

TATTOO REMOVAL

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Brad R. Wilson

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

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

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



28 **58-1-506. Supervision of cosmetic medical procedures.**

29 (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)(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) the supervisor supervising the procedure shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

160 **58-11a-102. Definitions.**

161 As used in this chapter:

162 (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship
163 that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection
164 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the
165 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah
166 Administrative Rulemaking Act.

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

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

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

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

181 (6) "Barber instructor" means a barber who is licensed under this chapter to teach
182 barbering at a licensed barber school or in an apprenticeship program as defined in Section

183 58-11a-306.

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

186 (8) "Cosmetic laser procedure" includes a nonablative procedure as defined in Section
187 58-67-102.

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

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

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

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

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

199 (14) "Electrologist instructor" means an electrologist who is licensed under this chapter
200 to teach electrology at a licensed electrology school.

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

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

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

209 (18) (a) "Hair braiding" means the twisting, weaving, or interweaving of a person's
210 natural human hair.

211 (b) "Hair braiding" includes the following methods or styles:

212 (i) African-style braiding;

213 (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

245 engage in the practice of master-level esthetics.

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

248 (25) "Nail technician instructor" means a nail technician licensed under this chapter to
249 teach the practice of nail technology in a licensed nail technology school, a licensed
250 cosmetology/barber school, or in an apprenticeship program as defined in Subsection
251 [58-11a-306\(5\)](#).

252 (26) "Practice of barbering" means:

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

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

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

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

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

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

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

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

270 (d) other esthetic preparations or procedures with the use of the hands, a
271 high-frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not
272 for the treatment of medical, physical, or mental ailments;

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

275 (f) except as provided in Subsection (28)(f)(i), cosmetic laser procedures under the

276 direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the
277 following:

- 278 (i) superfluous hair removal which shall be under indirect supervision;
- 279 (ii) anti-aging resurfacing enhancements;
- 280 (iii) photo rejuvenation; or
- 281 (iv) tattoo removal.

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

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

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

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

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

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

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

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

297 (i) the practice of basic esthetics; and

298 (ii) the practice of nail technology.

299 (c) An individual is not required to be licensed as a cosmetologist/barber to engage in
300 the practice of threading.

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

304 (31) "Practice of electrology" means:

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

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

309 (32) "Practice of electrology instruction" means instructing electrology in a licensed
310 electrology school.

311 (33) "Practice of esthetics instruction" means instructing esthetics in a licensed
312 esthetics school, a licensed cosmetology/barber school, or instructing master-level esthetics in a
313 licensed esthetics school or in an apprenticeship program as defined in Subsections
314 [58-11a-306](#)(2), (3), and (4).

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

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

319 (A) body wraps as defined by rule;

320 (B) hydrotherapy as defined by rule;

321 (C) chemical exfoliation as defined by rule;

322 (D) advanced pedicures as defined by rule;

323 (E) sanding, including microdermabrasion;

324 (F) advanced extraction;

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

326 (I) the hands; or

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

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

333 (I) superfluous hair removal;

334 (II) anti-aging resurfacing enhancements;

335 (III) photo rejuvenation; or

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

338 [58-1-506\(3\)\(a\)](#); and

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

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

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

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

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

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

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

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

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

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

368 (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.

Legislative Review Note
Office of Legislative Research and General Counsel