i) except as provided in Subsection (3)(a)(ii) and (iii),]~~ a physician who has an unrestricted license to practice medicine, a nurse practitioner who has an unrestricted license for advanced practice registered nursing, or a physician assistant acting under the supervision of a physician, with the procedure included in the delegation of service agreement as defined in Section 58-70a-102, shall:

~~[(A)]~~ (i) develop a treatment plan for the nonablative cosmetic medical procedure; and

~~[(B)]~~ (ii) conduct an in-person face-to-face evaluation of the patient prior to the initiation of a treatment protocol or series of treatments; and

**→ (b) a nurse practitioner or physician assistant conducting an in-person face-to-face evaluation of a patient under Subsection (3)(a)(ii) prior to removing a tattoo shall:**

**(i) inspect the patient's skin for any discoloration unrelated to the tattoo and any other indication of cancer or other condition that should be treated or further evaluated before the tattoo is removed;**

**(ii) refer a patient with any such condition to a physician for treatment or further evaluation; and**

**(iii) shall not supervise a nonablative cosmetic medical procedure to remove a tattoo on the patient until the patient has been approved for the tattoo removal by a physician who** ☺

114j **⊕ has evaluated the patient; and ←H**

115           ~~[(ii) a nurse practitioner who has an unrestricted license for advanced practice~~  
116 ~~registered nursing may perform the evaluation and develop the treatment plan under Subsection~~  
117 ~~(3)(a)(i) for nonablative medical procedures other than tattoo removal; or]~~

118           ~~[(iii) a physician assistant acting under the supervision of a physician, with the~~  
119 ~~procedure included in the delegation of service agreement as defined in Section 58-70a-102;~~  
120 ~~may perform the evaluation under Subsection (3)(a)(i)(B) for nonablative medical procedures~~

other than tattoo removal; and]

→ (b) (c) ← the supervisor supervising the procedure shall:

(i) have an unrestricted license to practice medicine or advanced practice registered nursing;

(ii) personally perform the nonablative cosmetic medical procedure or:

(A) authorize and provide general cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by a registered nurse or a master esthetician;

(B) authorize and provide supervision as provided in Chapter 70a, Physician Assistant Act, for the nonablative cosmetic medical procedure that is performed by a physician assistant, if the procedure is included in the delegation of services agreement; or

(C) authorize and provide direct cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by an esthetician; and

(iii) verify that a person to whom the supervisor delegates a procedure under Subsection (3)(b):

(A) has received appropriate training regarding the medical procedures to be performed;

(B) has an unrestricted license and is acting within ~~their~~ the person's scope of practice under this title; and

(C) is qualified under Subsection (2)(f)(iii).

(4) A supervisor performing or supervising a cosmetic medical procedure under Subsection (2) or (3) shall ensure that:

(a) the supervisor's name is prominently posted at the cosmetic medical facility identifying the supervisor;

(b) a copy of the supervisor's license is displayed on the wall of the cosmetic medical facility;

(c) the patient receives written information with the name and licensing information of the supervisor who is supervising the nonablative cosmetic medical procedure and the person who is performing the nonablative cosmetic medical procedure;

(d) the patient is provided with a telephone number that is answered within 24 hours for follow-up communication; and

(e) the cosmetic medical facility's contract with a master esthetician who performs a nonablative cosmetic medical procedure at the facility is kept on the premises of the facility.

(5) Failure to comply with the provisions of this section is unprofessional conduct.

(6) A chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act<sub>2</sub> is not subject to the supervision requirements in this section for a nonablative cosmetic medical procedure for hair removal if the chiropractic physician is acting within the scope of practice of a chiropractic physician and with training specific to nonablative hair removal.

Section 2. 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.

(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.

(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).

(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.

(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 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).

(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;



- 214 (iii) cornrows;  
215 (iv) dreadlocks;  
216 (v) french braids;  
217 (vi) invisible braids;  
218 (vii) micro braids;  
219 (viii) single braids;  
220 (ix) single plaits;  
221 (x) twists;  
222 (xi) visible braids;  
223 (xii) the use of lock braids; and  
224 (xiii) the use of decorative beads, accessories, and nonhair extensions.
- 225 (c) "Hair braiding" does not include:  
226 (i) the use of:  
227 (A) wefts;  
228 (B) synthetic tape;  
229 (C) synthetic glue;  
230 (D) keratin bonds;  
231 (E) fusion bonds; or  
232 (F) heat tools;  
233 (ii) the cutting of human hair; or  
234 (iii) the application of heat, dye, a reactive chemical, or other preparation to:  
235 (A) alter the color of the hair; or  
236 (B) straighten, curl, or alter the structure of the hair.
- 237 (19) "Licensed barber or cosmetology/barber school" means a barber or  
238 cosmetology/barber school licensed under this chapter.
- 239 (20) "Licensed electrology school" means an electrology school licensed under this  
240 chapter.
- 241 (21) "Licensed esthetics school" means an esthetics school licensed under this chapter.
- 242 (22) "Licensed nail technology school" means a nail technology school licensed under  
243 this chapter.
- 244 (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).

(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 barbering in a licensed barber school, licensed cosmetology/barber school, or in an apprenticeship program as defined in Subsection 58-11a-306(1).

(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 for cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

(a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the application of eyelash 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, applying eyelash 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 extensions, or a combination of these procedures;

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

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

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

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

(i) the practice of 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 cosmetology/barbering as defined in Subsection (29) in a licensed cosmetology/barber school or in an apprenticeship program as defined in Subsection 58-11a-306(2).

(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 electrology in a licensed electrology school.

(33) "Practice of esthetics instruction" means instructing esthetics in a licensed esthetics school, 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).

(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 and not for the treatment of medical, physical, or mental ailments:

(A) body wraps as defined by rule;

(B) hydrotherapy as defined by rule;

(C) chemical exfoliation as defined by rule;

(D) advanced pedicures as defined by rule;

(E) sanding, including microdermabrasion;

(F) advanced extraction;

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

(I) the hands; or

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

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

(I) superfluous hair removal;

(II) anti-aging resurfacing enhancements;

(III) photo rejuvenation; or

(IV) tattoo removal with a physician's, advanced practice nurse's, or physician assistant's evaluation before the tattoo removal procedure, as required by Subsection

[58-1-506](#)(3)(a); and

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

(b) Notwithstanding the provisions of Subsection (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 nail technology in a licensed nail technician school, licensed cosmetology/barber school, or in an apprenticeship program as defined in Subsection [58-11a-306](#)(5).

(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,

369 esthetics, electrology, or nail technology is practiced.

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

371 (44) "Unprofessional conduct" is as defined in Sections [58-1-501](#) and [58-11a-501](#) and

372 as may be further defined by rule by the division in collaboration with the board in accordance

373 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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**Legislative Review Note****Office of Legislative Research and General Counsel**