

Representative James A. Dunnigan proposes the following substitute bill:

COSMETOLOGY AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: David P. Hinkins

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
 - ▶ makes technical changes

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS



57 ~~barbering at a licensed barber school or in an apprenticeship program as defined in Section~~
58 ~~58-11a-306] engage in the practice of barbering instruction.~~

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

61 (8) "Cosmetic laser procedure" includes a nonablative procedure as defined in Section
62 58-67-102

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

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

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

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

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

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

77 instruction

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

80 (16) "Esthetician instructor" means a master esthetician who is licensed under this
81 chapter to [~~teach the practice of esthetics and the practice of master-level esthetics at a licensed~~
82 ~~esthetics school, a licensed cosmetology/barber school, or in an apprenticeship program as~~
83 ~~defined in Subsection 58-11a-306(3)] engage in the practice of esthetics instruction~~

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

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

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

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

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

125 (25) "Nail technician instructor" means a nail technician licensed under this chapter to
126 [~~teach the practice of nail technology in a licensed nail technology school, a licensed~~
127 ~~cosmetology/barber school, or in an apprenticeship program as defined in Subsection~~
128 ~~58-11a-306(5)~~] engage in the practice of nail technology instruction

129 (26) "Practice of barbering" means

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

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

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

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

138 (28) "Practice of basic esthetics" means any one of the following skin care procedures
139 done on the [~~head, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes~~] body for
140 cosmetic purposes and not for the treatment of medical, physical, or mental ailments

141 (a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or
142 masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the
143 application of eyelash or eyebrow extensions, natural nail manicures or pedicures, or callous
144 removal by buffing or filing,

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

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

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

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

183 (b) for an approved cosmetologist/barber apprenticeship

184 (31) "Practice of electrology" means

185 (a) the removal of superfluous hair from the body of a person by the use of electricity,
 186 waxing, shaving, or tweezing, or

187 (b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to
 188 superfluous hair removal

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

191 (33) "Practice of esthetics instruction" means [~~instructing esthetics in~~] teaching the
 192 practice of basic esthetics or the practice of master-level esthetics

193 (a) at a licensed esthetics school[:] or a licensed cosmetology/barber school[:],₂ or
 194 [~~instructing master-level esthetics in a licensed esthetics school or in an apprenticeship~~
 195 ~~program as defined in Subsections 58-11a-306(2), (3), and (4)~~]

196 (b) for an approved esthetician apprenticeship or an approved master esthetician
 197 apprenticeship

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

199 (i) any of the following when done for cosmetic purposes on the [~~head, face, neck,~~
 200 ~~torso, abdomen, back, arms, hands, legs, feet, eyebrows, or eyelashes~~] body and not for the
 201 treatment of medical, physical, or mental ailments

202 (A) body wraps as defined by rule,

203 (B) hydrotherapy as defined by rule,

204 (C) chemical exfoliation as defined by rule;

205 (D) advanced pedicures as defined by rule,

206 (E) sanding, including microdermabrasion,

207 (F) advanced extraction,

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

209 (I) the hands, or

210 (II) a mechanical or electrical apparatus which is approved for use by division rule for
 211 beautifying or similar work performed on the body for cosmetic purposes and not for the

243 other than Utah, whose students, upon graduation, are recognized as having completed the
244 educational requirements for licensure in that state.

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

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

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

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

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

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

258 **58-11a-301. Licensure required -- License classifications.**

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

261 (a) engage in the practice of

262 (i) barbering;

263 (ii) barbering instruction,

264 [~~(iii) operating a barbering school;~~]

265 [~~(iv)~~] (iii) cosmetology/barbering,

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

267 [~~(vi)~~] (v) electrology,

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

269 [~~(c) engage in the practice of~~]

270 [~~(i)~~] (vi) electrology instruction,

271 [~~(ii)~~] (vii) esthetics;

272 [~~(iii)~~] (viii) master-level esthetics,

273 [~~(iv)~~] (ix) esthetics instruction,

- 305 (a) submit an application in a form prescribed by the division,
 306 (b) pay a fee determined by the department under Section 63J-1-504,
 307 (c) be of good moral character,
 308 (d) provide satisfactory documentation of
 309 (i) graduation from a licensed or recognized barber school, or a licensed or recognized
 310 cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of
 311 instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks,
 312 (ii) (A) graduation from a recognized barber school located in a state other than Utah
 313 whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of
 314 credit hours; and
 315 (B) practice as a licensed barber in a state other than Utah for not less than the number
 316 of hours required to equal 1,000 total hours when added to the hours of instruction described in
 317 Subsection (1)(d)(ii)(A), or
 318 (iii) completion of an approved barber apprenticeship, and
 319 (e) meet the examination requirement established by rule
 320 (2) Each applicant for licensure as a barber instructor shall
 321 (a) submit an application in a form prescribed by the division,
 322 (b) pay a fee determined by the department under Section 63J-1-504;
 323 (c) provide satisfactory documentation that the applicant is currently licensed as a
 324 barber,
 325 (d) be of good moral character,
 326 (e) provide satisfactory documentation of completion of
 327 (i) an instructor training program conducted by a licensed or recognized school, as
 328 defined by rule, consisting of a minimum of ~~500~~ 250 hours or the equivalent number of credit
 329 hours; ~~or~~
 330 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
 331 recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent
 332 number of credit hours, or
 333 ~~(iii)~~ (iii) a minimum of 2,000 hours of experience as a barber, and
 334 (f) meet the examination requirement established by rule
 335 (3) Each applicant for licensure as a barber school shall

367 instruction described in Subsection (4)(d)(i)(A), or
368 (iii) completion of an approved cosmetology/barber apprenticeship; and
369 (e) meet the examination requirement established by rule
370 (5) Each applicant for licensure as a cosmetologist/barber instructor shall
371 (a) submit an application in a form prescribed by the division;
372 (b) pay a fee determined by the department under Section 63J-1-504,
373 (c) provide satisfactory documentation that the applicant is currently licensed as a
374 cosmetologist/barber,
375 (d) be of good moral character,
376 (e) provide satisfactory documentation of completion of
377 (i) an instructor training program conducted by a licensed or recognized school, as
378 defined by rule, consisting of a minimum of ~~[1,000]~~ 400 hours or the equivalent number of
379 credit hours, ~~[or]~~
380 (ii) on-the-job instructor training conducted by a licensed instructor at a licensed or
381 recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent
382 number of credit hours, or
383 ~~[(ii)]~~ (iii) a minimum of 3,000 hours of experience as a cosmetologist/barber, and
384 (f) meet the examination requirement established by rule
385 (6) Each applicant for licensure as a cosmetologist/barber school shall
386 (a) submit an application in a form prescribed by the division,
387 (b) pay a fee determined by the department under Section 63J-1-504, and
388 (c) provide satisfactory documentation
389 (i) of appropriate registration with the Division of Corporations and Commercial Code,
390 (ii) of business licensure from the city, town, or county in which the school is located,
391 (iii) that the applicant's physical facilities comply with the requirements established by
392 rule, and
393 (iv) that the applicant meets
394 (A) the standards for cosmetology schools, including staff and accreditation
395 requirements, established by rule, and
396 (B) the requirements for recognition as an institution of postsecondary study as
397 described in Subsection (19)

- 429 (A) the standards for electrologist schools, including staff, curriculum, and
430 accreditation requirements, established by rule; and
- 431 (B) the requirements for recognition as an institution of postsecondary study as
432 described in Subsection (19)
- 433 (10) Each applicant for licensure as an esthetician shall
- 434 (a) submit an application in a form prescribed by the division,
435 (b) pay a fee determined by the department under Section 63J-1-504,
436 (c) be of good moral character,
437 (d) provide satisfactory documentation of one of the following:
- 438 (i) graduation from a licensed or recognized esthetic school or a licensed or recognized
439 cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic
440 instruction with a minimum of 600 hours or the equivalent number of credit hours,
441 (ii) completion of an approved esthetician apprenticeship, or
442 (iii) (A) graduation from a recognized cosmetology/barber school located in a state
443 other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the
444 equivalent number of credit hours, with full flexibility within those hours; and
- 445 (B) practice as a licensed cosmetologist/barber for not less than the number of hours
446 required to equal 1,600 total hours when added to the hours of instruction described in
447 Subsection (10)(d)(iii)(A), and
- 448 (e) meet the examination requirement established by division rule
- 449 (11) Each applicant for licensure as a master esthetician shall
- 450 (a) submit an application in a form prescribed by the division,
451 (b) pay a fee determined by the department under Section 63I-1-504,
452 (c) be of good moral character,
453 (d) provide satisfactory documentation of
- 454 (i) completion of at least 1,200 hours of training, or the equivalent number of credit
455 hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the
456 1,200 hours may have been completed
- 457 (A) at a licensed or recognized cosmetology/barbering school, if the applicant
458 graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or
459 the equivalent number of credit hours, with full flexibility within those hours, or

491 (iv) that the applicant meets
492 (A) the standards for esthetics schools, including staff, curriculum, and accreditation
493 requirements, established by division rule made in collaboration with the board; and
494 (B) the requirements for recognition as an institution of postsecondary study as
495 described in Subsection (19)
496 (14) Each applicant for licensure as a nail technician shall
497 (a) submit an application in a form prescribed by the division;
498 (b) pay a fee determined by the department under Section 63J-1-504,
499 (c) be of good moral character,
500 (d) provide satisfactory documentation of
501 (i) graduation from a licensed or recognized nail technology school, or a licensed or
502 recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of
503 instruction, or the equivalent number of credit hours,
504 (ii) (A) graduation from a recognized nail technology school located in a state other
505 than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent
506 number of credit hours, and
507 (B) practice as a licensed nail technician in a state other than Utah for not less than the
508 number of hours required to equal 300 total hours when added to the hours of instruction
509 described in Subsection (14)(d)(ii)(A), or
510 (iii) completion of an approved nail technician apprenticeship, and
511 (e) meet the examination requirement established by division rule
512 (15) Each applicant for licensure as a nail technician instructor shall
513 (a) submit an application in a form prescribed by the division,
514 (b) pay a fee determined by the department under Section 63J-1-504,
515 (c) provide satisfactory documentation that the applicant is currently licensed as a nail
516 technician,
517 (d) be of good moral character,
518 (e) provide satisfactory documentation of completion of
519 (i) an instructor training program conducted by a licensed or recognized school, as
520 defined by rule, consisting of a minimum of [~~150~~] 75 hours or the equivalent number of credit
521 hours, [or]

553 11, Students in Public Schools; and

554 (b) the school shall be licensed by name, or in the case of an applicant, shall apply for
555 licensure by name, under this chapter to offer one or more training programs beyond the
556 secondary level

557 (20) A person seeking to qualify for licensure under this chapter by apprenticing in an
558 approved apprenticeship shall register with the division as described in Section 58-11a-306

559 Section 4 Section **58-11a-306** is amended to read

560 **58-11a-306. Apprenticeship.**

561 (1) An approved barber apprenticeship shall

562 (a) consist of not less than 1,250 hours of training in not less than eight months, and

563 (b) be conducted by a supervisor who

564 (i) is licensed under this chapter as a barber instructor or a cosmetology/barber
565 instructor, and

566 (ii) provides one-on-one direct [~~one-on-one~~] supervision of the barber apprentice
567 during the apprenticeship program

568 (2) An approved cosmetologist/barber apprenticeship shall

569 (a) consist of not less than 2,500 hours of training in not less than 15 months; and

570 (b) be conducted by a supervisor who

571 (i) is licensed under this chapter as a cosmetologist/barber instructor; and

572 (ii) provides one-on-one direct [~~one-on-one~~] supervision of the cosmetologist/barber
573 apprentice during the apprenticeship program

574 (3) An approved esthetician apprenticeship shall

575 (a) consist of not less than 800 hours of training in not less than five months, and

576 (b) be conducted by a supervisor who

577 (i) is licensed under this chapter as an esthetician instructor, and

578 (ii) provides one-on-one direct [~~one-on-one~~] supervision of the esthetician apprentice
579 during the apprenticeship program

580 (4) An approved master esthetician apprenticeship shall

581 (a) consist of not less than 1,500 hours of training in not less than 10 months; and

582 (b) be conducted by a supervisor who

583 (i) is licensed under this chapter as a master-level esthetician instructor, and

- 615 (4) failing as an apprentice supervisor to provide direct supervision to the apprentice,
616 (5) failing as an instructor to provide direct supervision to students under their
617 instruction,
- 618 (6) failing as an apprentice supervisor to comply with division rules relating to
619 apprenticeship programs under this chapter,
- 620 (7) keeping a salon or school, its furnishing, tools, utensils, linen, or appliances in an
621 unsanitary condition,
- 622 (8) failing to comply with Title 26, Utah Health Code,
- 623 (9) failing to display licenses or certificates as required under Section 58-11a-305;
- 624 (10) failing to comply with physical facility requirements established by rule;
- 625 (11) failing to maintain mechanical or electrical equipment in safe operating condition,
- 626 (12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths,
627 showers, or saunas,
- 628 (13) prescribing or administering prescription drugs;
- 629 (14) failing to comply with all applicable state and local health or sanitation laws;
- 630 (15) engaging in any act or practice in a professional capacity that is outside the
631 applicable scope of practice,
- 632 (16) engaging in any act or practice in a professional capacity which the licensee is not
633 competent to perform through education or training,
- 634 (17) in connection with the use of a chemical exfoliant, unless under the supervision of
635 a licensed health care practitioner acting within the scope of his or her license
- 636 (a) using any acid, concentration of an acid, or combination of treatments which
637 violates the standards established by rule,
- 638 (b) removing any layer of skin deeper than the stratum corneum of the epidermis, or
639 (c) using an exfoliant that contains phenol, TCA acid of over 15%, or BCA acid,
- 640 (18) in connection with the sanding of the skin, unless under the supervision of a
641 licensed health care practitioner acting within the scope of his or her license, removing any
642 layer of skin deeper than the stratum corneum of the epidermis; [or]
- 643 (19) using as a barber, cosmetologist/barber, or nail technician any laser procedure or
644 intense, pulsed light source, except that nothing in this chapter precludes an individual licensed
645 under this chapter from using a nonprescriptive laser device[-], or

677 this chapter is insufficient to certify or qualify the attendee to perform a service for
678 compensation that requires licensure under this chapter, and

679 (b) the attendee is required to obtain licensure under this chapter before performing the
680 service for compensation, or

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