

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
State Admin Rule Filing Id:		Time filed:	
	Agency No.	Rule No.	Section No.
Utah Admin. Code Ref (R no.):	R 156	- 11a	-
Changed to Admin. Code Ref. (R no.):	R	-	-

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Dane Ishihara	801-530-7632	801-530-6511	dishihara@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

- | | |
|-----------|--|
| 2. | Title of rule or section (catchline): |
| | Barber, Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Licensing Act Rule |
| 3. | Type of notice: |
| | New ___; Amendment XXX; Repeal ___; Repeal and Reenact ___ |
| 4. | Purpose of the rule or reason for the change: |
| | The Division and the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Board reviewed this rule and determined that the following changes need to be made. The purpose of this filing is to: (1) define “acrylic nail” in accordance with S.B. 143, which was passed during the 2014 General Legislative Session; (2) add definitions for “microneedling” and “source capture system”; (3) add clarifying language to the existing definitions of "dermabrasion or open dermabrasion" and "exfoliation;" (4) add language so that the Division may, under extenuating circumstances, accept an applicant's examination results that are more than one year prior to the date of application; (5) remove the Utah Barber, Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Law and Rule Examination requirement from licensure; (6) add administrative penalties for additional violations of unlawful conduct; (7) create consistency in unlawful conduct penalties; (8) change the penalty for using methyl methacrylate (MMA) to apply not only nail technicians but to all professions licensed under this chapter; (9) clarify the language for evaluating whether a newly-licensed school entity succeeded a previously-licensed school entity; (10) clarify the language under the standards for protection of schools and standards for instructors; (11) establish boundaries for microneedling in the standards for the use of acids; (12) establish the requirements for a microneedling device to be approved; and (13) add microneedling to the standards for disclosure |
| 5. | This change is a response to comments from the Administrative Rules Review Committee. |

	No XXX; Yes ____
6. Summary of the rule or change:	Section R156-11a-102: adds definitions for “acrylic nail”, “microneedling” and “source capture system.” Also, adds language to the existing definitions of "dermabrasion or open dermabrasion" and "exfoliation." Section R156-11a-302a: modifies language so that the Division may, under extenuating circumstances, accept an applicant’s examination results that are more than one year prior to the date of application and removes the Utah Barber, Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Law and Rule Examination requirement for licensure. Section R156-11a-503: adds administrative penalties for additional violations of unlawful conduct, modifies the unlawful conduct penalties for consistency and changes the penalty for using methyl methacrylate to apply not only nail technicians but to all professions licensed under this chapter. Section R156-11a-601: clarifies language for evaluating whether a newly-licensed school entity has succeeded a previously-licensed school entity for the purposes of accreditation. Section R156-11a-606: adds a reference to section R156-11a-302c. Section R156-11a-609: establishes that basic esthetics may be taught only by a cosmetology/barbering instructor as part of the cosmetology/barbering curriculum. Section R156-11a-610: establishes that any exfoliating acid may not be applied to a client’s skin within seven days of undergoing microneedling unless under the general supervision of a licensed health care practitioner. Section R156-11a-611: establishes the requirements for a microneedling device to be approved. Section R156-11a-612: adds microneedling to the standards for disclosure.
7. Aggregate anticipated cost or savings to:	
A) State budget:	
Affected:	No ____; Yes XXX
The Division will incur minimal costs of approximately \$75.00 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.	
B) Local government:	
Affected:	No XXX; Yes ____
The proposed amendments apply to various license classifications provided in Title 58, Chapter 11a and to applicants for licensure in those classifications. As a result, the proposed amendments do not apply to local governments.	
C) Small businesses ("small business" means a business employing fewer than 50 persons):	
Affected:	No XXX; Yes ____
The proposed amendments apply to various license classifications provided in Title 58, Chapter 11a, and to applicants for licensure in those classifications. Licensees and applicants for licensure may work in a small business or qualify as a small business. The Division anticipates that these proposed amendments will not result in any additional encumbrances for small businesses beyond what is currently identified in statute or rule or what was considered by the Legislature in the passage of S.B. 143.	
D) Persons other than small businesses, businesses, 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):	
Affected:	No ____; Yes XXX
The proposed amendments apply to licensees in various license classifications provided in Title 58, Chapter 11a, and to applicants for licensure in those classifications. The change made in Subsection R156-11a-503(1) increases the second offense fine amount for practicing or engaging in activity for which a license is required and the changes made in Subsections R156-11a-503(2) and (3) expand the use or possession of MMA to all professions outlined in Title 58, Chapter 11a. The Division anticipates these proposed changes will increase the total fine amounts collected by the Division; however, a total amount cannot be quantified due to a wide range of circumstances. The Division also notes that due to the discontinuance of the law and rule examination for applicants, no fees were involved with this examination as the examination was included as a part of the application for licensure only.	
8. Compliance costs for affected persons:	

	<p>The proposed amendments apply to licensees in various license classifications provided in Title 58, Chapter 11a, and applicants for licensure in those classifications. The change made in Subsection R156-11a-503(1) increases the second offense fine amount for practicing or engaging in activity for which a license is required and the changes made in Subsections R156-11a-503(2) and (3) expand the use or possession of MMA to all professions outlined in Title 58, Chapter 11a. The Division anticipates these proposed changes will increase the total fine amounts collected by the Division; however, a total amount cannot be quantified due to a wide range of circumstances. The Division also notes that due to the discontinuance of the law and rule examination for applicants, no fees were involved with this examination as the examination was included as a part of the application for licensure only.</p>																												
9.	<p>A) Comments by the department head on the fiscal impact the rule may have on businesses:</p> <p>This filing responds to legislative action (S.B. 143, 2014 General Legislative Session), which requires rulemaking to establish a definition for the term "acrylic nail". In addition, the filing clarifies the testing requirements that apply to several licenses. The filing also responds to industry trends by establishing definitions for new equipment and techniques and by stating the standards and circumstances under which licensees may appropriately use such equipment and techniques. Finally, the filing broadens administrative penalties section to apply to all professional licenses regulated under Title 58, Chapter 11a. These amendments apply to individuals who are either seeking licensure or practicing with the profession. No fiscal impact to businesses is anticipated.</p> <p>B) Name and title of department head commenting on the fiscal impacts:</p> <p>Francine A. Giani, Executive Director</p>																												
10.	<p>This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.</p> <p>State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :</p> <table border="1" data-bbox="186 840 1492 955"> <tr> <td>Section 58-11-a-101</td> <td>Subsection 58-1-106(1)(a)</td> </tr> <tr> <td>Subsection 58-1-202(1)(a)</td> <td></td> </tr> <tr> <td></td> <td></td> </tr> </table>		Section 58-11-a-101	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)																								
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11.	<p>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 Division of Administrative Rules; <i>if none, leave blank</i>):</p> <table border="1" data-bbox="186 1029 1492 1480"> <thead> <tr> <th></th> <th>First Incorporation</th> <th>Second Incorporation</th> </tr> </thead> <tbody> <tr> <td>Official Title of Materials Incorporated (from title page)</td> <td></td> <td></td> </tr> <tr> <td>Publisher</td> <td></td> <td></td> </tr> <tr> <td>Date Issued</td> <td></td> <td></td> </tr> <tr> <td>Issue, or version</td> <td></td> <td></td> </tr> <tr> <td>ISBN Number (optional)</td> <td></td> <td></td> </tr> <tr> <td>ISSN Number (optional)</td> <td></td> <td></td> </tr> <tr> <td>Cost of Incorporated Reference</td> <td></td> <td></td> </tr> <tr> <td>Action: Adds, updates, or removes</td> <td></td> <td></td> </tr> </tbody> </table> <p>(If this rule incorporates more than two items by reference, please attach additional pages)</p>			First Incorporation	Second Incorporation	Official Title of Materials Incorporated (from title page)			Publisher			Date Issued			Issue, or version			ISBN Number (optional)			ISSN Number (optional)			Cost of Incorporated Reference			Action: Adds, updates, or removes		
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12.	<p>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.)</p> <table border="1" data-bbox="186 1690 1492 1904"> <tr> <td>A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):</td> <td colspan="2">12/15/2014</td> </tr> <tr> <td colspan="3">B) A public hearing (optional) will be held:</td> </tr> <tr> <td>On (mm/dd/yyyy):</td> <td>At (hh:mm AM/PM):</td> <td>At (place):</td> </tr> <tr> <td>12/01/2014</td> <td>10:00 AM</td> <td>160 East 300 South, Conference Room 474, Salt Lake City, Utah</td> </tr> <tr> <td></td> <td></td> <td></td> </tr> </table>		A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):	12/15/2014		B) A public hearing (optional) will be held:			On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):	12/01/2014	10:00 AM	160 East 300 South, Conference Room 474, Salt Lake City, Utah															
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13.	This rule change may become effective on (mm/dd/yyyy):	12/22/2014	
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 12(A) above, the agency must submit a Notice of Effective Date to the Division 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.			
14.	Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")); may not include the name of the agency:		
	cosmetologists/barbers	estheticians	
	electrologists	nail technicians	
15.	Attach an RTF document containing the text of this rule change (filename):	R156-11a.pro	
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 <i>Utah State Bulletin</i> , and delaying the first possible effective date.			
AGENCY AUTHORIZATION			
Agency head or designee, and title:	Mark B. Steinagel, Director	Date (mm/dd/yyyy):	10/30/2014

R156. Commerce, Occupational and Professional Licensing.

R156-11a. Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule.

R156-11a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 11a, as used in Title 58, Chapters 1 and 11a or this rule:

(1) "Acrylic nail", as used in Subsections 15A-3-401(4) and R156-11a-102(25), means an extension for natural nails molded out of a polymer powder and a liquid monomer buffed to a shine.

([1]2) "Advanced pedicures", as used in Subsection 58-11a-102(34) (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).

([2]3) "Aroma therapy" means the application of essential oils which 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.

([3]4) "BCA acid" means bicloroacetic acid.

([4]5) "Body wraps", as used in Subsection 58-11a-102(34) (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.

([5]6) "Chemical exfoliation", as defined in Subsections 58-11a-102(34) (a) (i) (C) and R156-11a-610(4), means a resurfacing procedure performed with a chemical solution or product for the purpose of removing superficial layers of the epidermis to a point no deeper than the stratum corneum.

([6]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.

([7]8) "Dermaplane" means the use of a scalpel or bladed instrument under the direct supervision of a health care practitioner to shave the upper layers of the stratum corneum.

([8]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).

([9]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.

(~~10~~11) "Exfoliation" means the sloughing off of non-living skin cells "corneocytes" by superficial and non-invasive means.

(~~11~~12) "Extraction" means the following:

(a) "advanced extraction", as used in Subsections 58-11a-102(34) (a) (i) (F) and R156-11a-611(2) (b), means to perform extraction with a lancet or device that removes impurities from the skin;

(b) "manual extraction", as used in Subsection 58-11a-102(25) (a), means to remove impurities from the skin with protected fingertips, cotton swabs or a loop comedone extractor.

(~~12~~13) "Galvanic current" means a constant low-voltage direct current.

(~~13~~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).

(~~14~~15) "Health care practitioner" means a physician/surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a podiatrist under Title 58, Chapter 5A, Podiatric Physician Licensing Act, or a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Practice Act, acting within the appropriate scope of practice.

(~~15~~16) "Hydrotherapy", as used in Subsection 58-11a-102(34) (a) (i) (B), means the use of water for cosmetic purposes or beautification of the body.

(~~16~~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).

(~~17~~18) "Limited chemical exfoliation" means a non-invasive chemical exfoliation and is further defined in Subsection R156-11a-610(3).

(~~18~~19) "Lymphatic massage", as used in Subsections 58-11a-102(34) (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.

(~~19~~20) "Manipulating", as used in Subsection 58-11a-102(28) (a), means applying a light pressure by the hands to the skin.

(~~20~~21) "Microdermabrasion", as used in Subsection 58-11a-102(34)(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 for the purpose of stimulating collagen production or cellular renewal. Devices used may be in the form of rollers, stamps or electronic "pens". It 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.

(~~21~~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.

(~~22~~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", as used in Subsections 15A-3-401(4) and 58-11a-502(7), means 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.

(~~23~~26) "TCA acid" means trichloroacetic acid.

(~~24~~27) "Unprofessional conduct" is further defined, in accordance with Section 58-1-501, in Section R156-11a-502.

R156-11a-302a. Qualifications for Licensure - Examination Requirements.

In accordance with Section 58-11a-302, the examination requirements for licensure are established as follows:

(1) Applicants for each classification listed below shall pass within one year prior to the date of application, or within other reasonable timeframe as approved by the Division upon review of applicable extenuating circumstances, the respective examination with a passing score of at least 75% as determined by the examination provider.

(a) Applicants for licensure as a barber shall pass the National Interstate Council of State Boards of Cosmetology (NIC) Barber Theory and Practical Examinations.

(b) Applicants for licensure as a cosmetologist/barber shall pass the NIC Cosmetology/Barber Theory and Practical Examinations.

(c) Applicants for licensure as an electrologist shall pass the NIC Electrologist Theory and Practical Examinations.

(d) Applicants for licensure as a basic esthetician shall pass the NIC Esthetics Theory and Practical Examinations.

(e) Applicants for licensure as a master esthetician shall pass the NIC Master Esthetician Theory and Practical Examinations.

(f) Applicants for licensure as a barber instructor, cosmetologist/barber instructor, electrolysis instructor, esthetician instructor, or nail technology instructor shall pass the NIC Instructor Examination.

(g) Applicants for licensure as a nail technician shall pass the NIC Nail Technician Theory and Practical Examinations.

(2) [~~Applicants for licensure shall pass with a score of at least 75% the Utah Barber, Cosmetologist/Barber, Esthetician, Electrologist and Nail Technician Law and Rule Examination.~~

~~—(3)—~~Any substantially equivalent theory, practical or instructor examination approved by the licensing authority of any other state is acceptable for any of the examinations specified in Subsection(1).

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

In accordance with Subsections 58-1-501(1)(a) and (c), 58-11a-301(1) and (2), 58-11a-502(1), (2), ~~[or]~~ (4), (5), (6), or (7), and 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.

(1) Practicing or engaging in, or attempting to practice or engage in activity for which a license is required under Title 58, Chapter 11a in violation of Subsection 58-11a-502(1).

First Offense: \$200

Second Offense: \$~~300~~400

(2) Knowingly employing any other person to engage in or practice or attempt to engage in or practice any occupation or profession for which a license is required under Title 58, Chapter 11a in violation of Subsection 58-11a-502(2).

First Offense: \$400

Second Offense: \$800

(3)(a) Using ~~[as a nail technician]~~a solution composed of at least 10% methyl methacrylate (MMA) on a client in violation of Subsection 58-11a-502(4)

First Offense: \$500

Second Offense: \$1,000

(b) Possessing ~~[as a nail technician]~~a solution composed of at least 10% methyl methacrylate (MMA) in violation of Subsection 58-11a-

502(4)

First Offense: \$500

Second Offense: \$1,000

(4) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. 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).

(5) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(6) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

(7) 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-601. Standards for Accreditation.

In accordance with Subsections 58-11a-302(3)(c)(iv), (6)(c)(iv), (9)(c)(iv), (13)(c)(iv), and (16)(c)(iv), the accreditation standards for a barber school, a cosmetology/barber school, an electrology school, an esthetics school, and a nail technology school include:

(1) Each school shall be required to become accredited by:

(a) the National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS); or

(b) other accrediting commissions recognized by the Utah Board of Regents for post secondary schools.

(2) Each school shall maintain and keep the accreditation current.

(3) A newly licensed school shall pursue accreditation under this section using the following procedure:

(a) A new school shall:

(i) submit an application for candidate status for accreditation to an accrediting commission within one month of the date when the school was licensed by the Division as a barber school, a cosmetology/barber school, an electrology school, an esthetics school, or a nail technology school;

(ii) provide evidence received from the accrediting commission to the Division of achieving candidate status within 12 months of the date the school was licensed;

(iii) file an "Exemption of Registration as a Post-Secondary Proprietary School" form with the Division of Consumer Protection pursuant to Sections 13-34-101 and R152-34-1;

(iv) comply with all applicable accreditation standards during the pendency of its application for accreditation status; and

(v) have 24 months following the date of achieving candidate status to be approved for accreditation.

(b) The Division shall determine whether a newly-licensed school entity has succeeded a previously-licensed school entity for the purposes

of achieving accreditation.

(c) If a newly-licensed school is determined by the Division to be a new entity, then the newly-licensed school shall comply with the accreditation deadlines that are specified in Subsection R156-11a-601(3) (a) above.

(d) If a newly-licensed school is determined by the Division not to be a new entity, then the newly-licensed school shall meet the accreditation deadlines previously set by its accrediting commission.

(4) The Division's determination shall be based upon whether the newly-licensed school:

(a) operates on essentially the same premises as the previously-licensed school;

(b) uses essentially the same staff;

(c) operates under essentially the same ownership; and

(d) maintains the previously-licensed schools's accreditation status with the applicable governing accreditation commission.

(5) A licensee whose accreditation has been withdrawn shall immediately notify the Division.

~~[(b) (i) If the entity is a newly licensed school, but the facility is operated on essentially the same premises with essentially the same staff then the newly licensed school shall meet the accreditation deadlines that were applicable to the predecessor licensed school.~~

~~[(ii) The determination of whether a newly licensed school entity has succeeded a predecessor shall be made by the Division.]~~

[(4)6] A licensee who fails to obtain or maintain accreditation status, as required herein, shall immediately surrender to the Division its license as a school. Failure to do so shall constitute a basis for immediate revocation of licensure in accordance with Section 63G-4-502.

R156-11a-606. Standards for Protection of Schools.

In accordance with Subsections 58-11a-302(3) (c) (iv), (6) (c) (iv), (9) (c) (iv), (13) (c) (iv), and (16) (c) (iv), standards for the protection of barber, cosmetology/barber, electrology, esthetics, and nail technology schools shall include the following:

(1) Schools shall not be required to release documentation of hours earned to a student until the student has paid the tuition or fees owed to the school as provided in the terms of the contract.

(2) Schools may accept transfer students. Schools shall determine the ~~[amount]~~number of hours to be accepted toward graduation based upon an evaluation of the student's level of training in accordance with Section R156-11a-302c.

(3) Hours obtained ~~[while]~~by a student who is enrolled in a barber, cosmetology/barber, esthetics, master esthetics, or nail technology apprenticeship ~~[shall]~~may not be used to satisfy any of the required hours of school instruction.

R156-11a-609. Standards for Instructors.

(1) In accordance with Subsections 58-11a-302(2)(e) and (f), (5)(e) and (f), (8)(e) and (f), (12)(e) and (f), and (15)(e) and (f), barber, cosmetology/barber, electrology, esthetics, and nail technology instructors may only teach in those areas for which they have received training and are qualified to teach.

(2) In accordance with Subsection 58-11a-102(9), an individual licensed as a cosmetology/barbering instructor may teach barbering, basic esthetics as part of the cosmetology/barbering curriculum or nail technology in a licensed barber school, a licensed cosmetology/barber school or a licensed nail technology school or in an approved barber, cosmetology/barber[, ~~basic esthetics~~] 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(25)(b) and (31)(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 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) 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) 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) 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% must 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), may be used 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 licensee may not apply any exfoliating acid to a client's skin that has undergone microdermabrasion or microneedling within the previous seven days unless under the general supervision of a licensed health care practitioner.

(6) (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 licensee shall provide the documentation required by Subsection (6) (a) to the Division upon request.

(7) A licensee may not use an acid or perform a chemical exfoliation for which the licensee is not competent to use or perform through training and experience and as documented in accordance with Subsection (6).

(8) Only commercially available products utilized in accordance with manufacturers' instructions may be used for chemical exfoliation purposes.

(9) 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(31) (a) (i) (G) (II) and (H), the standards for approval of mechanical or electrical apparatus shall be:

(1) No 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 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 direct 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 must:

(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(25) (b) and (31) (i) (C), 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.

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

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