

**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:

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

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

35 (ii) a registered nurse;

36 (iii) a master esthetician; and

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

38 (b) "Delegation group B" means:

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

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

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

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

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

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

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

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

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

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

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

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

56 and

57 (iii) if the patient history or patient presentation deviates in any way from the treatment

58 plan, referring the patient to the supervisor and receiving clearance from the supervisor before  
59 starting the treatment.

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

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

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

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

65 (iv) is available to:

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

67 and

68 (B) evaluate the patient, as necessary.

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

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

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

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

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

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

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

85 (i) has received appropriate training regarding the medical procedures developed under

86 Subsection (2)(b);

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

89 (iii) has maintained competence to perform the nonablative cosmetic medical  
90 procedure through documented education and experience of at least 80 hours, as further  
91 defined by rule, regarding:

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

94 (B) physiology of the skin;

95 (C) skin typing and analysis;

96 (D) skin conditions, disorders, and diseases;

97 (E) pre- and post-procedure care;

98 (F) infection control;

99 (G) laser and light physics training;

100 (H) laser technologies and applications;

101 (I) safety and maintenance of lasers;

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

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

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

105 (3) For a nonablative cosmetic medical procedure other than hair removal under

106 Subsection (2):

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

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

113 [~~(B)~~] (ii) conduct an in-person face-to-face evaluation of the patient prior to the

114 initiation of a treatment protocol or series of treatments; and  
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~~  
121 ~~other than tattoo removal; and]~~  
122 (b) a nurse practitioner or physician assistant conducting an in-person face-to-face  
123 evaluation of a patient under Subsection (3)(a)(ii) prior to removing a tattoo shall:  
124 (i) inspect the patient's skin for any discoloration unrelated to the tattoo and any other  
125 indication of cancer or other condition that should be treated or further evaluated before the  
126 tattoo is removed;  
127 (ii) refer a patient with any such condition to a physician for treatment or further  
128 evaluation; and  
129 (iii) shall not supervise a nonablative cosmetic medical procedure to remove a tattoo on  
130 the patient until the patient has been approved for the tattoo removal by a physician who has  
131 evaluated the patient; and  
132 ~~[(b)]~~ (c) the supervisor supervising the procedure shall:  
133 (i) have an unrestricted license to practice medicine or advanced practice registered  
134 nursing;  
135 (ii) personally perform the nonablative cosmetic medical procedure or:  
136 (A) authorize and provide general cosmetic medical procedure supervision for the  
137 nonablative cosmetic medical procedure that is performed by a registered nurse or a master  
138 esthetician;  
139 (B) authorize and provide supervision as provided in Chapter 70a, Physician Assistant  
140 Act, for the nonablative cosmetic medical procedure that is performed by a physician assistant,  
141 if the procedure is included in the delegation of services agreement; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

170 **58-11a-102. Definitions.**

171 As used in this chapter:

172 (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship  
173 that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection  
174 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the  
175 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
176 Administrative Rulemaking Act.

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

181 (3) "Approved master esthetician apprenticeship" means an apprenticeship that meets  
182 the requirements of Subsection 58-11a-306(4) and the requirements established by rule by the  
183 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
184 Administrative Rulemaking Act.

185 (4) "Approved nail technician apprenticeship" means an apprenticeship that meets the  
186 requirements of Subsection 58-11a-306(5) and the requirements established by rule by the  
187 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
188 Administrative Rulemaking Act.

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

191 (6) "Barber instructor" means a barber who is licensed under this chapter to teach  
192 barbering at a licensed barber school or in an apprenticeship program as defined in Section  
193 58-11a-306.

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

196 (8) "Cosmetic laser procedure" includes a nonablative procedure as defined in Section  
197 58-67-102.

- 198 (9) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.
- 199 (10) "Cosmetologist/barber" means a person who is licensed under this chapter to  
200 engage in the practice of cosmetology/barbering.
- 201 (11) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed  
202 under this chapter to teach cosmetology/barbering at a licensed cosmetology/barber school,  
203 licensed barber school, licensed nail technology school, or in an apprenticeship program as  
204 defined in Subsection 58-11a-306(2).
- 205 (12) "Direct supervision" means that the supervisor of an apprentice or the instructor of  
206 a student is immediately available for consultation, advice, instruction, and evaluation.
- 207 (13) "Electrologist" means a person who is licensed under this chapter to engage in the  
208 practice of electrology.
- 209 (14) "Electrologist instructor" means an electrologist who is licensed under this chapter  
210 to teach electrology at a licensed electrology school.
- 211 (15) "Esthetician" means a person who is licensed under this chapter to engage in the  
212 practice of esthetics.
- 213 (16) "Esthetician instructor" means a master esthetician who is licensed under this  
214 chapter to teach the practice of esthetics and the practice of master-level esthetics at a licensed  
215 esthetics school, a licensed cosmetology/barber school, or in an apprenticeship program as  
216 defined in Subsection 58-11a-306(3).
- 217 (17) "Fund" means the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and  
218 Nail Technician Education and Enforcement Fund created in Section 58-11a-103.
- 219 (18) (a) "Hair braiding" means the twisting, weaving, or interweaving of a person's  
220 natural human hair.
- 221 (b) "Hair braiding" includes the following methods or styles:
- 222 (i) African-style braiding;
- 223 (ii) box braids;
- 224 (iii) cornrows;
- 225 (iv) dreadlocks;



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

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

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

258 (25) "Nail technician instructor" means a nail technician licensed under this chapter to  
259 teach the practice of nail technology in a licensed nail technology school, a licensed  
260 cosmetology/barber school, or in an apprenticeship program as defined in Subsection  
261 [58-11a-306\(5\)](#).

262 (26) "Practice of barbering" means:

263 (a) cutting, clipping, or trimming the hair of the head of any person by the use of  
264 scissors, shears, clippers, or other appliances;

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

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

267 (27) "Practice of barbering instruction" means instructing barbering in a licensed  
268 barber school, licensed cosmetology/barber school, or in an apprenticeship program as defined  
269 in Subsection [58-11a-306\(1\)](#).

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

273 (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or  
274 masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the  
275 application of eyelash extensions, natural nail manicures or pedicures, or callous removal by  
276 buffing or filing;

277 (b) limited chemical exfoliation as defined by rule;

278 (c) removing superfluous hair by means other than electrolysis, except that an  
279 individual is not required to be licensed as an esthetician to engage in the practice of threading;

280 (d) other esthetic preparations or procedures with the use of the hands, a  
281 high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not

282 for the treatment of medical, physical, or mental ailments;

283 (e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, applying  
284 eyelash extensions, or a combination of these procedures; or

285 (f) except as provided in Subsection (28)(f)(i), cosmetic laser procedures under the  
286 direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the  
287 following:

288 (i) superfluous hair removal which shall be under indirect supervision;

289 (ii) anti-aging resurfacing enhancements;

290 (iii) photo rejuvenation; or

291 (iv) tattoo removal.

292 (29) (a) "Practice of cosmetology/barbering" means:

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

296 (ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or  
297 other appliances;

298 (iii) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes, applying  
299 eyelash extensions, or a combination of these procedures;

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

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

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

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

307 (i) the practice of basic esthetics; and

308 (ii) the practice of nail technology.

309 (c) An individual is not required to be licensed as a cosmetologist/barber to engage in

310 the practice of threading.

311 (30) "Practice of cosmetology/barbering instruction" means instructing  
312 cosmetology/barbering as defined in Subsection (29) in a licensed cosmetology/barber school  
313 or in an apprenticeship program as defined in Subsection 58-11a-306(2).

314 (31) "Practice of electrology" means:

315 (a) the removal of superfluous hair from the body of a person by the use of electricity,  
316 waxing, shaving, or tweezing; or

317 (b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to  
318 superfluous hair removal.

319 (32) "Practice of electrology instruction" means instructing electrology in a licensed  
320 electrology school.

321 (33) "Practice of esthetics instruction" means instructing esthetics in a licensed  
322 esthetics school, a licensed cosmetology/barber school, or instructing master-level esthetics in a  
323 licensed esthetics school or in an apprenticeship program as defined in Subsections  
324 58-11a-306(2), (3), and (4).

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

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

329 (A) body wraps as defined by rule;

330 (B) hydrotherapy as defined by rule;

331 (C) chemical exfoliation as defined by rule;

332 (D) advanced pedicures as defined by rule;

333 (E) sanding, including microdermabrasion;

334 (F) advanced extraction;

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

336 (I) the hands; or

337 (II) a mechanical or electrical apparatus which is approved for use by division rule for

338 beautifying or similar work performed on the body for cosmetic purposes and not for the  
339 treatment of a medical, physical, or mental ailment; or

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

343 (I) superfluous hair removal;

344 (II) anti-aging resurfacing enhancements;

345 (III) photo rejuvenation; or

346 (IV) tattoo removal with a physician's, advanced practice nurse's, or physician  
347 assistant's evaluation before the tattoo removal procedure, as required by Subsection  
348 [58-1-506\(3\)\(a\)](#); and

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

350 (b) Notwithstanding the provisions of Subsection (34)(a), a master-level esthetician  
351 may perform procedures listed in Subsection (34)(a)(i)(H) if done under the supervision of a  
352 cosmetic supervisor acting within the scope of the cosmetic supervisor license.

353 (c) The term "practice of master-level esthetics" includes the practice of esthetics, but  
354 an individual is not required to be licensed as an esthetician or master-level esthetician to  
355 engage in the practice of threading.

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

360 (36) "Practice of nail technology instruction" means instructing nail technology in a  
361 licensed nail technician school, licensed cosmetology/barber school, or in an apprenticeship  
362 program as defined in Subsection [58-11a-306\(5\)](#).

363 (37) "Recognized barber school" means a barber school located in a state other than  
364 Utah, whose students, upon graduation, are recognized as having completed the educational  
365 requirements for licensure in that state.

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

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

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

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

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

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

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