

State of Utah  
Administrative Rule Analysis  
Revised May 2020

DAR File NO. 53108

Date filed 10-13-2020

**NOTICE OF PROPOSED RULE**

TYPE OF RULE: New ; Amendment XXXX; Repeal ; Repeal and Reenact

	Title No. - Rule No. - Section No.	
Utah Admin. Code Ref (R no.):	R156-11a	Filing No. (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

**Agency Information**

1. Department:	Department of Commerce	
Agency:	Division of Occupational and Professional Licensing	
Room no.:		
Building:	Heber M. Wells Building	
Street address:	160 East 300 South	
City, state:	Salt Lake City UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Allyson Pettley	801-530-6179	apettley@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

- 2. Rule or section catchline:**  
Cosmetology and Associated Professions Licensing Act Rule
- 3. Purpose of the new rule or reason for the change** (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):  
Amendments are proposed in accordance with S.B. 23 and S.B. 201 passed in the 2020 General Session.
- 4. Summary of the new rule or change:**  
Minor grammatical changes and formatting changes are made throughout for clarity.  
Subsection R156-11a-102(25) is amended to maintain consistency by referring to Section 15A-3-402 and to delete unnecessary language.  
Section R156-11a-301 is amended to delete an obsolete statutory reference.  
Section R156-11a-302 is amended to delete subsections (3) and (4) in compliance with statutory changes made by S.B.201 (2020 Session). The remaining subsection is renumbered.  
Sections R156-11a-302b, R156-11a-302c, and R156-11a-303 are amended to correct and update references.  
Subsections R156-11a-502(5) and (7) are updated to include the hair designer profession to the unprofessional conduct provisions, in compliance with S.B.23.  
Subsection R156-11a-503 is amended to update the rule per new citation rules and policy.  
Subsection R156-11a-603(1)(c) is amended to make a minor numbering correction.  
Section R156-11a-607 is amended to make minor formatting corrections for clarity.  
Subsection R156-11a-609 is amended as follows: Subsection (1) references are updated to Section 58-11a-102 for instructors. Subsection (2) is amended to clarify the areas in which a cosmetologist/barber instructor may teach -- Subsection (2)(a) adds nail technology which was unintentionally omitted from previous rule filings and Subsection (2)(b) adds hair design in accordance with S.B.23.  
Section R156-11a-610 is amended to update references.  
Sections R156-11a-611 and -612 are amended to update references.  
Section R156-11a-800 is amended to add hair design school, which was unintentionally omitted from previous rule filings, and to make minor formatting changes for clarity.  
Sections R156-11a-801 through (newly renumbered) R156-11a-805 are amended to make minor formatting changes for clarity.  
New Section R156-11a-804 is added to establish hair design apprenticeship standards to comply with S.B.23. Sections R156-11a-804 and -805 are renumbered with minor formatting changes for clarity.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

No impact is expected to the State budget. Any costs or savings to comply with these changes are a result of the statutory requirements of S.B.23 and S.B.201 (2020 GS) that permitted hair design licenses through apprenticeship and consideration of criminal history, respectively. Costs and savings were calculated as part of the fiscal notes. These rule changes do not create additional cost or savings beyond what was anticipated during the legislative process. All other amendments are non-substantive and do not create any additional costs or savings.

**B) Local governments:**

No impact is expected to local governments. Any costs or savings to comply with these changes are a result of the statutory requirements of S.B.23 and S.B.201 (2020 GS) that permitted hair design licenses through apprenticeship and consideration of criminal history, respectively. Costs and savings were calculated as part of the fiscal notes. These rule changes do not create additional cost or savings beyond what was anticipated during the legislative process. All other amendments are non-substantive and do not create any additional costs or savings.

**C) Small businesses ("small business" means a business employing 1-49 persons):**

No impact is expected to small business. Any costs or savings to comply with these changes are a result of the statutory requirements of S.B.23 and S.B.201 (2020 GS) that permitted hair design licenses through apprenticeship and consideration of criminal history, respectively. Costs and savings were calculated as part of the fiscal notes. These rule changes do not create additional cost or savings beyond what was anticipated during the legislative process. All other amendments are non-substantive and do not create any additional costs or savings.

**D) Non-small businesses ("non-small business" means a business employing 50 or more persons):**

No impact is expected to non-small business. Any costs or savings to comply with these changes are a result of the statutory requirements of S.B.23 and S.B.201 (2020 GS) that permitted hair design licenses through apprenticeship and consideration of criminal history, respectively. Costs and savings were calculated as part of the fiscal notes. These rule changes do not create additional cost or savings beyond what was anticipated during the legislative process. All other amendments are non-substantive and do not create any additional costs or savings.

**E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):**

No impact is expected to non-small business. Any costs or savings to comply with these changes are a result of the statutory requirements of S.B.23 and S.B.201 (2020 GS) that permitted hair design licenses through apprenticeship and consideration of criminal history, respectively. Costs and savings were calculated as part of the fiscal notes. These rule changes do not create additional cost or savings beyond what was anticipated during the legislative process. All other amendments are non-substantive and do not create any additional costs or savings.

**F) Compliance costs for affected persons:**

No impact is expected to any affected persons. Any costs or savings to comply with these changes are a result of the statutory requirements of S.B.23 and S.B.201 (2020 GS) that permitted hair design licenses through apprenticeship and consideration of criminal history, respectively. Costs and savings were calculated as part of the fiscal notes. These rule changes do not create additional cost or savings beyond what was anticipated during the legislative process. All other amendments are non-substantive and do not create any additional costs or savings.

**G) Regulatory Impact Summary Table** (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The head of the Department of Commerce, Chris Parker, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

The Division of Occupational and Professional Licensing proposes amendments to update Cosmetology and Associated Professions Licensing Act Rule to conform to S.B. 23. Further, the revisions are for minor grammatical changes, formatting changes for clarity, deleting unnecessary language, and updating statutory and rule section references.

Small Businesses (less than 50 employees): There are no anticipated costs or savings for small businesses to comply with the changes as a result of the statutory requirements of S.B. 23 and S.B. 201 from the 2020 General Legislative Session that now require hair designers to have a criminal history report for apprenticeships. Thus, all amendments as a whole should allow for greater efficiency in documentation. Accordingly, no fiscal impact is expected for small business over and above any fiscal impact described in the Legislative fiscal notes for 2020 S.B. 23 and S.B. 201 as these costs are either inestimable or there is no fiscal impact.

Regulatory Impact to Non-Small Businesses (50 or more employees): These amendments will have no expected fiscal impact for non-small businesses in the cosmetology and associated professional fields in Utah for the same reasons as described above for small business. These costs are either inestimable, for the reasons stated, or there is no fiscal impact.

**B) Name and title of department head commenting on the fiscal impacts:**

Chris Parker, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 58-11a-101	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)

**Incorporations by Reference Information**

(If this rule incorporates more than two items by reference, please include additional tables.)

**8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):**

First Incorporation	
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

**B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):**

Second Incorporation	
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

**Public Notice Information**

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy):		12/08/2020
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
12/07/2020	9:00 AM	Join with Google Meet meet.google.com/khv-eoxr-sxm  Join by phone (US) +1 402-772-0160 (PIN: 825629334)

10. This rule change MAY become effective on (mm/dd/yyyy): 12/15/2020  
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

Agency head or designee, and title:  <small>Mark Stenagel   Oct 13, 2020 11:21 MDT</small>	Date (mm/dd/yyyy):	10/13/2020
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R156. Commerce, Occupational and Professional Licensing.

R156-11a. Cosmetology and Associated Professions Licensing Act Rule.

R156-11a-102. Definitions.

In addition to the definitions as used in Title 58, Chapters 1, Division of Occupational and Professional Licensing Act, and 11a, the Cosmetology and Associated Professions Licensing Act, or this rule, the following rule definitions supplement the statutory definitions [~~as used in Title 58, Chapters 1 and 11a or this rule~~]:

(1) "Acrylic nail," [7] as used in Section 15A-3-402 and Subsection R156-11a-102(25), means an extension for natural nails molded out of a polymer powder and a liquid monomer buffed to a shine.

(2) "Advanced pedicures," [7] as used in Subsection 58-11a-102([39]40)(a)(i)(D), means any of the following while caring for the nails, cuticles or calluses of the feet:

(a) utilizing manual instruments, implements, advanced electrical equipment, tools, or microdermabrasion for cleaning, trimming, softening, smoothing, or buffing;

(b) utilizing blades, including corn or callus planer or rasp, for smoothing, shaving or removing dead skin from the feet as defined in Section R156-11a-611; or

(c) utilizing topical products and preparations for chemical exfoliation as defined in Subsection R156-11a-610(4).

(3) "Aroma therapy" means the application of essential oils [~~which~~]that are applied directly to the skin, undiluted or in a misted dilution with a carrier oil or lotion. for varied applications such as massage, hot packs, cold packs, compress, inhalation, steam or air diffusion, or in hydrotherapy services.

(4) "BCA acid" means bicloroacetic acid.

(5) "Body wraps," [7] as used in Subsection 58-11a-102([39]40)(a)(i)(A), means body treatments utilizing products or equipment to enhance and maintain the texture, contour, integrity and health of the skin and body.

(6) "Chemical exfoliation," [7] as defined in Subsections 58-11a-102([39]40)(a)(i)(C) and R156-11a-610(4), means a resurfacing procedure performed with a chemical solution or product to remove [~~for the purpose of removing~~]superficial layers of the epidermis to a point no deeper than the stratum corneum.

(7) "Dermabrasion or open dermabrasion" means the surgical application of a wire or diamond frieze for deep skin resurfacing by a physician to abrade the skin to the epidermis and possibly down to the papillary dermis.

(8) "Dermaplane" means the use of a scalpel or bladed instrument under the general supervision of a health care practitioner to shave the upper layers of the stratum corneum.

(9) "Direct supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(a).

(10) "Equivalent number of credit hours" means:

(a) the following conversion table if on a semester basis:

(i) theory - 1 credit hour - 30 clock hours;

(ii) practice - 1 credit hour - 30 clock hours; and

(iii) clinical experience - 1 credit hour - 45 clock hours; and

(b) the following conversion table if on a quarter basis:

(i) theory - 1 credit hour - 20 clock hours;

(ii) practice - 1 credit hour - 20 clock hours; and

(iii) clinical experience - 1 credit hour - 30 clock hours.

(11) "Exfoliation" means the sloughing off of non-living skin cells "corneocytes" by superficial and non-invasive means.

(12) "Extraction" means the following:

(a) "Advanced extraction," [7] as used in Subsections 58-11a-102([39]40) (a) (i) ([F]D) and R156-11a-611(2) (b), means to perform extraction with a lancet or device that removes impurities from the skin.

(b) "Manual extraction," [7] as used in Subsection 58-11a-102(31) (a), means to remove impurities from the skin with protected fingertips, cotton swabs or a loop comedone extractor.

(13) "Galvanic current" means a constant low-voltage direct current.

(14) "General supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4) (c).

(15) "Health care practitioner" means:

(a) a physician[7] and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act[7];

(b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act[7];

(c) a podiatrist under Title 58, Chapter 5A, Podiatric Physician Licensing Act[7]; or

(d) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Practice Act, acting within the supervisor's scope of practice.

(16) "Hydrotherapy," [7] as used in Subsection 58-11a-102([39]40) (a) (i) (B), means the use of water for cosmetic purposes or beautification of the body.

(17) "Indirect supervision" means the supervising instructor who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4) (b).

(18) "Limited chemical exfoliation" means a non-invasive chemical exfoliation and is further defined in Subsection R156-11a-610(3).

(19) "Lymphatic massage," [7] as used in Subsections 58-11a-102([39]40) (a) (ii) and 58-11a-302(11) (e), means a method using a light rhythmic pressure applied by manual or other means to the skin using specific lymphatic maneuvers to promote drainage of the lymphatic fluid through the tissue.

(20) "Manipulating," [7] as used in Subsection 58-11a-102(31) (a), means applying a light pressure by the hands to the skin.

(21) "Microdermabrasion," [7] as used in Subsection 58-11a-102([39]40) (a) (i) (E), means a gentle, progressive, superficial, mechanical exfoliation of the uppermost layers of the stratum corneum using a closed-loop vacuum system.

(22) "Microneedling" means the use of multiple tiny solid needles designed to pierce the skin to stimulate [~~for the purpose of stimulating~~]

collagen production or cellular renewal. Devices used may be in the form of rollers, stamps or electronic "pens." [7] [11] Microneedling is also known as:

- (a) dermal needling;
- (b) Collagen Induction Therapy (CIT);
- (c) dermal rolling;
- (d) cosmetic dry needling;
- (e) multitrepannic collagen actuation; or
- (f) percutaneous collagen induction.

(23) "Patch test" or "predisposition test" means applying a small amount of a chemical preparation to the skin of the arm or behind the ear to determine possible allergies of the client to the chemical preparation.

(24) "Pedicure" means any of the following:

- (a) cleaning, trimming, softening, or caring for the nails, cuticles, or calluses of the feet;
- (b) the use of manual instruments or implements on the nails, cuticles, or calluses of the feet;
- (c) callus removal by sanding, buffing, or filing; or
- (d) massaging of the feet or lower portion of the leg.

(25) "Source capture system," [7] as used in [Section 15A-3-402 and ] Subsection 58-11a-502([7]6), means the source capture system required under Section 15A-3-402. [~~an air filtration and recirculation system that shall be:~~

- ~~(a) maintained and cleaned according to the manufacturer's instructions; and~~
- ~~(b) capable of:~~
  - ~~(i) filtering and recirculating air to inside space not less than 50 cubic feet per minute (cfm) per acrylic nail station; or~~
  - ~~(ii) exhausting not less than 50 cubic feet per minute (cfm) per acrylic nail station.]~~

(26) "TCA acid" means trichloroacetic acid.

(27) "Unprofessional conduct" is further defined, in accordance with Section 58-1-501, in Section R156-11a-502.

#### **R156-11a-301. Change of Legal Entity.**

In accordance with Section 58-11a-301, a school shall [be required to ] submit a new application for licensure upon any change of legal entity status. The new legal entity may not engage in practice as a licensed school [7 pursuant to Subsections 58-11a-102(16) through (19)7] until the application is approved and a license issued.

#### **R156-11a-302. Disqualifying Convictions.**

When reviewing an application to determine whether the applicant has engaged in unprofessional conduct as set forth in Subsection 58-1-501(2)(c), the Division and the Board shall consider the applicant's criminal record as follows:

(1) [a] A criminal conviction for the following crimes may disqualify an applicant from becoming licensed:

- (a) a sex offense as defined in:
  - (i) Title 76, Chapter 5, Part 4;
  - (ii) Title 76, Chapter 5a; and
  - (iii) Title 76, Chapter 10, Part 12 and 13;

(b) crimes against a person as defined in Title 76, Chapter 5, Parts 1, 2, and 3;

(c) crimes against property as defined in Title 76, Chapter 6, Parts 1 through 6;

(d) any offense involving controlled substances; or

(e) conspiracy to commit or any attempt to commit any of the above offenses.

(2) An applicant who has a criminal conviction for a felony crime of violence may be considered ineligible for licensure for a period of seven years from the termination of parole, probation, judicial proceeding, or date of incident, whichever is later. [

~~(3) An applicant who has a criminal conviction for a felony involving a controlled substance may be considered ineligible for licensure for a period of five years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.~~

~~(4) An applicant who has a criminal conviction for any misdemeanor crime of violence or the use of a controlled substance may be considered ineligible for licensure for a period of three years from the termination of parole, probation, judicial proceeding or date of incident, whichever is later.]~~

([5]3) Each application for licensure or renewal of licensure shall be considered in accordance with the requirements of Section R156-1-302.

#### **R156-11a-302b. Qualifications for Licensure - Equivalency of Foreign School Education.**

In accordance with Subsection 58-11a-302 ([17]20):

(1) An applicant shall submit documentation of education equivalency from a foreign school education to a Utah licensed barber school, cosmetology/barber school, hair design school, esthetics school, electrology school, or nail technology school.

(2) The documentation shall be an education or credential evaluation from one of the following approved credential evaluation services:

(a) Josef Silny & Associates Incorporated, International Education Consultants;

(b) Educational Credential Evaluators Incorporated; or

(c) National Association of State Boards of Accountancy (NASBA).

#### **R156-11a-302c. Qualifications for Licensure - Acceptance of Credit Hours.**

In accordance with Subsection 58-11a-302(21), a licensed school shall accept credit hours toward graduation as follows:

(1) The school shall accept credit hours toward [the]any curriculum [set forth]in Sections R156-11a-700 through R156-11a-707 [~~7, R156-11a-701, R156-11a-702, R156-11a-703, R156-11a-704, R156-11a-705, and R156-11a-706~~].

(2) The credit hours accepted [shall]may not exceed the number of hours required in Subsections 58-11a-302(1)(d)(i), 58-11a-302(4)([d]c)(i), 58-11a-302(7)(d), 58-11a-302(10)([d]c)(i), 58-11a-302(11)(d)(i), 58-11a-302(14)(d)(i), and 58-11a-302(17)([d]c)(i) for that professional license in Utah.

#### **R156-11a-303. Renewal Cycle - Procedures.**

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two year renewal cycle applicable to licenses and certificates under

Title 58, Chapter 11a is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Sections R156-1-308c through R156-1-308l.

**R156-11a-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

- (1) failing to provide direct supervision of:
  - (a) an apprentice[, or of];
  - (b) a student attending a barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology school[~~7~~]; or
  - (c) [~~of~~] a student instructor;
- (2) failing to obtain accreditation as a barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology school in accordance with Section R156-11a-601;
- (3) failing to maintain accreditation as a barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology school after having been approved for accreditation;
- (4) failing to comply with the standards of accreditation applicable to barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology schools;
- (5) failing to provide adequate instruction or training as applicable to a student of a barber, cosmetology/barber, esthetics, electrology, hair design or nail technology school, or in an approved barber, cosmetology/barber, esthetics, or nail technology apprenticeship;
- (6) failing to comply with Title 26, Utah Health Code;
- (7) failing to comply with the apprenticeship requirements applicable to barber, cosmetologist/barber, basic esthetician, master esthetician, hair designer, or nail technician apprenticeships as set forth in Sections R156-11a-800 through R156-11a-804;
- (8) failing to comply with the standards for curriculums applicable to barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology schools as set forth in Sections R156-11a-700 through R156-11a-707;
- (9) using any device classified by the Food and Drug Administration as a prescriptive medical device without the appropriate level of supervision by a licensed health care practitioner acting within the licensed health care practitioner's scope of practice;
- (10) performing services within the scope of practice as a basic esthetician, or a master esthetician without having been adequately trained to perform such services;
- (11) failing as a supervisor to provide the appropriate level of supervision while a basic esthetician, an electrologist or a master esthetician under supervision is performing service within the scope of practice as set forth in Subsections 58-11a-102(31), 58-11a-102(34) and 58-11a-102(39);
- (12) performing services within the scope of practice as a basic esthetician, a master esthetician or an electrologist without having the appropriate level of supervision as required by Subsection 58-11a-102(31), 58-11a-102(34) and 58-11a-102(39);
- (13) violating any standard established in Sections R156-11a-601 through R156-11a-612;
- (14) performing a procedure while the licensee has a known

contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically approved measures to prevent transmission of the disease; and

(15) performing a procedure on a client who has a known contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically approved measures to prevent transmission of the disease.

**R156-11a-503. Administrative Penalties - Unlawful Conduct.**

(1) In accordance with Subsection 58-11a-503(4), unless otherwise ordered by the presiding officer, the following fine schedule shall apply to citations issued under Title 58, Chapter 11a:

TABLE  
FINE SCHEDULE

VIOLATION	FIRST OFFENSE	SECOND OFFENSE
58-11a-502(1)	\$ 500	\$1,000
58-11a-502(2)	\$ 800	\$1,600
58-11a-502(4)	\$ 500	\$1,000
58-11a-502(5)	\$1,000	\$2,000
58-11a-502(6)	\$ 500	\$1,000
58-11a-502(7)	\$ 500	\$1,000

(2) Citations [~~shall~~may] not be issued for third offenses, except in extraordinary circumstances approved by the [~~investigative~~investigation supervisor or chief investigator]. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-11a-503(4)(h).

(3) [~~If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.~~Multiple offenses may be cited on the same citation, if the citation clearly indicates each offense and the fine that is allocated to each offense.

(4) An [~~investigative~~investigation supervisor or the chief investigator] may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(5) The presiding officer [~~for a contested citation~~] shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

**R156-11a-603. Standards for a Student Kit.**

(1) In accordance with Subsections 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iv), 58-11a-302(16)(c)(iv), and 58-11a-302(19)(c)(~~iii~~iv), barber, cosmetology/barber, electrology, esthetics, hair design, and nail technology schools shall provide to each student a list of [~~all~~]basic kit supplies needed by that student.

(2) The basic kit may be supplied by the school or purchased independently by the student.

**R156-11a-607. Standards for a Written Contract.**

(1) In accordance with Subsections 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iv), 58-11a-302(16)(c)(iv), and 58-11a-302(17)(c)(iv), barber, cosmetology/barber, electrology, esthetics, hair design and nail technology schools shall complete a written contract with each student prior to admission.

(2) Each contract shall include specifically, or by reference to the school's catalogue or handbook, or both, the following:

- (a) the current status of the school's accreditation;
- (b) rules of conduct;
- (c) attendance requirements;
- (d) provisions for make-up work;
- (e) grounds for probation, suspension or dismissal; and
- (f) a detailed fee schedule which shall include the student's financial responsibility upon voluntarily leaving the school or upon being suspended from the school.

(3) The school shall maintain on file for each student a copy of the contract and of any referenced catalogue or handbook, [~~for each student,~~] and shall provide a copy of the contract and any catalogue or handbook to the Division upon request.

**R156-11a-609. Standards for Instructors.**

(1) In accordance with Subsections [~~58-11a-302(2)(e) and (f), 58-11a-302(5)(e) and (f), 58-11a-302(8)(e) and (f), 58-11a-302(12)(e) and (f), 58-11a-302(15)(e) and (f), and 58-11a-302(18)(e) and (f),~~] 58-11a-102(31), 58-11a-102(34), 58-11a-102(36), 58-11a-102(37), 58-11a-102(39), and 58-11a-102(42), a barber, cosmetology/barber, electrology, esthetics, hair design, [~~and~~] or nail technology instructors may [~~only~~] teach:

- (a) only in [those] practice areas for which they have received training and are qualified to teach; and
- (b) the use of a mechanical or electrical apparatus only if they are trained and qualified in its use.

(2) In accordance with Subsection 58-11a-102(~~11~~)12), an individual licensed as a cosmetology/barbering instructor may teach:

(a) barbering, basic esthetics, [~~and~~] hair design, and nail technology as part of the cosmetology/barbering or nail technology curriculums in a licensed barber school, a licensed cosmetology/barber school, a licensed hair design school, or a licensed nail technology school; and

(b) barbering, hair design, and basic esthetics in an approved barber, cosmetology/barber, hair design, or nail technology apprenticeship [~~, provided the individual can demonstrate the same experience as required in Subsection(1).~~]

~~(3) An instructor may only teach the use of a mechanical or electrical apparatus for which the instructor is trained and qualified].~~

**R156-11a-610 Standards for the Use of Acids.**

In accordance with Subsections 58-11a-102(32)(b), 58-11a-102(40)(a)(i)(C), and 58-11a-501(17), the standards for the use of any acid or concentration of acids, shall be:

(1) The use of any acid or acid solution [~~which~~]that would exfoliate the skin below the stratum corneum, including those listed in Subsections (3) and (4), is prohibited unless used under the supervision of a licensed health care practitioner[~~-~~];

(2) [~~F~~]the following acids are prohibited unless used under the supervision of a licensed health care practitioner:

- (a) phenol;
- (b) bichloroacetic acid;
- (c) resorcinol, except as provided in Subsection (4)(b); and
- (d) any acid in any concentration level that requires a

prescription.

(3) [~~L~~]limited chemical exfoliation for a basic esthetician does not include the mixing, combining, or layering of skin exfoliation products or services, but does include:

- (a) alpha hydroxy acids of 30% or less, with a pH of not less than 3.0; and
- (b) salicylic acid of 15% or less[~~-~~];
- (4) [~~E~~]chemical exfoliation for a master esthetician includes:
  - (a) acids allowed for a basic esthetician;
  - (b) modified jessner solution on the face and the tissue immediately adjacent to the jaw line;
  - (c) alpha hydroxy acids with a pH of not less than 1.0 and at a concentration of 50% shall include partially neutralized acids, and any acid above the concentration of 50% is prohibited;
  - (d) beta hydroxy acids with a concentration of not more than 30%;
  - (e) trichloroacetic acid, in accordance with Subsection 58-11a-501(17)(c), in a concentration of not more than 15%, but no manual, mechanical, or acid exfoliation can be used prior to treatment unless under the general supervision of a licensed health care practitioner; and
  - (f) vitamin-based acids[~~-~~];

(5)(a) [~~A~~]a licensee shall prepare and maintain current documentation of the licensee's cumulative experience in chemical exfoliation, including:

- (i) courses of instruction;
- (ii) specialized training;
- (iii) on-the-job experience; and

(iv) the approximate percentage that chemical exfoliation represents in the licensee's overall business[~~-~~];

(b) [~~A~~]a licensee shall provide the documentation required by Subsection (5)(a) to the Division upon request[~~-~~];

(6) [~~A~~]a licensee may not use an acid or perform a chemical exfoliation that the licensee is not competent to use or perform through training and experience, and as documented in accordance with Subsection (5)[~~-~~];

(7) [~~O~~]only commercially available products utilized in accordance

with manufacturers' instructions may be used for chemical exfoliation purposes[-]; or

(8) [A] a patch test shall be administered to each client prior to beginning any chemical exfoliation series.

**R156-11a-611. Standards for Approval of Mechanical or Electrical Apparatus.**

In accordance with Subsections 58-11a-102 ([39]40) (a) (i) (G) (II) and (H), the standards for approval of mechanical or electrical apparatus are:

(1) [~~No~~] A licensee may use a mechanical or electrical apparatus that is considered a prescription medical device by the FDA [~~may be used by a licensee, unless such use is completed~~] only under the appropriate level of supervision by a licensed health care practitioner acting within the licensed health care practitioner's scope of practice.

(2) Dermaplane procedures, dermabrasion procedures, blades, knives, and lancets are prohibited except for:

(a) advanced pedicures;

(b) advanced extraction of impurities from the skin; and

(c) dermaplane procedures for advanced exfoliation as defined in Subsection R156-11a-102(7) by a master esthetician under general supervision of a health care practitioner.

(3) The use of any procedure in which human tissue is cut or altered by laser energy or ionizing radiation is prohibited for [~~all~~] individuals licensed under this chapter unless it is within the scope of practice for the licensee and under the appropriate level of supervision by a licensed health care practitioner acting within the licensed health care practitioner's scope of practice.

(4) To be approved, a microdermabrasion machine shall:

(a) be specifically labeled for cosmetic or esthetic purposes;

(b) be a closed-loop vacuum system that uses a tissue retention device; and

(c) the normal and customary use of the machine does not result in the removal of the epidermis beyond the stratum corneum.

(5) To be approved, a microneedling device shall:

(a) be used only by a master esthetician:

(i) without supervision if needle penetration does not exceed 1.5 mm; or

(ii) with general supervision by a licensed health care practitioner if needle penetration exceeds 1.5 mm; and

(b) be used specifically for cosmetic or esthetic purposes.

**R156-11a-612. Standards for Disclosure.**

(1) In accordance with Subsections 58-11a-102 ([31]32) (b) and ([39]40) (a) (i) (C) and (E), a licensee acting within the licensee's scope of practice shall inform a client of the following before applying a chemical exfoliant, using a microneedling device, or using a microdermabrasion machine:

(a) the procedure may only be performed for cosmetic and not medical purposes, unless the licensee is working under the supervision of a

licensed health care practitioner, who is working within the scope of the practitioner's license; and

(b) the benefits and risks of the procedure.

**R156-11a-800. Approved Barber Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(1), the requirements for an approved barber apprenticeship shall include the following:

(1) (a) In accordance with Subsection 58-11a-306(1) (b) (ii), an instructor ~~[is required to]~~ shall provide one-on-one direct supervision of their apprentice during the apprenticeship program. This does not preclude an instructor from having more than one apprentice. ~~[however, if]~~

(b) If an instructor has more than one apprentice ~~[ ]~~:

(i) the instructor may not simultaneously supervise the apprentices ~~[ ]~~; and

(ii) the same hour or hours of instruction may not be credited toward more than one apprentice.

(2) The apprentice shall register with the Division by submitting a form prescribed by the Division.

(3) The instructor shall be approved by the Division for the apprenticeship. The instructor may not have had any disciplinary action in the preceding three years.

(4) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training." ~~[ ]~~

(5) (a) The instructor and apprentice shall keep a daily record ~~[ ]~~ which shall that documents the total number of hours of training, to include:

(i) ~~[include]~~ the hours of theory instruction ~~[ ]~~;

(ii) the hours of practical instruction ~~[ ]~~; and

(iii) the number and type of client services performed, and other services performed ~~[which will document the total number of hours of training]~~.

(b) The daily record shall be available to the Division immediately upon request.

(6) A complete set of barber texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 1,250 hours using the curriculum defined in Section R156-11a-700.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice may not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-700.

(11) Any hours obtained while enrolled in a barber school or a cosmetology/barber school, or hair design school may ~~[shall]~~ not be used to satisfy the required 1,250 hours of apprentice training.

(12) If an apprentice completes the apprenticeship and fails the NIC Barber Theory Examination or NIC Barber Practical Examination three times, the apprentice and instructor shall:

- (a) meet with the Board at the next appropriate Board meeting;
- (b) explain to the Board why the apprentice is not able to pass the examination; and
- (c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

**R156-11a-801. Approved Cosmetologist/Barber Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(1), the requirements for an approved cosmetologist/barber apprenticeship include the following:

(1) (a) In accordance with Subsection 58-11a-306(2)(b)(ii), an instructor ~~[is required to]~~ shall provide one-on-one direct supervision of their apprentice during the apprenticeship program. This does not preclude an instructor from having more than one apprentice. ~~[, however, if]~~

(b) If an instructor has more than one apprentice ~~[,]~~:

(i) the instructor may not simultaneously supervise the apprentices ~~[,]~~; and

(ii) the same hour or hours of instruction may not be credited toward more than one apprentice.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor shall be approved by the Division for the apprenticeship. The instructor may not have had any disciplinary action in the preceding three years.

(4) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training." ~~[,]~~

(5) (a) The instructor and apprentice shall keep a daily record that documents the total number of hours of training, to ~~[which shall]~~ include the following:

(i) the hours of theory instruction ~~[,]~~;

(ii) the hours of practical instruction ~~[,]~~; and

(iii) the number and type of client services performed, and other services performed ~~[which will document the total number of hours of training]~~.

(b) The daily record shall be immediately available to the Division upon request.

(6) A complete set of cosmetology/barber texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 2,500 hours using the curriculum defined in Section R156-11a-705.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice may not perform work on the public until the apprentice has received at least 10% of the hours of technical training,

with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-705.

(11) Hours obtained while enrolled in a cosmetology/barber school ~~[shall]~~ may not be used to satisfy the required 2,500 hours of apprenticeship training.

(12) If an apprentice completes the apprenticeship and fails the NIC Barber/Cosmetology Theory Examination or NIC Barber/Cosmetology Practical Examination three times, the apprentice and instructor shall:

(a) meet with the Board at the next appropriate Board meeting;

(b) explain to the Board why the apprentice is not able to pass the examination; and

(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

#### **R156-11a-802. Approved Basic Esthetician Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(2), the requirements for an approved basic esthetician apprenticeship include the following:

(1) (a) In accordance with Subsection 58-11a-306(3)(b)(ii), an instructor ~~[is required to]~~ shall provide one-on-one direct supervision of their apprentice during the apprenticeship program. This does not preclude an instructor from having more than one apprentice ~~[, however, if]~~ .

(b) If an instructor has more than one apprentice ~~[,]~~ :

(i) the instructor may not simultaneously supervise the apprentices; ~~[,]~~ and

(ii) the same hour or hours of instruction may not be credited toward more than one apprentice.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor shall be approved by the Division for the apprenticeship. The instructor may not have had any disciplinary action in the preceding three years.

(4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training." ~~[,]~~

(5) (a) The instructor and apprentice shall keep a daily record ~~[, which shall]~~ that documents the total number of hours of training, to include:

(i) the hours of theory instruction ~~[,]~~ ;

(ii) the hours of practical instruction ~~[,]~~ ; and

(iii) the number and type of client services performed, and other services performed ~~[, which will document the total number of hours of training]~~ .

(b) The daily record shall be immediately available to the Division upon request.

(6) A complete set of esthetics texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 800 hours using the curriculum defined in Section R156-11a-702.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice may not perform work on the public until the apprentice has received at least 10% of the hours required in technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-702.

(11) Hours obtained while enrolled in an esthetics school or a cosmetology/barber school ~~shall~~ may not be used to satisfy the required 800 hours of apprentice training.

(12) If an apprentice completes the apprenticeship and fails the NIC Esthetics Theory Examination or NIC Esthetics Practical Examination three times, the apprentice and instructor shall:

(a) meet with the Board at the next appropriate Board meeting;

(b) explain to the Board why the apprentice is not able to pass the examination; and

(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

#### **R156-11a-803. Approved Master Esthetician Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(3), the requirements for an approved master esthetician apprenticeship include the following:

(1) (a) In accordance with Subsection 58-11a-306(4)(b)(ii), an instructor ~~[is required to]~~ shall provide one-on-one direct supervision of their apprentice during the apprenticeship program. This does not preclude an instructor from having more than one apprentice. ~~[, however, if]~~

(b) If an instructor has more than one apprentice ~~[,]~~:

(i) the instructor may not simultaneously supervise the apprentices ~~[,]~~; and

(ii) the same hour or hours of instruction may not be credited toward more than one apprentice.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor shall be approved by the Division for the apprenticeship. The instructor may not have had any disciplinary action in the preceding three years.

(4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

(5) (a) The instructor and apprentice shall keep a daily record that documents the total number of hours of training, to include: ~~[, which shall include-]~~

(i) the hours of theory instruction ~~[,]~~;

(ii) the hours of practical instruction ~~[,]~~;

(iii) the number and type of client services performed, and other services performed ~~[, which will document the total number of hours of training]~~.

(b) The daily record shall be immediately available to the Division upon request.

(6) A complete set of esthetics texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 1,500 hours using the curriculum defined in Section R156-11a-703.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice may not perform work on the public until the apprentice has received at least 10% of the required hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Subsection R156-11a-703.

(11) Hours obtained while enrolled in an esthetics school or a cosmetology/barber school ~~[shall]~~ may not be used to satisfy the required 1,500 hours of apprentice training.

(12) If an apprentice completes the apprenticeship and fails the NIC Master Esthetics Theory Examination or NIC Master Esthetics Practical Examination three times, the apprentice and instructor shall:

(a) meet with the Board at the next appropriate Board meeting;

(b) explain to the Board why the apprentice is not able to pass the examination; and

(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

**R156-11a-804. Approved Hair Designer Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(3), the requirements for an approved hair designer apprenticeship include the following:

(1)(a) In accordance with Subsection 58-11a-306(3)(b)(ii), an instructor shall provide one-on-one direct supervision of their apprentice during the apprenticeship program. This does not preclude an instructor from having more than one apprentice.

(b) If an instructor has more than one apprentice:

(i) the instructor may not simultaneously supervise the apprentices; and

(ii) the same hour or hours of instruction may not be credited toward more than one apprentice.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor shall be approved by the Division for the apprenticeship. The instructor may not have had any disciplinary action in the preceding three years.

(4) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in training."

(5)(a) The instructor and apprentice shall keep a daily record that documents the total number of hours of training to include:

(i) the hours of theory instruction;

(ii) the hours of practical instruction; and

(iii) the number and type of client services performed, and other services performed.

(b) The daily record shall be available to the Division immediately

upon request.

(6) A complete set of hair designer texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 1,600 hours using the curriculum defined in Section R156-11a-705.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week, and not more than five days out of every seven consecutive days.

(10) An apprentice may not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-706.

(11) Hours obtained while enrolled in a barber, cosmetology/barber, or hair design school may not be used to satisfy the required 1,600 hours of apprentice training.

(12) If an apprentice completes the apprenticeship and fails the NIC Hair Designer Theory Examination or NIC Hair Designer Practical Examination three times, the apprentice and instructor shall:

(a) meet with the Board at the next appropriate Board meeting;

(b) explain to the Board why the apprentice is not able to pass the examination; and

(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

**R156-11a-[804]805. Approved Nail Technician Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(4), the requirements for an approved nail technician apprenticeship include the following:

(1) In accordance with Subsection 58-11a-306(5)(b)(iii), an instructor is required to provide one-on-two direct supervision of their apprentices during the apprenticeship program. This does not preclude an instructor from having more than two apprentices; however, if an instructor has more than two apprentices, the instructor may not simultaneously supervise more than two apprentices, and the same hour or hours of instruction may not be credited toward more than two apprentices.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor shall be approved by the Division for the apprenticeship. The instructor may not have had any disciplinary action in the preceding three years.

(4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

(5)(a) The instructor and apprentice shall keep a daily record~~[7~~ which shall] that documents the total number of hours of training, to include:

(i) the hours of theory instruction[7];

(ii) the hours of practical instruction[7];

(iii) the number and type of client services performed, and other services performed. [~~7~~ which will document the total number of hours of

training-]

(b) The daily record shall be immediately available to the Division upon request.

(6) A complete set of nail technician texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 375 hours using the curriculum defined in Section R156-11a-704.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice may not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Subsection R156-11a-704.

(11) Hours obtained while enrolled in a nail technology school or a cosmetology/barber school [~~shall~~]may not be used to satisfy the required 375 hours of apprentice training.

(12) If an apprentice completes the apprenticeship and fails the NIC Nail Technology Theory Examination or NIC Nail Technology Practical Examination three times, the apprentice and instructor shall:

(a) meet with the Board at the next appropriate Board meeting;

(b) explain to the Board why the apprentice is not able to pass the examination; and

(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

#### **R156-11a-~~[805]~~806. Conflicts of Interest.**

An apprentice instructor may not be an employee of an apprentice or be involved in any relationship with an apprentice or others that would interfere with the instructor's ability to teach and train the apprentice.

**KEY: cosmetologists/barbers, estheticians, electrologists, nail technicians**

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