

**OCCUPATIONAL LICENSING AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jeremy A. Peterson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill adds an exemption from licensure in the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act for a person that braids hair.

**Highlighted Provisions:**

This bill:

- ▶ defines the term "natural hair braiding"; and
- ▶ adds an exemption from licensure in the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technical Licensing Act for a person that braids hair and does not engage in other activity requiring licensure.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**58-11a-102**, as last amended by Laws of Utah 2010, Chapter 145

**58-11a-304**, as last amended by Laws of Utah 2007, Chapter 209

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



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

29 **58-11a-102. Definitions.**

30 As used in this chapter:

31 (1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship  
32 that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection  
33 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the  
34 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
35 Administrative Rulemaking Act.

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

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

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

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

50 (6) "Barber instructor" means a barber who is licensed under this chapter to teach  
51 barbering at a licensed barber school or in an apprenticeship program as defined in Section  
52 58-11a-306.

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

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

57 (9) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed  
58 under this chapter to teach cosmetology/barbering at a licensed cosmetology/barber school,

59 licensed barber school, licensed nail technology school, or in an apprenticeship program as  
60 defined in Subsection 58-11a-306(2).

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

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

65 (12) "Electrologist instructor" means an electrologist who is licensed under this chapter  
66 to teach electrology at a licensed electrology school.

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

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

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

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

77 (17) "Licensed electrology school" means an electrology school licensed under this  
78 chapter.

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

80 (19) "Licensed nail technology school" means a nail technology school licensed under  
81 this chapter.

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

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

86 (22) "Nail technician instructor" means a nail technician licensed under this chapter to  
87 teach the practice of nail technology in a licensed nail technology school, a licensed  
88 cosmetology/barber school, or in an apprenticeship program as defined in Subsection  
89 58-11a-306(5).

90            (23) (a) "Natural hair braiding" means braiding, twisting, wrapping, weaving,  
91 extending, or locking the hair of the head of a person.

92            (b) "Natural hair braiding" does not include the application of dye, a reactive chemical,  
93 or other preparation to:

94            (i) alter the color of the hair; or

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

96            [~~(23)~~] (24) "Practice of barbering" means:

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

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

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

101           [~~(24)~~] (25) "Practice of barbering instruction" means instructing barbering in a licensed  
102 barber school, licensed cosmetology/barber school, or in an apprenticeship program as defined  
103 in Subsection 58-11a-306(1).

104           [~~(25)~~] (26) "Practice of basic esthetics" means any one of the following skin care  
105 procedures done on the head, face, neck, arms, hands, legs, feet, eyebrows, or eyelashes for  
106 cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

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

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

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

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

117           (e) cosmetic laser procedures under direct supervision of a licensed health care  
118 practitioner as defined by rule, limited to the following:

119           (i) superfluous hair removal;

120           (ii) anti-aging resurfacing enhancements;

121 (iii) photo rejuvenation; or

122 (iv) tattoo removal.

123 [~~26~~] (27) (a) "Practice of cosmetology/barbering" means:

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

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

129 (iii) arching eyebrows, or tinting eyebrows or eyelashes, applying eyelash extensions,  
130 or any combination of these procedures;

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

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

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

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

138 (i) the practice of basic esthetics; and

139 (ii) the practice of nail technology.

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

142 [~~27~~] (28) "Practice of cosmetology/barbering instruction" means instructing  
143 cosmetology/barbering as defined in Subsection [~~26~~] (27) in a licensed cosmetology/barber  
144 school or in an apprenticeship program as defined in Subsection 58-11a-306(2).

145 [~~28~~] (29) "Practice of electrology" means:

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

148 (b) cosmetic laser procedures under the general supervision of a licensed health care  
149 practitioner as defined by rule, limited to superfluous hair removal.

150 [~~29~~] (30) "Practice of electrology instruction" means instructing electrology in a  
151 licensed electrology school.

152            [~~(30)~~] (31) "Practice of esthetics instruction" means instructing esthetics in a licensed  
153 esthetics school, a licensed cosmetology/barber school, or instructing master-level esthetics in a  
154 licensed esthetics school or in an apprenticeship program as defined in Subsections  
155 58-11a-306(2), (3), and (4).

156            [~~(31)~~] (32) (a) "Practice of master-level esthetics" means:

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

160            (A) body wraps as defined by rule;

161            (B) hydrotherapy as defined by rule;

162            (C) chemical exfoliation as defined by rule;

163            (D) advanced pedicures as defined by rule;

164            (E) sanding, including microdermabrasion;

165            (F) advanced extraction;

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

167            (I) the hands; or

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

171            (H) cosmetic laser procedures under the general supervision of a licensed health care  
172 practitioner as defined by rule, with a physician's evaluation before the procedure, as needed,  
173 and limited to the following:

174            (I) superfluous hair removal;

175            (II) anti-aging resurfacing enhancements;

176            (III) photo rejuvenation; or

177            (IV) tattoo removal with a physician's evaluation before the tattoo removal procedure;

178 and

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

180            (b) Notwithstanding the provisions of Subsection [~~(31)~~] (32)(a), a master-level  
181 esthetician may perform procedures listed in Subsection [~~(31)~~] (32)(a)(i) for noncosmetic  
182 purposes if done under the supervision of a licensed health care practitioner acting within the

183 scope of the licensed health care practitioner's license as defined by rule.

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

187 [~~(32)~~] (33) "Practice of nail technology" means to trim, cut, clean, manicure, shape,  
188 massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of  
189 hands, mechanical, or electrical preparation, antiseptic, lotions, or creams, including the  
190 application and removal of sculptured or artificial nails.

191 [~~(33)~~] (34) "Practice of nail technology instruction" means instructing nail technology  
192 in a licensed nail technician school, licensed cosmetology/barber school, or in an  
193 apprenticeship program as defined in Subsection 58-11a-306(5).

194 [~~(34)~~] (35) "Recognized barber school" means a barber school located in a state other  
195 than Utah, whose students, upon graduation, are recognized as having completed the  
196 educational requirements for licensure in that state.

197 [~~(35)~~] (36) "Recognized cosmetology/barber school" means a cosmetology/barber  
198 school located in a state other than Utah, whose students, upon graduation, are recognized as  
199 having completed the educational requirements for licensure in that state.

200 [~~(36)~~] (37) "Recognized electrology school" means an electrology school located in a  
201 state other than Utah, whose students, upon graduation, are recognized as having completed the  
202 educational requirements for licensure in that state.

203 [~~(37)~~] (38) "Recognized esthetics school" means an esthetics school located in a state  
204 other than Utah, whose students, upon graduation, are recognized as having completed the  
205 educational requirements for licensure in that state.

206 [~~(38)~~] (39) "Recognized nail technology school" means a nail technology school  
207 located in a state other than Utah, whose students, upon graduation, are recognized as having  
208 completed the educational requirements for licensure in that state.

209 [~~(39)~~] (40) "Salon" means a place, shop, or establishment in which  
210 cosmetology/barbering, esthetics, electrology, or nail technology is practiced.

211 [~~(40)~~] (41) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

212 [~~(41)~~] (42) "Unprofessional conduct" is as defined in Sections 58-1-501 and  
213 58-11a-501 and as may be further defined by rule by the division in collaboration with the

214 board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

215 Section 2. Section **58-11a-304** is amended to read:

216 **58-11a-304. Exemptions from licensure.**

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

220 (1) persons licensed under the laws of this state to engage in the practice of medicine,  
221 surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which  
222 they are licensed;

223 (2) commissioned physicians and surgeons serving in the armed forces of the United  
224 States or another federal agency;

225 (3) registered nurses, undertakers, and morticians licensed under the laws of this state  
226 when engaged in the practice of the profession for which they are licensed;

227 (4) persons who visit the state to engage in instructional seminars, advanced classes,  
228 trade shows, or competitions of a limited duration;

229 (5) persons who engage in the practice of barbering, cosmetology/barbering, esthetics,  
230 master-level esthetics, electrology, or nail technology without compensation;

231 (6) persons instructing adult education classes and other educational programs directed  
232 toward persons who are not licensed under this chapter and that are not intended to train  
233 persons to become licensed under this chapter, provided:

234 (a) attendees receive no credit toward the educational requirement for licensure under  
235 this chapter; and

236 (b) (i) the instructor is properly licensed; or

237 (ii) the instructor receives no compensation;

238 (7) persons instructing in workshops, seminars, training meetings, and other  
239 educational programs whose purpose is to provide continuing professional development to  
240 licensed barbers, cosmetologist/barbers, estheticians, master estheticians, nail technicians, or  
241 electrologists;

242 (8) persons currently enrolled in a licensed barber or cosmetology/barber school when  
243 participating in an on the job training internship under the direct supervision of a licensed  
244 barber or cosmetologist/barber upon completion of a basic program under the standards



245 established by rule by the division in collaboration with the board;  
246 (9) persons enrolled in an approved apprenticeship pursuant to Section 58-11a-306;  
247 [~~and~~]  
248 (10) employees of a company which is primarily engaged in the business of selling  
249 products used in the practice of barbering, cosmetology/barbering, esthetics, master-level  
250 esthetics, electrology, or nail technology when demonstrating the company's products to  
251 potential customers[-]; and  
252 (11) a person who:  
253 (a) engages in natural hair braiding; and  
254 (b) unless it is expressly exempted under this section or Section 58-1-307, does not  
255 engage in any other activity requiring licensure under this chapter.

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**Legislative Review Note**  
as of 2-8-12 1:42 PM

**Office of Legislative Research and General Counsel**