

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:

40589

Date filed:

7-7-2016

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:
Allyson Pettley	801-530-6179	801-530-6511	apettley@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 XX; Repeal \_\_\_; Repeal and Reenact \_\_\_

**4. Purpose of the rule or reason for the change:**  
The Division and Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Board are proposing amendments to the rule. The purpose of this rule filing is to: (1) implement changes or amendments made to the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act in 2016 by H.B 352; (2) increase the fine schedule for unlicensed practice and aiding and abetting unlicensed practice, respectively, to better deter such unlawful conduct and make the fine schedule more consistent with R156-1- 502; (3) modify the approved accrediting bodies for schools; (4) address apprenticeship requirements; and (5) make non-substantive technical changes.

5. **This change is a response to comments from the Administrative Rules Review Committee.**

No ; Yes

6. **Summary of the rule or change:**

Section R156-11a-302a: Subsection (1) updates the current titles of the required exams. Section R156-11a-503: Subsections (1) and (2) increase the fine penalty amounts for unlicensed practice and aiding unlicensed practice, respectively. Section R156-11a-601: Subsection (1)(b) is modified to name the United States Department of Education as the approval authority for accrediting bodies, and remove the Utah Board of Regents, which no longer approves accreditation for barber, cosmetology barber, esthetics, electrology, and nail technology schools. Sections R156-11a-800 through 804: Subsection (2) establishes the method of apprentice registration. Subsection (3) requires approval of apprentice instructors. Subsections (4) through (11) are renumbered. Subsection (12) prohibits an instructor from beginning a new apprenticeship until a current apprentice either passes the required exams or the apprenticeship is discontinued. Finally, Subsection (13) requires an instructor and an instructor's apprentice to appear before the Board if the apprentice fails an examination three times, to explain why the apprentice is unable to pass the exam and address remediation. Section R156-11a-902: Establishes the standards for on-the-job instructor training.

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

**A) State budget:**

**Affected:** No ; Yes

The proposed rule change in part, implements H.B. 352. Any costs or savings associated with this implementation were addressed by the fiscal note attached to H.B. 352. The note was fiscally neutral with revenues from fees offsetting costs. The apprentice registration fees for initial registration and renewal have both been established in the amount of \$20. Not associated with H.B. 352, the proposed rule will result in the Division collecting additional revenue from the revised fine schedule for unlicensed practice and aiding and abetting unlicensed practice. The increase from \$200 to \$500 more closely aligns the fine for this profession with fines in other professions. The revenue is required to be deposited into the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Education and Enforcement Fund. It is anticipated that 200 citations will be issued annually, based on historical reference. Based on the revised fine schedule, this will result in \$60,000 of increased revenue. The Division will incur approximately \$75 to reprint this rule.

**B) Local government:**

**Affected:** No ; Yes

The proposed amendments apply only to current licensees and applicants for licensure/registration governed by Title 58, Chapter 11a. 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 ; Yes

The proposed rule change in part, implements H.B. 352. Any costs or savings associated with this implementation were addressed by the fiscal note attached to H.B. 352. The impact may result in a cost savings to schools who eliminate an accredited instructor program in favor of a paid employee on-the-job instructor training program. The Division is unable to estimate any potential cost savings.

**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

The proposed rule change in part, implements H.B. 352. Any costs or savings associated with this implementation were addressed by the fiscal note attached to H.B. 352. The impact described above for small business is not expected to affect large businesses because the Division is unaware of any schools that employs 50 or more employees. Not associated with H.B. 352, unlicensed individuals who are fined for unlawful practice will incur increased fines in the amount of \$500 versus \$200 for a first offense and \$1,000 versus \$400 for a second offense. It is estimated that this will result in \$60,000 of increased cost to this category based on historical precedent. Not associated with H.B. 352, individuals who are fined for aiding and abetting in unlicensed practice will incur fines in the amount of \$800 for the first offense and \$1,600 for a second offense. Previously, an offense of this type required evidence of "knowing employing" an individual to engage in unlicensed practice. This was a difficult standard to establish. The new standard of "aiding or abetting" is expected to be a more appropriate evidentiary standard resulting in better enforcement of this category of unlawful conduct. The Division is unable to estimate the aggregate the amount of increased fines for this category because historical precedent is inapplicable.

**8. Compliance costs for affected persons:**

The proposed rule change in part, implements H.B. 352. Any costs or savings associated with this implementation were addressed by the fiscal note attached to H.B. 352. The note was fiscally neutral with revenues from fees offsetting costs. The implementation of the on-the-job instructor training established by H.B. 352 may impact the pay of an individual on-the-job instructor trainee. The Division is not able to estimate the pay differential. The implementation of the apprentice registration requirement as a result of H.B. 352 will result in a \$20 initial application and a \$20 renewal fee. Not associated with H.B. 352, an individual engaged in unlicensed practice who is fined will pay \$500 under the fine schedule versus \$200 for a first offense and \$1000 versus \$400 for a second offense. An individual engaged in aiding and abetting unlicensed practice who is fined will pay \$800 versus \$400 for a first offense and \$1,600 versus \$800 for a second offense.

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

This rule change: implements amendments made to the relevant statute by House Bill 352, passed in the 2016 legislative session; increases fines for unlicensed practice, and aiding and abetting in unlicensed practice; modifies the approved accrediting bodies for schools, modifies apprenticeship requirements; and make non-substantive technical changes. No fiscal impact to businesses is anticipated

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

Francine A. Giani, Executive Director

**10 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)** (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV):

Section 58-11a-101

Subsection 58-1-106(1)(a)

Subsection 58-1-202(1)(a)

**11 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; if none, leave blank):**

	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		

(If this rule incorporates more than two items by reference, please attach additional pages)

12 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 5:00 p.m. on (mm/dd/yyyy): 08/31/2016

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
08/01/2016	9:00 AM	160 East 300 South, Conference Room 210 (2nd floor), Salt Lake City, Utah

13 This rule change may become effective on (mm/dd/yyyy): 09/07/2016

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 *Utah State Bulletin*, and delaying the first possible effective date.

### AGENCY AUTHORIZATION

Agency head or designee, and title:



Date (mm/dd/yyyy): 7/7/2016

**R156. Commerce, Occupational and Professional Licensing.**

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

**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~~Electrology] 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~~Esthetics] Theory and Practical Examinations.

(f) Applicants for licensure as a barber instructor, cosmetologist/barber instructor, electrology 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~~Technology] Theory and Practical Examinations.

(2) 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), (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~~]500

Second Offense: \$[400]1,000

(2) Aiding or abetting a person engaging in the practice of, or attempting to engage in the practice of, [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]800

Second Offense: \$[800]1,600

(3) (a) Using 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 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 bodies recognized by the U.S. Department of Education [~~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.

(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-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) The instructor shall have only one apprentice at a time.

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

(3) The instructor must be approved by the Division for the apprenticeship.

([2]4) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training".

([3]5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services which will document the total number of hours of training. The record shall be available to the Division upon request.

([4]6) A complete set of barber texts shall be available to the

apprentice.

([5]7) An apprentice may be compensated for services performed.

([6]8) The instructor shall provide training and technical instruction of 1,250 hours using the curriculum defined in Section R156-11a-700.

([7]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.

([8]10) An apprentice shall 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.

([9]11) Any hours obtained while enrolled in a barber school or a cosmetology/barber school shall not be used to satisfy the required 1,250 hours of apprentice training.

(12) An instructor may not begin a new apprenticeship until:

(a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Barber Theory and Practical Examinations and becomes licensed as a barber; or

(b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.

(13) If an apprentice completes the apprenticeship and fails the National Interstate Council of State Boards of Cosmetology (NIC) Barber Theory and Practical Examinations three times:

(a) the apprentice and instructor must 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 cosmetology/barber apprenticeship include:

(1) The instructor shall have only one apprentice at a time.

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

(3) The instructor must be approved by the Division for the apprenticeship.

([2]4) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training".

([3]5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services which will document the total number of hours of training. The record shall be available to the Division upon request.

([4]6) A complete set of cosmetology/barber texts shall be available

to the apprentice.

([5]7) An apprentice may be compensated for services performed.

([6]8) The instructor shall provide training and technical instruction of 2,500 hours using the curriculum defined in Section R156-11a-705.

([7]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.

([8]10) An apprentice shall 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.

([9]11) Hours obtained while enrolled in a cosmetology/barber school shall not be used to satisfy the required 2,500 hours of apprentice training.

(12) An instructor may not begin a new apprenticeship until:

(a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Cosmetology/Barber Theory and Practical Examinations and becomes licensed as a cosmetologist/barber; or

(b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.

(13) If an apprentice completes the apprenticeship and fails the National Interstate Council of State Boards of Cosmetology (NIC) Cosmetology/Barber Theory and Practical Examinations three times:

(a) the apprentice and instructor must 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:

(1) The instructor shall have no more than one apprentice at a time.

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

(3) The instructor must be approved by the Division for the apprenticeship.

([2]4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training".

([3]5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the Division upon request.

([4]6) A complete set of esthetics texts shall be available to the

apprentice.

([5]7) An apprentice may be compensated for services performed.

([6]8) The instructor shall provide training and technical instruction of 800 hours using the curriculum defined in Section R156-11a-702.

([7]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.

([8]10) An apprentice shall 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.

([9]11) Hours obtained while enrolled in an esthetics school or a cosmetology/barber school shall not be used to satisfy the required 800 hours of apprentice training.

(12) An instructor may not begin a new apprenticeship until:

(a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Esthetics Theory and Practical Examinations and becomes licensed as an esthetician; or

(b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.

(13) If an apprentice completes the apprenticeship and fails the National Interstate Council of State Boards of Cosmetology (NIC) Esthetics Theory and Practical Examinations three times:

(a) the apprentice and instructor must 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:

(1) The instructor shall have no more than one apprentice at a time.

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

(3) The instructor must be approved by the Division for the apprenticeship.

([2]4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

([3]5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the Division upon request.

([4]6) A complete set of esthetics texts shall be available to the apprentice.

([5]7) An apprentice may be compensated for services performed.

([6]8) The instructor shall provide training and technical instruction of 1,500 hours using the curriculum defined in Section R156-11a-703.

([7]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.

([8]10) An apprentice shall 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.

([9]11) Hours obtained while enrolled in an esthetics school or a cosmetology/barber school shall not be used to satisfy the required 1,500 hours of apprentice training.

(12) An instructor may not begin a new apprenticeship until:

(a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Master Esthetics Theory and Practical Examinations and becomes licensed as a master esthetician; or

(b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.

(13) If an apprentice completes the apprenticeship and fails the National Interstate Council of State Boards of Cosmetology (NIC) Master Esthetics Theory and Practical Examinations three times:

(a) the apprentice and instructor must 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 Nail Technician Apprenticeship Requirements.**

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

(1) The instructor shall have no more than two apprentices at a time.

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

(3) The instructor must be approved by the Division for the apprenticeship.

([2]4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

([3]5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the Division upon request.

([4]6) A complete set of nail technician texts shall be available to the apprentice.

([5]7) An apprentice may be compensated for services performed.

([6]8) The instructor shall provide training and technical instruction of 375 hours using the curriculum defined in Section R156-11a-704.

([7]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.

([8]10) An apprentice shall 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.

([9]11) Hours obtained while enrolled in a nail technology school or a cosmetology/barber school shall not be used to satisfy the required 375 hours of apprentice training.

(12) An instructor may not begin a new apprenticeship until:

(a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Nail Technology Theory and Practical Examinations and becomes licensed as a nail technician; or

(b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.

(13) If an apprentice completes the apprenticeship and fails the National Interstate Council of State Boards of Cosmetology (NIC) Nail Technology Theory and Practical Examinations three times:

(a) the apprentice and instructor must 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-901. Standards for an ~~[On the Job Training]~~ On-the-Job Training Internship.**

In accordance with Subsection 58-11a-304(8), students enrolled in a licensed cosmetology/barber school may participate in an ~~[on the job]~~ on-the-job training internship if they meet the following requirements:

(1) The ~~[on the job]~~ on-the-job training intern shall have completed at least 1,000 hours of the training contracted with a cosmetology/barber school, of which 400 hours shall be clinical hours.

(2) There shall be a conspicuous sign near the work station of the ~~[on the job]~~ on-the-job training intern stating "Intern in Training".

(3) A licensed "on-site" cosmetology/barber shall supervise only one ~~[on the job]~~ on-the-job training intern at a time.

(4) An ~~[on the job]~~ on-the-job training intern, while working under the direct supervision of an "on-site" licensed cosmetologist/barber, may perform the following procedures:

- (a) draping;
  - (b) shampooing;
  - (c) roller setting;
  - (d) blow drying styling;
  - (e) applying color;
  - (f) removing color by rinsing and shampooing;
  - (g) removing permanent chemicals;
  - (h) removing permanent rods;
  - (i) removing rollers;
  - (j) applying temporary rinses, reconditioners, and rebuilders;
  - (k) acting as receptionists;
  - (l) doing retail sales;
  - (m) sanitizing the salon;
  - (o) doing inventory and ordering supplies; and
  - (p) handing equipment to the cosmetologist/barber supervisor.
- (5) The "on-site" cosmetologist/barber supervisor shall have in the

supervisor's possession a letter, which must be updated on a quarterly basis, from the school where the ~~[on-the-job]~~ on-the-job training intern is enrolled stating that the ~~[on-the-job]~~ on-the-job training intern is currently in good standing at the school and is complying with school requirements.

(6) Hours of training spent while performing ~~[on-the-job]~~ on-the-job training as an intern shall not apply towards credits required for graduation.

**R156-11a-902. Standards for an On-the-Job Instructor Training.**

(1) In accordance with Subsections 58-11a-302(2)(e)(ii), (5)(e)(ii), (8)(e)(ii), (12)(e)(ii) and (15)(e)(ii), an employee of a licensed barber, cosmetology/barber, electrology, esthetics or nail technology school may obtain on-the-job training to become a licensed instructor if they meet the following requirements of this section.

(2) The on-the-job instructor training shall be under the supervision of an instructor licensed as an instructor in the same category as the trainee, except that an instructor providing on-the-job instructor training supervision for basic esthetics instruction shall be licensed as a master esthetician.

(3) The instructor trainee shall have an active license in the same category for which the instructor trainee is seeking licensure to instruct, except an instructor trainee receiving on-the-job training to instruct basic esthetics shall be licensed as a master esthetician.

(4) The on-the-job instructor training shall include all of the following categories:

- (a) motivation and the learning process;
- (b) teacher preparation;
- (c) teaching methods;
- (d) classroom management;
- (e) testing;

(f) instructional evaluation;

(g) laws, rules and regulations; and

(h) Utah Barber, Cosmetology/Barber, Esthetics (Master level),  
Electrology and Nail Technology Instructors Examination review.

(5) The instructor trainee shall not count toward the instructor-to-  
student ratio.

(6) The on-the-job instructor training shall be completed within one  
year, unless the instructor trainee provides documentation of extenuating  
circumstances justifying an extension.

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

**Date of Enactment or Last Substantive Amendment: ~~[December 22, 2014]~~2016**

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106(1) (a); 58-1-202(1) (a)**