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STATE OF NEBRASKA

STATUTES RELATING TO

COSMETOLOGY, ELECTROLOGY, ESTHETICS,
NAIL TECHNOLOGY, AND BODY ART PRACTICE ACT

INDOOR TANNING FACILITY ACT

Department of Health & Human Services

DHHS

N E B R A S K A

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Division of Public Health
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COSMETOLOGY, ELECTROLOGY, ESTHETICS, NAIL TECHNOLOGY, AND BODY ART PRACTICE
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STATUTES PERTAINING TO THE COSMETOLOGY, ELECTROLOGY, ESTHETICS, NAIL TECHNOLOGY, AND BODY ART PRACTICE ACT

38-1001. Act, how cited.

Sections 38-1001 to 38-10,171 shall be known and may be cited as the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act.

Source:Laws 1986, LB 318, § 1; Laws 1995, LB 83, § 1; Laws 1999, LB 68, § 1; Laws 2001, LB 209, § 13; Laws 2002, LB 241, § 1; Laws 2004, LB 906, § 3; R.S.Supp.,2006, § 71-340; Laws 2007, LB463, § 263; Laws 2016, LB898, § 1.

Effective Date: July 21, 2016

38-1002. Legislative findings.

The Legislature finds that: (1) A great number of Nebraska citizens regularly demand and receive cosmetology, nail technology, esthetics, electrology, and body art services; (2) the practices of cosmetology, nail technology, esthetics, electrology, and body art involve the use of implements and chemicals that, if used or applied improperly, can be hazardous to human health and safety; (3) inadequate sanitation in the practice of cosmetology, nail technology, esthetics, electrology, or body art can encourage the spread of contagious diseases, infections, and infestations to the detriment of the health and safety of the public; (4) the knowledge of proper sanitation techniques and the proper use of implements and chemicals can best be gained by rigorous and extensive training in cosmetology, nail technology, and esthetics at institutions operated exclusively for such purposes; (5) the need of the public to be served by well-trained persons and the need of cosmetology, nail technology, and esthetics students to receive an appropriate education can best be met through the enactment of standards for the approval of schools of cosmetology, nail technology schools, and schools of esthetics; (6) the effectiveness of cosmetology, nail technology, esthetics, or electrology training and the competency to practice can best be demonstrated by the passage of an impartially administered examination before a person is permitted to practice; (7) continuing competency can best be demonstrated by participation in continuing competency activities; (8) the establishment and maintenance of a safe environment in places where cosmetology, nail technology, esthetics, electrology, or body art is practiced can best be ensured through the establishment of operating and sanitary requirements for the safe and sanitary operation of such places; (9) the protection of the health and safety of its citizens is a principal concern and duty of the State of Nebraska; and (10) the reasonable regulation and limitation of a field of practice or occupation for the purpose of protecting the health and safety of the public is a legitimate and justified exercise of the police power of the state.

Source:Laws 1986, LB 318, § 2; Laws 1995, LB 83, § 2; Laws 1999, LB 68, § 2; Laws 2002, LB 241, § 2; Laws 2002, LB 1021, § 38; Laws 2004, LB 906, § 4; Laws 2004, LB 1005, § 19; R.S.Supp.,2006, § 71-341; Laws 2007, LB463, § 264.

38-1003. Legislative intent.

The Legislature declares its intent to implement the findings specified in section 38-1002 through the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, to regulate the practices and professions of cosmetology, nail technology, esthetics, electrology, and body art and cosmetology, nail technology, esthetics, and body art education in all forms, to limit the practice and teaching of cosmetology, nail technology, esthetics, or body art to persons and institutions as stipulated in the act and to penalize persons violating the act. The Legislature directs that all interpretations of the act be made with full cognizance of the findings and intentions expressed in this section and section 38-1002.

Source:Laws 1986, LB 318, § 3; Laws 1995, LB 83, § 3; Laws 1999, LB 68, § 3; Laws 2002, LB 241, § 3; Laws 2004, LB 906, § 5; Laws 2004, LB 1005, § 20; R.S.Supp.,2006, § 71-342; Laws 2007, LB463, § 265.

38-1004. Definitions, where found.

For purposes of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and elsewhere in the Uniform Credentialing Act, unless the context otherwise requires, the definitions found in sections 38-1005 to 38-1056 apply.

Source:Laws 1986, LB 318, § 4; Laws 1995, LB 83, § 4; Laws 1999, LB 68, § 4; Laws 2002, LB 241, § 4; Laws 2004, LB 906, § 6; R.S.Supp.,2006, § 71-343; Laws 2007, LB463, § 266; Laws 2016, LB898, § 2.

Effective Date: July 21, 2016

38-1005. Apprentice, defined.

Apprentice means a person registered under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to engage in the study of any or all of the practices of cosmetology under the supervision of an instructor in an apprentice salon.

Source:Laws 1986, LB 318, § 5; R.S.1943, (2003), § 71-344; Laws 2007, LB463, § 267.

38-1006. Apprentice salon, defined.

Apprentice salon means a cosmetology salon licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for the teaching of any or all of the practices of cosmetology to apprentices.

Source:Laws 1986, LB 318, § 6; R.S.1943, (2003), § 71-345; Laws 2007, LB463, § 268.

38-1007. Board, defined.

Board means the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art.

Source:Laws 1986, LB 318, § 7; R.S.1943, (2003), § 71-346; Laws 2007, LB463, § 269.

38-1008. Body art, defined.

Body art means body piercing, branding, permanent color technology, and tattooing.

Source:Laws 2004, LB 906, § 7; R.S.Supp.,2006, § 71-346.01; Laws 2007, LB463, § 270.

38-1009. Body art facility, defined.

Body art facility means any room or space or any part thereof where body art is performed or where the business of body art is conducted.

Source:Laws 2004, LB 906, § 8; R.S.Supp.,2006, § 71-346.02; Laws 2007, LB463, § 271.

38-1010. Body piercing, defined.

Body piercing means puncturing the skin of a person by aid of needles or other instruments designed or used to puncture the skin for the purpose of inserting removable jewelry or other objects through the human body, except that body piercing does not include puncturing the external part of the human earlobe.

Source:Laws 2004, LB 906, § 9; R.S.Supp.,2006, § 71-346.03; Laws 2007, LB463, § 272.

38-1011. Branding, defined.

Branding means a permanent mark made on human tissue by burning with a hot iron or other instrument.

Source:Laws 2004, LB 906, § 10; R.S.Supp.,2006, § 71-346.04; Laws 2007, LB463, § 273.

38-1012. Charitable administration, defined.

Charitable administration means the performance of any or all of the practices of cosmetology or nail technology without compensation for the benefit of charitable purposes or organizations.

Source:Laws 1986, LB 318, § 8; Laws 1999, LB 68, § 5; R.S.1943, (2003), § 71-347; Laws 2007, LB463, § 274.

38-1013. Cosmetic establishment, defined.

Cosmetic establishment means a fixed structure or part thereof licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for the retail sale of cosmetics or other esthetics products when such activity includes any application of the products to customers other than self-application.

Source:Laws 1986, LB 318, § 9; Laws 2002, LB 241, § 5; R.S.1943, (2003), § 71-348; Laws 2007, LB463, § 275.

38-1014. Cosmetician, defined.

Cosmetician means a person registered under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to apply cosmetics.

Source:Laws 1986, LB 318, § 10; R.S.1943, (2003), § 71-349; Laws 2007, LB463, § 276.

38-1015. Cosmetologist, defined.

Cosmetologist means a person licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to perform all of the practices of cosmetology.

Source:Laws 1986, LB 318, § 11; R.S.1943, (2003), § 71-350; Laws 2007, LB463, § 277.

38-1016. Cosmetology, defined.

Cosmetology means the practice of performing for compensation any or all (1) of the acts of arranging, dressing, curling, waving, cleansing, cutting, bleaching, coloring, styling, or similar work upon the hair, wig, wiglet, or hairpiece of any person, by any means, with hands or a mechanical or electrical apparatus or appliance; (2) esthetics; (3) nail technology; and (4) other similar practices upon the hair, scalp, face, neck, arms, hands, feet, or nails of any person when performed for the purpose of beautifying or enhancing physical appearance or the teaching of any practice specified in this section for occupational purposes.

Source:Laws 1986, LB 318, § 12; Laws 1987, LB 543, § 1; Laws 1999, LB 68, § 6; Laws 2002, LB 241, § 6; R.S.1943, (2003), § 71-351; Laws 2007, LB463, § 278.

38-1017. Cosmetology establishment, defined.

Cosmetology establishment means a cosmetology salon, esthetics salon, school of cosmetology, school of esthetics, apprentice salon, cosmetic establishment, or any other place in which any or all of the practices of cosmetology are performed on members of the general public for compensation or in which instruction or training in any or all of the practices of cosmetology is given, except when such practices constitute nonvocational training.

Source:Laws 1986, LB 318, § 13; Laws 1999, LB 68, § 7; Laws 2002, LB 241, § 7; R.S.1943, (2003), § 71-352; Laws 2007, LB463, § 279.

38-1018. Cosmetology salon, defined.

Cosmetology salon means a fixed structure or part thereof licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for the performance of any or all of the practices of cosmetology by persons licensed or registered under such act.

Source:Laws 1986, LB 318, § 14; R.S.1943, (2003), § 71-353; Laws 2007, LB463, § 280.

38-1019. Domestic administration, defined.

Domestic administration means the performance of any or all of the practices of cosmetology or nail technology upon members of a person's immediate family.

Source:Laws 1986, LB 318, § 17; Laws 1999, LB 68, § 8; R.S.1943, (2003), § 71-356; Laws 2007, LB463, § 281.

38-1020. Electrologist, defined.

Electrologist means a person who engages in the practice of electrolysis for permanent hair removal.

Source:Laws 1995, LB 83, § 5; R.S.1943, (2003), § 71-356.01; Laws 2007, LB463, § 282.

38-1021. Electrology, defined.

Electrology means the art and practice relating to the removal of hair from normal skin of the human body by electrolysis.

Source:Laws 1995, LB 83, § 6; R.S.1943, (2003), § 71-356.02; Laws 2007, LB463, § 283.

38-1022. Electrology establishment, defined.

Electrology establishment means a fixed structure or part thereof or any other place in which any or all of the practices of electrology are performed on members of the general public for compensation or where instruction or training in electrology is performed except when such training is nonvocational training.

Source:Laws 1995, LB 83, § 9; R.S.1943, (2003), § 71-356.03; Laws 2007, LB463, § 284.

38-1023. Electrology instructor, defined.

Electrology instructor means a person licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to teach any or all of the practices of electrology.

Source:Laws 1995, LB 83, § 7; Laws 2004, LB 1005, § 21; R.S.Supp.,2006, § 71-356.04; Laws 2007, LB463, § 285.

38-1024. Electrolysis, defined.

Electrolysis means the permanent removal of hair by the application of an electrical current to the dermal papilla by a filament to cause decomposition, coagulation, or dehydration within the hair follicle by means of short wave or galvanic current or the blend, as approved by the federal Food and Drug Administration.

Source:Laws 1995, LB 83, § 8; R.S.1943, (2003), § 71-356.05; Laws 2007, LB463, § 286.

38-1025. Esthetician, defined.

Esthetician means a person licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to perform all of the practices of esthetics.

Source:Laws 1986, LB 318, § 18; Laws 2002, LB 241, § 8; R.S.1943, (2003), § 71-357; Laws 2007, LB463, § 287.

38-1026. Esthetics, defined.

Esthetics means the practice for compensation of using an electrical or mechanical apparatus or appliance or applying and using cosmetic preparations, antiseptics, chemicals, tonics, lotions, creams, or other similar products upon the skin for personal beauty care.

Source:Laws 1986, LB 318, § 27; R.S.1943, (1996), § 71-366; Laws 2002, LB 241, § 9; R.S.1943, (2003), § 71-357.01; Laws 2007, LB463, § 288.

38-1027. Esthetics instructor, defined.

Esthetics instructor means a person licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to teach any or all of the practices of esthetics in a school of cosmetology or a school of esthetics.

Source:Laws 2002, LB 241, § 10; R.S.1943, (2003), § 71-357.02; Laws 2007, LB463, § 289.

38-1028. Esthetics salon, defined.

Esthetics salon means a fixed structure or part thereof licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for the performance of any or all of the practices of esthetics by persons licensed or registered under such act.

Source:Laws 1986, LB 318, § 28; R.S.1943, (1996), § 71-367; Laws 2002, LB 241, § 11; R.S.1943, (2003), § 71-357.03; Laws 2007, LB463, § 290.

38-1029. Guest artist, defined.

Guest artist means a person registered under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to demonstrate cosmetology products or procedures for the purpose of imparting professional knowledge and information to persons licensed or registered under the act or to persons owning or operating licensed cosmetology establishments under the sponsorship of a licensed cosmetology establishment or a cosmetologist licensed in Nebraska.

Source:Laws 1986, LB 318, § 19; R.S.1943, (2003), § 71-358; Laws 2007, LB463, § 291.

38-1030. Guest body artist, defined.

Guest body artist means a person registered under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to demonstrate body art products or procedures for the purpose of imparting professional knowledge and information to persons licensed in this state to perform body art or to persons owning or operating a licensed body art facility under the sponsorship of a licensed body art facility or a person licensed in this state to perform body art.

Source:Laws 2004, LB 906, § 11; R.S.Supp.,2006, § 71-358.01; Laws 2007, LB463, § 292.

38-1031. Instructor, defined.

Instructor means a person licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to teach any or all of the practices of cosmetology in a school of cosmetology or an apprentice salon.

Source:Laws 1986, LB 318, § 20; R.S.1943, (2003), § 71-359; Laws 2007, LB463, § 293.

38-1032. Jurisdiction, defined.

Jurisdiction means the District of Columbia and any state, territory, or possession of the United States of America.

Source:Laws 1986, LB 318, § 21; R.S.1943, (2003), § 71-360; Laws 2007, LB463, § 294.

38-1033. Manicuring, defined.

Manicuring means the practice of performing any or all of the acts of cutting, shaping, trimming, polishing, coloring, tinting, cleansing, reshaping, or other similar cosmetic or sanitary acts on the natural fingernails or toenails of a person but does not include the practice of nail technology.

Source:Laws 2001, LB 209, § 14; R.S.1943, (2003), § 71-360.01; Laws 2007, LB463, § 295.

38-1034. Nail technician, defined.

Nail technician means a person licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to perform the practices of nail technology.

Source:Laws 1999, LB 68, § 9; R.S.1943, (2003), § 71-361.01; Laws 2007, LB463, § 296.

38-1035. Nail technology, defined.

Nail technology means (1) attaching, applying, fitting, shaping, or adjusting artificial nails using acrylic, resin, fabric, or gel application systems, (2) sanitizing of the nail bed by brushing on or spraying material in preparation for attaching, fitting, shaping, or adjusting artificial nails using acrylic, resin, fabric, or gel application systems, (3) cutting, filing, buffing, shaping, trimming, polishing, coloring, tinting, cleansing, reshaping, or other cosmetic acts on the nails of a person when done in conjunction with the activities described in subdivisions (1) and (2) of this section, (4) the ability to detect infection, fungus, or nail disorders that contraindicate the application of artificial nails, and (5) cleansing, stimulating, manipulating, exercising, or similar acts on the hands or feet of any person when done in conjunction with the activities described in subdivisions (1) and (2) of this section. Nail technology does not include cutting nail beds, corns, or calluses or medical treatment involving the feet, hands, or nails.

Source:Laws 1999, LB 68, § 10; R.S.1943, (2003), § 71-361.02; Laws 2007, LB463, § 297.

38-1036. Nail technology establishment, defined.

Nail technology establishment means a nail technology salon, nail technology school, or any other place in which the practices of nail technology are performed on members of the general public for compensation or in which instruction or training in the practices of nail technology is given, except when such practices constitute nonvocational training.

Source:Laws 1999, LB 68, § 11; R.S.1943, (2003), § 71-361.03; Laws 2007, LB463, § 298.

38-1037. Nail technology instructor, defined.

Nail technology instructor means a person licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to teach the practices of nail technology in a nail technology school.

Source:Laws 1999, LB 68, § 12; R.S.1943, (2003), § 71-361.04; Laws 2007, LB463, § 299.

38-1038. Nail technology salon, defined.

Nail technology salon means a fixed structure or part thereof licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for the performance of the practices of nail technology by persons licensed or registered under the act.

Source:Laws 1999, LB 68, § 13; R.S.1943, (2003), § 71-361.05; Laws 2007, LB463, § 300.

38-1039. Nail technology school, defined.

Nail technology school means a fixed structure or part thereof licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for teaching the practices of nail technology to nail technology students.

Source:Laws 1999, LB 68, § 14; R.S.1943, (2003), § 71-361.06; Laws 2007, LB463, § 301.

38-1040. Nail technology student, defined.

Nail technology student means a person engaged in the study of the practices of nail technology under the supervision of a nail technology instructor in a nail technology school.

Source:Laws 1999, LB 68, § 15; R.S.1943, (2003), § 71-361.07; Laws 2007, LB463, § 302.

38-1041. Nail technology student instructor, defined.

Nail technology student instructor means a person engaged in nail technology instructor's training in a nail technology school to teach nail technology students in a nail technology school under the supervision of a nail technology instructor.

Source:Laws 1999, LB 68, § 16; R.S.1943, (2003), § 71-361.08; Laws 2007, LB463, § 303.

38-1042. Nail technology temporary practitioner, defined.

Nail technology temporary practitioner means a person licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to perform the practices of nail technology for a limited time under the supervision of a licensed nail technician or nail technology instructor.

Source:Laws 1999, LB 68, § 17; R.S.1943, (2003), § 71-361.09; Laws 2007, LB463, § 304.

38-1042.01. Natural hair braiding, defined.

(1) Natural hair braiding means the twisting, wrapping, weaving, extending, locking, or braiding of hair by hand or with mechanical devices such as clips, combs, crochet hooks, curlers, curling irons, hairpins, rollers, scissors, blunt-tipped needles, thread, and hair binders.

(2) Natural hair braiding includes (a) the use of natural or synthetic hair extensions, natural or synthetic hair fibers, decorative beads, and other hair accessories, (b) minor trimming of natural hair or hair extensions incidental to twisting, wrapping, weaving, extending, locking, or braiding hair, (c) the use of topical agents, such as conditioners, gels, moisturizers, oils, pomades, and shampoos, in conjunction with hair braiding, and (d) the making of wigs from natural hair, natural fibers, synthetic fibers, and hair extensions.

(3) Natural hair braiding does not include (a) the application of dyes, reactive chemicals, or other preparations to alter the color of hair or to straighten, curl, or alter the structure of hair or (b) the use of chemical hair joining agents such as synthetic tape, keratin bonds, or fusion bonds.

Source:Laws 2016, LB898, § 3.

Effective Date: July 21, 2016

38-1043. Nonvocational training, defined.

Nonvocational training means the act of imparting knowledge of or skills in any or all of the practices of cosmetology, nail technology, esthetics, or electrology to persons not licensed or registered under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act for the purpose of noncommercial use by those receiving such training.

Source:Laws 1986, LB 318, § 23; Laws 1995, LB 83, § 11; Laws 1999, LB 68, § 18; Laws 2002, LB 241, § 12; R.S.1943, (2003), § 71-362; Laws 2007, LB463, § 305.

38-1044. Permanent color technology, defined.

Permanent color technology means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for cosmetic purposes.

Source:Laws 2004, LB 906, § 12; R.S.Supp.,2006, § 71-362.01; Laws 2007, LB463, § 306.

38-1045. Practices regulated under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, defined.

Practices regulated under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act means body art, cosmetology, electrology, esthetics, and nail technology.

Source:Laws 2004, LB 906, § 13; R.S.Supp.,2006, § 71-363.01; Laws 2007, LB463, § 307.

38-1046. Practitioner, defined.

Practitioner means a person who performs any or all of the practices of cosmetology, nail technology, esthetics, or electrology for compensation or who performs any or all of the practices of body art.

Source:Laws 1986, LB 318, § 25; Laws 1995, LB 83, § 12; Laws 1999, LB 68, § 19; Laws 2002, LB 241, § 13; Laws 2004, LB 906, § 14; R.S.Supp.,2006, § 71-364; Laws 2007, LB463, § 308.

38-1047. School of cosmetology, defined.

School of cosmetology means a fixed structure or part thereof licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for the teaching of any or all of the practices of cosmetology to students.

Source:Laws 1986, LB 318, § 26; Laws 1987, LB 543, § 2; R.S.1943, (2003), § 71-365; Laws 2007, LB463, § 309.

38-1048. School of electrolysis, defined.

School of electrolysis means a school for the education and training of electrologists.

Source:Laws 1995, LB 83, § 10; Laws 2004, LB 1005, § 22; R.S.Supp.,2006, § 71-365.01; Laws 2007, LB463, § 310.

38-1049. School of esthetics, defined.

School of esthetics means a fixed structure or part thereof licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as the site for teaching the practices of esthetics to esthetics students.

Source:Laws 2002, LB 241, § 14; R.S.1943, (2003), § 71-365.02; Laws 2007, LB463, § 311.

38-1050. Student, defined.

Student means a person engaged in the study of any or all of the practices of cosmetology or esthetics under the supervision of an instructor or esthetics instructor in a school of cosmetology or school of esthetics.

Source:Laws 1986, LB 318, § 29; Laws 1995, LB 83, § 13; Laws 2002, LB 241, § 15; Laws 2004, LB 1005, § 23; R.S.Supp.,2006, § 71-368; Laws 2007, LB463, § 312.

38-1051. Student instructor, defined.

Student instructor means a person engaged in instructor's or esthetics instructor's training in a school of cosmetology or school of esthetics and in teaching students in a school of cosmetology or school of esthetics under the supervision of an instructor.

Source:Laws 1986, LB 318, § 30; Laws 2002, LB 241, § 16; R.S.1943, (2003), § 71-369; Laws 2007, LB463, § 313.

38-1052. Supervision, defined.

Supervision means direct day-to-day knowledge of and control over the actions of one individual by another.

Source:Laws 1986, LB 318, § 31; R.S.1943, (2003), § 71-370; Laws 2007, LB463, § 314.

38-1053. Tattoo, defined.

Tattoo means the indelible decorative mark, figure, or design introduced by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being.

Source:Laws 2004, LB 906, § 15; R.S.Supp.,2006, § 71-370.01; Laws 2007, LB463, § 315.

38-1054. Tattooing, defined.

Tattooing means the process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin upon the body of a live human being so as to form indelible marks for decorative or figurative purposes.

Source:Laws 2004, LB 906, § 16; R.S.Supp.,2006, § 71-370.02; Laws 2007, LB463, § 316.

38-1055. Teaching, defined.

Teaching means the act of imparting and demonstrating knowledge of cosmetology, nail technology, esthetics, or electrology theory and practices to students, nail technology students,

or apprentices in an apprentice salon, a school of cosmetology, a nail technology school, or a school of esthetics by an instructor, an esthetics instructor, a nail technology instructor, a nail technology student instructor, or a student instructor for the purpose of preparing the students, nail technology students, nail technology student instructors, or apprentices to engage in the occupations of cosmetology, nail technology, esthetics, or electrology.

Source:Laws 1986, LB 318, § 32; Laws 1995, LB 83, § 14; Laws 1999, LB 68, § 20; Laws 2002, LB 241, § 17; Laws 2004, LB 1005, § 24; R.S.Supp.,2006, § 71-371; Laws 2007, LB463, § 317.

38-1056. Temporary practitioner, defined.

Temporary practitioner means a person licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to perform any or all of the practices of cosmetology for a limited time under the supervision at all times of a designated supervisor.

Source:Laws 1986, LB 318, § 33; R.S.1943, (2003), § 71-372; Laws 2007, LB463, § 318.

38-1057. Board; members; qualifications.

(1) The board shall consist of ten professional members, one owner of a tanning facility as defined in section 71-3902, and two public members appointed pursuant to section 38-158. The professional and public members shall meet the requirements of sections 38-164 and 38-165, respectively.

(2) The professional members shall include:

(a) One school owner who is also licensed as either a cosmetologist, nail technician, or esthetician;

(b) One salon owner who is licensed as a cosmetologist;

(c) Two cosmetologists who are not school owners;

(d) One nail technician who is not a school owner;

(e) One esthetician who is not a school owner;

(f) One electrologist;

(g) One practitioner of body art;

(h) One nail technology instructor or esthetics instructor who is not a school owner; and

(i) One cosmetology instructor who is not a school owner.

(3) No members of the board who are school owners, salon owners, tanning facility owners, electrologists, nail technicians, instructors, cosmetologists, or practitioners of body art may be affiliated with the same establishment.

Source:Laws 1986, LB 318, § 35; Laws 1987, LB 543, § 3; Laws 1994, LB 1223, § 25; Laws 1995, LB 83, § 15; Laws 1999, LB 68, § 21; Laws 2002, LB 241, § 18; Laws 2005, LB 382, § 9; R.S.Supp.,2006, § 71-374; Laws 2007, LB463, § 319; Laws 2014, LB132, § 11.

38-1058. Cosmetology; licensure or registration required.

It shall be unlawful for any person, group, company, or other entity to engage in any of the following acts without being duly licensed or registered as required by the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, unless specifically excepted by such act:

(1) To engage in or follow or to advertise or hold oneself out as engaging in or following any of the practices of cosmetology or to act as a practitioner;

(2) To engage in or advertise or hold oneself out as engaging in the teaching of any of the practices of cosmetology; or

(3) To operate or advertise or hold oneself out as operating a cosmetology establishment in which any of the practices of cosmetology or the teaching of any of the practices of cosmetology are carried out.

Source:Laws 1986, LB 318, § 46; R.S.1943, (2003), § 71-385; Laws 2007, LB463, § 320.

38-1059. Electrology; licensure required.

No person, group, company, limited liability company, or other entity shall engage in any of the following acts without being duly licensed as required by the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, unless specifically excepted by such act:

(1) To engage in or follow or to advertise or hold oneself out as engaging in or following any of the practices of electrology; or

(2) To engage in or advertise or hold oneself out as engaging in the teaching of any of the practices of electrology.

Source:Laws 1995, LB 83, § 20; Laws 2004, LB 1005, § 25; R.S.Supp.,2006, § 71-385.01; Laws 2007, LB463, § 321.

38-1060. Body art; license required; conditions.

(1) No person shall perform any of the practices of body art or display a sign to, or in any other way, advertise or purport to be engaged in the business of practicing body art unless such person is licensed by the department.

(2) An applicant for licensure in any of the practices of body art shall show to the satisfaction of the department that the applicant:

(a) Has complied with the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and the applicable rules and regulations adopted and promulgated under the act;

(b) Is at least eighteen years of age;

(c) Has completed formal education equivalent to a United States high school education;

(d) Has submitted evidence of training or experience prescribed or approved by the board to ensure the protection of the public in performing the practices of body art for which the applicant is seeking licensure; and

(e) Has successfully completed an examination prescribed or approved by the board to test the applicant's knowledge of safety, sanitation, and sterilization techniques and infection control practices and requirements.

Source:Laws 2004, LB 906, § 25; R.S.Supp.,2006, § 71-385.02; Laws 2007, LB463, § 322.

38-1061. Licensure or registration; categories; use of titles prohibited; practice in licensed establishment or facility.

(1) All practitioners shall be licensed or registered by the department under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act in a category or categories appropriate to their practice.

(2) Licensure shall be required before any person may engage in the full, unsupervised practice or teaching of cosmetology, electrology, esthetics, nail technology, or body art, and no person may assume the title of cosmetologist, electrologist, esthetician, instructor, nail technician, nail technology instructor, esthetics instructor, permanent color technician, tattoo artist, body piercer, or body brander without first being licensed by the department.

(3) All licensed practitioners shall practice in an appropriate licensed establishment or facility.

Source:Laws 1986, LB 318, § 47; Laws 1995, LB 83, § 21; Laws 1999, LB 68, § 27; Laws 2002, LB 241, § 22; Laws 2004, LB 906, § 19; R.S.Supp.,2006, § 71-386; Laws 2007, LB463, § 323.

38-1062. Licensure by examination; requirements.

In order to be licensed by the department by examination, an individual shall meet, and present to the department evidence of meeting, the following requirements:

(1) Has attained the age of seventeen years on or before the beginning date of the examination for which application is being made;

(2) Has completed formal education equivalent to a United States high school education;

(3) Possesses a minimum competency in the knowledge and skills necessary to perform the practices for which licensure is sought, as evidenced by successful completion of an examination in the appropriate practices approved by the board and administered by the department;

(4) Possesses sufficient ability to read the English language to permit the applicant to practice in a safe manner, as evidenced by successful completion of the written examination; and

(5) Has graduated from a school of cosmetology or an apprentice salon in or outside of Nebraska, a school of esthetics in or outside of Nebraska, or a school of electrolysis upon completion of a program of studies appropriate to the practices for which licensure is being sought, as evidenced by a diploma or certificate from the school or apprentice salon to the effect that the applicant has complied with the following:

(a) For licensure as a cosmetologist, the program of studies shall consist of a minimum of two thousand one hundred hours and two thousand credits;

(b) For licensure as an esthetician, the program of studies shall consist of a minimum of six hundred hours and six hundred credits;

(c) For licensure as a cosmetology instructor, the program of studies shall consist of a minimum of nine hundred twenty-five hours beyond the program of studies required for licensure as a cosmetologist earned in a period of not less than six months;

(d) For licensure as a cosmetology instructor, be currently licensed as a cosmetologist in Nebraska, as evidenced by possession of a valid Nebraska cosmetology license;

(e) For licensure as an electrologist, the program of studies shall consist of a minimum of six hundred hours and six hundred credits;

(f) For licensure as an electrology instructor, be currently licensed as an electrologist in Nebraska and have practiced electrology actively for at least two years immediately before the application; and

(g) For licensure as an esthetics instructor, completion of a program of studies consisting of a minimum of three hundred hours beyond the program of studies required for licensure as an esthetician and current licensure as an esthetician in Nebraska.

Source:Laws 1986, LB 318, § 48; Laws 1987, LB 543, § 6; Laws 1995, LB 83, § 22; Laws 1996, LB 1155, § 26; Laws 1997, LB 752, § 168; Laws 2002, LB 241, § 23; Laws 2004, LB 1005, § 26; R.S.Supp.,2006, § 71-387; Laws 2007, LB463, § 324.

Cross References

- **Credentialing**, general requirements and issuance procedures, see section 38-121 et seq.

38-1063. Application for examination; procedure.

A complete application for examination shall be postmarked no later than fifteen days before the beginning of the examination for which application is being made. Applications received after such date shall be considered as applications for the next scheduled examination. No application for any type of licensure or registration shall be considered complete unless all information requested in the application has been supplied, all seals and signatures required have been obtained, and all supporting and documentary evidence has been received by the department.

Source:Laws 1986, LB 318, § 49; Laws 1989, LB 344, § 8; Laws 2003, LB 242, § 82; R.S.1943, (2003) § 71-388; Laws 2007, LB463, § 325.

38-1064. Licensure; examinations; duties; examinees.

(1) The board shall approve and the department shall cause examinations to be administered as required for licensure under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act for the purpose of establishing the possession of minimum competency in the knowledge and skills required on the part of the applicant.

(2) No person shall be permitted to take an examination for licensure unless he or she has met all the requirements of subdivisions (1), (2), and (5) of section 38-1062 except for persons taking the examination under section 38-1067.

Source:Laws 1986, LB 318, § 50; Laws 1987, LB 543, § 7; Laws 1995, LB 83, § 23; Laws 2004, LB 1005, § 27; R.S.Supp.,2006, § 71-389; Laws 2007, LB463, § 326.

38-1065. Examinations; requirements; grades.

(1) Examinations approved by the board may be national standardized examinations, but in all cases the examinations shall be related to the knowledge and skills necessary to perform the practices being examined and shall be related to the curricula required to be taught in schools of cosmetology, schools of esthetics, or schools of electrolysis.

(2) At least two examinations shall be given annually.

(3) Practical examinations may be offered as either written or hands-on and shall be conducted in such a manner that the identity of the applicant is not disclosed to the examiners in any way.

(4) In order to successfully complete the examination, an applicant shall obtain an average grade of seventy-five percent on all examinations.

Source:Laws 1986, LB 318, § 51; Laws 1987, LB 543, § 8; Laws 1995, LB 83, § 24; Laws 1997, LB 307, § 134; R.S.1943, (2003), § 71-390; Laws 2007, LB296, § 366; Laws 2007, LB463, § 327.

38-1066. Reciprocity; requirements.

The department may grant a license based on licensure in another jurisdiction to any person who meets the requirements of subdivisions (1) and (2) of section 38-1062 and who presents proof of the following:

(1) That he or she is currently licensed in the appropriate category in another jurisdiction and that he or she has never been disciplined or had his or her license revoked. An applicant seeking licensure as an instructor in the manner provided in this section shall be licensed as an instructor in another jurisdiction. An applicant seeking licensure as a cosmetologist in the manner provided in this section shall be licensed as a cosmetologist in another jurisdiction. An applicant seeking licensure as an esthetician in the manner provided in this section shall be licensed as a cosmetologist, an esthetician, or an equivalent title in another jurisdiction. An applicant seeking licensure as an esthetics instructor in the manner provided in this section shall be licensed as a cosmetology instructor, esthetics instructor, or the equivalent in another jurisdiction. An applicant seeking licensure as an electrologist or an electrology instructor in the manner provided in this section shall be licensed as an electrologist or an electrology instructor, respectively, in another jurisdiction;

(2) That such license was issued on the basis of an examination and the results of the examination. If an examination was not required for licensure in the other jurisdiction, the applicant shall take the Nebraska examination; and

(3) That the applicant complies with the hour requirements of subdivision (5) of section 38-1062 through any combination of hours earned as a student or apprentice in a cosmetology establishment or an electrology establishment licensed or approved by the jurisdiction in which it was located and hour-equivalents granted for recent work experience, with hour-equivalents recognized as follows:

(a) Each month of full-time practice as an instructor within the five years immediately preceding application shall be valued as one hundred hour-equivalents toward an instructor's license or a cosmetology license and one hundred hour-equivalents toward an esthetician's license;

(b) Each month of full-time practice as a cosmetologist within the five years immediately preceding application shall be valued as one hundred hour-equivalents toward a cosmetology license and one hundred hour-equivalents toward an esthetician's license;

(c) Each month of full-time practice as an esthetician within the five years immediately preceding application shall be valued as one hundred hour-equivalents toward an esthetician's license;

(d) Each month of full-time practice as an esthetics instructor within the five years immediately preceding application shall be valued as one hundred hour-equivalents toward an esthetics instructor's license; and

(e) Each month of full-time practice as an electrologist within the five years immediately preceding application shall be valued as one hundred hour-equivalents toward an electrologist's license.

Source:Laws 1986, LB 318, § 55; Laws 1987, LB 543, § 9; Laws 1995, LB 83, § 26; Laws 2002, LB 241, § 24; R.S.1943, (2003), § 71-394; Laws 2007, LB463, § 328.

38-1067. Foreign-trained applicants; examination requirements.

(1) Applicants for Nebraska licensure who received their training in foreign countries may not be licensed by waiver of examination. In order to be considered eligible to take the examination, they shall meet the requirements of subdivisions (1) and (2) of section 38-1062 and, in order to establish equivalency with subdivision (5) of section 38-1062, shall present proof satisfactory to the department of one of the following:

(a) Current licensure or equivalent official recognition of the right to practice in a foreign country; or

(b) At least five years of practice within the eight years immediately preceding the application.

(2) In all cases such applicants shall take the examination for licensure in the State of Nebraska.

Source:Laws 1986, LB 318, § 56; Laws 1987, LB 543, § 10; Laws 1995, LB 83, § 27; R.S.1943, (2003), § 71-395; Laws 2007, LB463, § 329.

38-1068. License; display.

Every person holding a license issued by the department under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act shall display it in a conspicuous place in his or her principal place of employment, and every cosmetology establishment and body art facility shall so display the then current licenses of all practitioners there employed.

Source:Laws 1986, LB 318, § 57; Laws 1995, LB 83, § 29; Laws 2004, LB 906, § 20; R.S.Supp.,2006, § 71-396; Laws 2007, LB463, § 330.

38-1069. Registration; when required; temporary practitioner; license.

Registration shall be required before any person may act as a guest artist, guest body artist, cosmetician, student, apprentice, or student instructor, and no person shall assume any title indicative of any of such areas of activity without first being registered or licensed by the department under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. A license as a temporary practitioner shall be required before any person may act as a temporary practitioner, and no person shall assume any title indicative of being a temporary practitioner without first being so licensed by the department under the act.

Source:Laws 1986, LB 318, § 59; Laws 2004, LB 906, § 22; R.S.Supp.,2006, § 71-398; Laws 2007, LB463, § 331.

Cross References

- **Credentialing**, general requirements and issuance procedures, see section 38-121 et seq.

38-1070. Registration; temporary license; general requirements.

An individual making application for registration or a temporary license shall meet, and present to the department evidence of meeting, the requirements for the specific type of registration or license applied for.

Source:Laws 1986, LB 318, § 60; R.S.1943, (2003), § 71-399; Laws 2007, LB463, § 332.

38-1071. Registration as guest artist; requirements.

Applicants for registration as guest artists shall show evidence of licensure in another jurisdiction or other evidence as directed by the department sufficient to demonstrate that they possess education or experience of benefit to licensed or registered practitioners and are under the sponsorship of a licensed cosmetology establishment or cosmetologist for guest artists or a licensed esthetician for guest artists only performing esthetics.

Source:Laws 1986, LB 318, § 61; Laws 2004, LB 906, § 23; R.S.Supp.,2006, § 71-3,100; Laws 2007, LB463, § 333.

38-1072. Registration as cosmetician; requirements.

An applicant for registration as a cosmetician shall show evidence that he or she is or intends to become employed as a cosmetician and has received instruction in the chemical properties of, and potential reactions to, the cosmetics he or she intends to apply from his or her employers or from the manufacturers or distributors of the cosmetic products and is aware of actions to take in the event of such a reaction.

Source:Laws 1986, LB 318, § 62; R.S.1943, (2003), § 71-3,101; Laws 2007, LB463, § 334.

38-1073. Licensure as temporary practitioner; requirements.

An applicant for licensure as a temporary practitioner shall show evidence that his or her completed application for regular licensure has been accepted by the department, that he or she has not failed any portion of the licensure examination, and that he or she has been accepted for work in a licensed cosmetology establishment under the supervision of a licensed practitioner. An individual registered as a temporary practitioner on December 1, 2008, shall be deemed to be licensed as a temporary practitioner under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act on such date. The temporary practitioner may continue to practice under such registration as a temporary license until it would have expired under its terms.

Source:Laws 1986, LB 318, § 65; R.S.1943, (2003), § 71-3,104; Laws 2007, LB463, § 335.

38-1074. Registration; temporary licensure; not renewable; expiration dates; extension.

(1) Registration and temporary licensure shall be granted for a set period of time and cannot be renewed.

(2) Registration as a guest artist shall expire two years following the initial date of issuance.

(3) Registration as a cosmetician shall expire two years following the initial date of issuance.

(4) Registration as a student, apprentice, or student instructor shall expire upon successful completion of the licensing examination or termination of enrollment in a school of cosmetology, a school of esthetics, or an apprentice salon.

(5) Licensure as a temporary practitioner shall expire eight weeks following the date of issuance or upon receipt of examination results, whichever occurs first, except that the license of a temporary practitioner who fails to take the first scheduled examination shall expire immediately unless the department finds that the temporary practitioner was unable to attend the examination due to an emergency or other valid circumstances, in which case the department may extend the license an additional eight weeks or until receipt of the examination results, whichever occurs first. No license may be extended in such manner more than once.

Source:Laws 1986, LB 318, § 66; Laws 1987, LB 543, § 13; Laws 1995, LB 83, § 32; Laws 2002, LB 241, § 28; Laws 2004, LB 906, § 24; Laws 2004, LB 1005, § 29; R.S.Supp.,2006, § 71-3,105; Laws 2007, LB463, § 336.

38-1075. Act; activities exempt.

The Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act does not apply to or restrict the activities of the following:

(1) Any person holding a current license or certificate issued pursuant to the Uniform Credentialing Act when engaged in the usual and customary practice of his or her profession or occupation;

(2) Any person engaging solely in earlobe piercing;

(3) Any person engaging solely in natural hair braiding;

(4) Any person when engaged in domestic or charitable administration;

(5) Any person performing any of the practices of cosmetology or nail technology solely for theatrical presentations or other entertainment functions;

(6) Any person practicing cosmetology, electrology, esthetics, or nail technology within the confines of a hospital, nursing home, massage therapy establishment, funeral establishment, or other similar establishment or facility licensed or otherwise regulated by the department, except that no unlicensed or unregistered person may accept compensation for such practice;

(7) Any person providing services during a bona fide emergency;

(8) Any retail or wholesale establishment or any person engaged in the sale of cosmetics, nail technology products, or other beauty products when the products are applied by the customer or when the application of the products is in direct connection with the sale or attempted sale of such products at retail;

(9) Any person when engaged in nonvocational training;

(10) A person demonstrating on behalf of a manufacturer or distributor any cosmetology, nail technology, electrolysis, or body art equipment or supplies if such demonstration is performed without charge;

(11) Any person or licensee engaged in the practice or teaching of manicuring; and

(12) Any person or licensee engaged in the practice of airbrush tanning or temporary, nonpermanent airbrush tattooing.

Source:Laws 1986, LB 318, § 67; Laws 1987, LB 543, § 14; Laws 1988, LB 1100, § 97; Laws 1995, LB 83, § 33; Laws 1999, LB 68, § 44; Laws 2001, LB 209, § 16; Laws 2004, LB 906, § 28; Laws 2005, LB 256, § 33; R.S.Supp.,2006, § 71-3,106; Laws 2007, LB463, § 337; Laws 2016, LB898, § 4.

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38-1076. Epilators; requirements.

All epilators used by an electrologist shall be approved by the federal Food and Drug Administration.

Source:Laws 1995, LB 83, § 40; Laws 2004, LB 1005, § 30; R.S.Supp.,2006, § 71-3,106.01; Laws 2007, LB463, § 338.

38-1077. Continuing competency requirements; waiver; limited exemptions.

The department, with the recommendation of the board, may waive continuing competency requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements as provided in section 38-146. In addition to circumstances determined by the department to be beyond the licensee's control pursuant to such section, the following exemptions shall apply:

(1) An instructor who meets the continuing competency requirements for the instructor's license shall be exempt from meeting the continuing competency requirements for his or her cosmetologist license for that biennium;

(2) An electrology instructor who meets the continuing competency requirements for the electrology instructor's license shall be exempt from meeting the continuing competency requirements for his or her electrologist license for that biennium; and

(3) An esthetics instructor who meets the continuing education requirements for the esthetics instructor's license shall be exempt from meeting the continuing education requirements for his or her esthetician license for that biennium.

Source:Laws 1986, LB 318, § 78; Laws 1995, LB 83, § 37; Laws 2002, LB 241, § 31; Laws 2002, LB 1021, § 46; R.S.1943, (2003), § 71-3,117; Laws 2007, LB463, § 339.

38-1078. Cosmetology establishment; license required; conditions.

No person shall operate or profess or attempt to operate a cosmetology establishment unless such establishment is licensed by the department under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. The department shall not issue or renew a license for a cosmetology establishment until all requirements of the act have been complied with. No person shall engage in any of the practices of cosmetology in any location or premises other than a licensed cosmetology establishment except as specifically permitted in the act.

Source:Laws 1986, LB 318, § 80; R.S.1943, (2003), § 71-3,119; Laws 2007, LB463, § 340.

38-1079. Licensed cosmetology establishment; nail technology services.

A licensed cosmetology establishment is not required to be licensed as a nail technology salon to provide nail technology services by either a licensed cosmetologist or by a licensed nail technologist.

Source:Laws 2001, LB 209, § 15; R.S.1943, (2003), § 71-3,119.01; Laws 2007, LB463, § 341.

38-1080. Body art facility; license required; renewal.

(1) No person shall establish or operate a body art facility in this state unless such facility is licensed by the department under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. The department shall not issue or renew a license for a body art facility until all applicable requirements of the act have been complied with and the facility has been inspected by the department. No person shall engage in any of the practices of body art in any location or premises other than a licensed body art facility except as specifically permitted in the act. The department shall issue a license to operate a body art facility to each qualified applicant.

(2) The procedure for renewing a body art facility license shall be in accordance with section 38-143, except that in addition to all other requirements, no body art facility license may be renewed unless the facility has attained a rating of satisfactory on its most recent operation inspection. The license of any facility not attaining such rating shall be placed on inactive status and shall not be open to the public until all deficiencies have been corrected.

(3) The license of a body art facility that has been revoked for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such facility can reopen for business.

(4) Each body art facility license shall be in effect solely for the owner or owners and premises named thereon and shall expire automatically upon any change of ownership or location. An original application for licensure shall be submitted and approved before such facility may reopen for business.

Source:Laws 2004, LB 906, § 26; R.S.Supp.,2006, § 71-3,119.02; Laws 2007, LB463, § 342.

38-1081. Body art facility; operating requirements.

(1) In order to maintain a license in good standing, each body art facility or the owner of such facility or his or her agent shall:

(a) At all times comply with all applicable provisions of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(b) Notify the department at least thirty days prior to any change of ownership, name, or address, and within one week after a facility is permanently closed, except in emergency circumstances as determined by the department;

(c) Permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during normal operating hours, without prior notice, and the owner and manager shall assist the inspector by providing access to all areas, personnel, and records requested by the inspector; and

(d) Display in a conspicuous place near the place where body art is performed the following records:

(i) The then current license to operate the body art facility;

(ii) The then current license of each person performing body art; and

(iii) The inspection report from the most recent operation inspection.

(2) The owner of each body art facility shall have full responsibility for ensuring that the facility is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the facility.

Source:Laws 2004, LB 906, § 27; R.S.Supp.,2006, § 71-3,119.03; Laws 2007, LB463, § 343.

38-1082. Salon, defined.

For purposes of sections 38-1083 to 38-1090, salon means cosmetology salon and esthetics salon.

Source:Laws 1986, LB 318, § 81; Laws 2002, LB 241, § 32; R.S.1943, (2003), § 71-3,120; Laws 2007, LB463, § 344.

38-1083. Salon; license; requirements.

In order to be licensed as a salon by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

(1) The proposed salon shall be a fixed, permanent structure or part of one;

(2) The proposed salon shall be physically separated from all other business or residential activities except barbering, manicuring, pedicuring, and retail sales;

(3) The separation required in subdivision (2) of this section shall be by fixed walls or by partitions not less than six feet high;

(4) Areas of the salon used for barbering, manicuring, or pedicuring shall be clearly identified as such to the public by a sign and shall be visually distinct from other areas of the salon;

(5) All areas of the salon, including those used for manicures, pedicures, or retail sales, shall comply with the sanitary requirements of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;

(6) A salon located in a residence shall be entirely distinct and separate from any living quarters, except that there may be one connecting door to the living portion of the dwelling as an access entrance to the salon for the owner or operator, but such entrance shall not be for the use of the general public;

(7) The entrance into the proposed salon used by the general public shall lead directly from the outside to the salon, except that a salon located in a commercial building may have its entrance open from a public area such as a foyer, hallway, mall, concourse, or retail sales floor. Any salon in existence and licensed on August 30, 1987, shall not be required to comply with this subdivision;

(8) The proposed salon shall have at least one hundred fifty square feet of floor space. If more than one practitioner is to be employed in the salon at the same time, the salon shall contain an additional space of at least fifty square feet for each additional practitioner, except that a salon

employing a licensee exclusively to perform home services need not provide additional space for such employee;

(9) The proposed salon shall include toilet facilities unless the salon is located in a commercial building in which public toilet facilities are available that open directly off of a public area; and

(10) The proposed salon shall meet all state or local building code and fire code requirements.

Source:Laws 1986, LB 318, § 82; Laws 1987, LB 543, § 19; R.S.1943, (2003), § 71-3,121; Laws 2007, LB463, § 345.

38-1084. Salon license; application; procedure; additional information.

Any person seeking a license to operate a salon shall submit a completed application at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be submitted at least thirty days before the proposed opening of the salon for operation. Along with the application the applicant shall submit:

(1) A detailed floor plan or blueprint of the proposed salon sufficient to demonstrate compliance with the requirements of section 38-1083; and

(2) Evidence of minimal property damage, bodily injury, and liability insurance coverage for the proposed salon.

Source:Laws 1986, LB 318, § 83; R.S.1943, (2003), § 71-3,122; Laws 2007, LB463, § 346.

38-1085. Salon; application; review; denial; issuance; inspection.

Each application for a license to operate a salon shall be reviewed by the department for compliance with the requirements of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. In the event an application is denied, the applicant shall be informed in writing of the grounds for denial, and such denial shall not prejudice future applications by the applicant. In the event an application is approved, the department shall issue the applicant a certificate of consideration to operate a salon pending an operation inspection. The department shall conduct an operation inspection of each salon issued a certificate of consideration within six months of the issuance of such certificate. Salons passing the inspection shall be issued a permanent license. Salons failing the inspection shall submit within fifteen days evidence of corrective action taken to improve those aspects of operation found deficient. If evidence is not submitted within fifteen days or if after a second inspection the salon does not receive a satisfactory rating, it shall immediately relinquish its certificate of consideration and cease operation.

Source:Laws 1986, LB 318, § 84; R.S.1943, (2003), § 71-3,123; Laws 2007, LB463, § 347.

38-1086. Licensed salon; operating requirements.

In order to maintain its license in good standing, each salon shall operate in accordance with the following requirements:

(1) The salon shall at all times comply with all applicable provisions of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(2) The salon owner or his or her agent shall notify the department at least thirty days prior to any change of ownership, name, or address, and within one week if a salon is permanently closed, except in emergency circumstances as determined by the department;

(3) No salon shall permit any unlicensed or unregistered person to perform any of the practices of cosmetology within its confines or employment;

(4) The salon shall display a name upon, over, or near the entrance door distinguishing it as a salon;

(5) The salon shall permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during the normal operating hours of the salon, without

prior notice, and the owner and manager shall assist the inspector by providing access to all areas of the salon, all personnel, and all records requested by the inspector;

(6) The salon shall display in a conspicuous place the following records:

(a) The current license or certificate of consideration to operate a salon;

(b) The current licenses or registrations of all persons employed by or working in the salon; and

(c) The rating sheet from the most recent operation inspection;

(7) At no time shall a salon employ more employees than permitted by the square footage requirements of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act; and

(8) The salon shall not knowingly permit its employees or clients to use, consume, serve, or in any manner possess or distribute intoxicating beverages or controlled substances upon its premises.

Source:Laws 1986, LB 318, § 85; R.S.1943, (2003), § 71-3,124; Laws 2007, LB463, § 348.

38-1087. Salon license; renewal; insurance.

The procedure for renewing a salon license shall be in accordance with section 38-143, except that in addition to all other requirements, the salon shall submit evidence of minimal property damage, bodily injury, and liability insurance coverage for the salon.

Source:Laws 1986, LB 318, § 86; Laws 2003, LB 242, § 86; R.S.1943, (2003), § 71-3,125; Laws 2007, LB463, § 349.

38-1088. Salon license; revoked or expired; effect.

The license of a salon that has been revoked or expired for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such salon may reopen for business.

Source:Laws 1986, LB 318, § 87; R.S.1943, (2003), § 71-3,126; Laws 2007, LB463, § 350.

38-1089. Salon license; change of ownership or location; effect.

Each salon license issued shall be in effect solely for the owner or owners and premises named thereon and shall expire automatically upon any change of ownership or location. An original application for licensure shall be submitted and approved before such salon may reopen for business.

Source:Laws 1986, LB 318, § 88; R.S.1943, (2003), § 71-3,127; Laws 2007, LB463, § 351.

38-1090. Salon owner; liability.

The owner of each salon shall have full responsibility for ensuring that the salon is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the salon.

Source:Laws 1986, LB 318, § 89; R.S.1943, (2003), § 71-3,128; Laws 2007, LB463, § 352.

38-1091. Cosmetic establishment; license; requirements.

In order to be licensed as a cosmetic establishment by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

(1) The proposed cosmetic establishment shall be a fixed permanent structure or part of one;

(2) The proposed cosmetic establishment need not consist of a separate room or rooms, but may be a counter or other clearly identifiable portion of a room or floor;

(3) The proposed cosmetic establishment shall have, or have convenient access to, handwashing facilities; and

(4) The proposed cosmetic establishment, if located in a private dwelling, shall be located in a room or rooms separate from the living quarters and having a private entrance. Such room or

rooms shall not be used for any residential purpose during the hours the cosmetic establishment is being used, and all doors and windows connecting to residential quarters shall be closed at such times.

Source:Laws 1986, LB 318, § 90; R.S.1943, (2003), § 71-3,129; Laws 2007, LB463, § 353.

38-1092. Cosmetic establishment license; application; procedure; additional information; inspection.

(1) Any person seeking a license to operate a cosmetic establishment shall submit a completed application at least thirty days before the proposed opening of the cosmetic establishment for operation. Along with the application the applicant shall submit:

(a) A floor plan or blueprint sufficient to identify the location of the proposed cosmetic establishment within any larger structure and the location of handwashing facilities; and

(b) The names of all persons registered or proposed to be registered as cosmeticians to be employed in the cosmetic establishment.

(2) In the event that more than one counter or area within a larger commercial establishment will be used as a cosmetic establishment, only one license is required for all such counters or areas if all are identified on the floor plan or blueprint accompanying the application.

(3) Each application shall be reviewed by the department for compliance with the requirements of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. In the event an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice future applications by the applicant. In the event an application is approved, the department shall issue the applicant a certificate of consideration to operate a cosmetic establishment pending an operation inspection. The department shall conduct an operation inspection of each cosmetic establishment issued a certificate of consideration within six months of the issuance of such certificate. Cosmetic establishments passing the inspection shall be issued a permanent license. Cosmetic establishments failing the inspection shall submit, within fifteen days, evidence of corrective action taken to improve those aspects of operation found deficient. If evidence is not submitted within fifteen days or if after a second inspection the cosmetic establishment does not receive a satisfactory rating, it shall immediately relinquish its certificate of consideration and cease operation.

Source:Laws 1986, LB 318, § 91; R.S.1943, (2003), § 71-3,130; Laws 2007, LB463, § 354.

38-1093. Licensed cosmetic establishment; operating requirements.

In order to maintain its license in good standing, each cosmetic establishment shall operate in accordance with the following requirements:

(1) The cosmetic establishment shall at all times comply with all applicable provisions of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(2) The owner of the cosmetic establishment or his or her agent shall notify the department at least thirty days prior to any change of ownership, name, or address, and within one week after a cosmetic establishment is permanently closed, except in emergency circumstances as determined by the department;

(3) No cosmetic establishment shall permit anyone other than a cosmetician, cosmetologist, or esthetician to apply cosmetics to members of the general public upon its premises;

(4) The cosmetic establishment shall display a sign at each counter or area used for such purposes indicating that it is a licensed cosmetic establishment and that all persons applying cosmetics are registered cosmeticians or licensed cosmetologists or estheticians;

(5) The cosmetic establishment shall permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during normal operating hours, without prior notice, and the owner and manager shall assist the inspector by providing access to all areas, personnel, and records requested by the inspector; and

(6) The cosmetic establishment shall display in a conspicuous place near the place where cosmetics are applied the following records:

- (a) The current license or certificate of consideration to operate a cosmetic establishment;
- (b) The current licenses or registrations of all persons applying cosmetics; and
- (c) The rating sheet from the most recent operation inspection.

Source:Laws 1986, LB 318, § 92; R.S.1943, (2003), § 71-3,131; Laws 2007, LB463, § 355.

38-1094. Cosmetic establishment license; revoked or expired; effect.

The license of a cosmetic establishment that has been revoked or expired for any reason may not be reinstated. An original application for licensure shall be submitted and approved before such cosmetic establishment may reopen for business.

Source:Laws 1986, LB 318, § 94; R.S.1943, (2003), § 71-3,133; Laws 2007, LB463, § 356.

38-1095. Cosmetic establishment license; change of ownership or location; effect.

Each cosmetic establishment license issued shall be in effect solely for the owner or owners and premises named thereon and shall expire automatically upon any change of ownership or location. An original application for licensure shall be submitted and approved before such cosmetic establishment may reopen for business. Nothing in sections 38-1091 to 38-1095 shall be construed to prevent the creation, alteration, removal, or movement of specific counters or areas within a commercial enterprise holding a license as a cosmetic establishment.

Source:Laws 1986, LB 318, § 95; R.S.1943, (2003), § 71-3,134; Laws 2007, LB463, § 357.

38-1096. Cosmetic establishment owner; liability.

The owner of each cosmetic establishment shall have full responsibility for ensuring that the cosmetic establishment is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the cosmetic establishment.

Source:Laws 1986, LB 318, § 96; R.S.1943, (2003), § 71-3,135; Laws 2007, LB463, § 358.

38-1097. School of cosmetology; license; requirements.

In order to be licensed as a school of cosmetology by the department, an applicant shall meet and present to the department evidence of meeting the following requirements:

- (1) The proposed school shall be a fixed permanent structure or part of one;
- (2) The proposed school shall have a contracted enrollment of at least fifteen full-time students;
- (3) The proposed school shall contain at least three thousand five hundred square feet of floor space and facilities, staff, apparatus, and equipment appropriate to its projected enrollment in accordance with the standards established by rule and regulation; and
- (4) The proposed school shall not have the same entrance as or direct access to a cosmetology salon, esthetics salon, or nail technology salon.

A school of cosmetology is not required to be licensed as a school of esthetics in order to provide an esthetics training program or as a school of nail technology in order to provide a nail technology training program.

Source:Laws 1986, LB 318, § 97; Laws 2002, LB 241, § 33; R.S.1943, (2003), § 71-3,136; Laws 2007, LB463, § 359.

38-1098. School of cosmetology license; school of esthetics license; application.

Any person seeking a license to operate a school of cosmetology or school of esthetics shall submit a completed application at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be received at least thirty days before the proposed opening of the school.

Source:Laws 1986, LB 318, § 98; Laws 1995, LB 83, § 38; Laws 1997, LB 752, § 169; Laws 2002, LB 241, § 35; Laws 2004, LB 1005, § 31; R.S.Supp.,2006, § 71-3,137; Laws 2007, LB463, § 360.

38-1099. School of cosmetology license; school of esthetics license; application; additional information.

Along with the application the applicant for a license to operate a school of cosmetology or school of esthetics shall submit:

- (1) A detailed floor plan or blueprint of the proposed school building sufficient to show compliance with the relevant rules and regulations;
- (2) Evidence of minimal property damage, personal injury, and liability insurance coverage for the proposed school;
- (3) A copy of the curriculum to be taught for all courses;
- (4) A copy of the school rules and the student contract;
- (5) A list of the names and credentials of all licensees to be employed by the school and the name and qualifications of the school manager;
- (6) Complete student entrance notifications and contracts for all persons proposed as students or student instructors, which shall be submitted fifteen days prior to opening;
- (7) A completed cosmetology education or esthetics education evaluation scale, as applicable; and
- (8) A schedule of proposed hours of operation and class and course scheduling.

Source:Laws 1986, LB 318, § 99; Laws 2002, LB 241, § 36; R.S.1943, (2003), § 71-3,138; Laws 2007, LB463, § 361.

38-10,100. School of esthetics license; application; additional information.

In order to be licensed as a school of esthetics by the department, an applicant shall meet and present to the department evidence of meeting the following requirements:

- (1) The proposed school shall be a fixed permanent structure or part of one;
- (2) The proposed school shall have a contracted enrollment of at least four but not more than six students for each licensed esthetics instructor on the staff of the proposed school;
- (3) The proposed school shall contain at least one thousand square feet of floor space and facilities, staff, apparatus, and equipment appropriate to its projected enrollment in accordance with the standards established by rule and regulation; and
- (4) The proposed school shall not have the same entrance as or direct access to a cosmetology salon, an esthetics salon, or a nail technology salon.

Source:Laws 2002, LB 241, § 34; R.S.1943, (2003), § 71-3,138.02; Laws 2007, LB463, § 362.

38-10,101. School of cosmetology license; school of esthetics license; application; review; procedure; inspection.

Each application for a license to operate a school of cosmetology or school of esthetics shall be reviewed by the department for compliance with the requirements of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. If an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice future applications by the applicant. If an application is accepted, the department shall immediately conduct an accreditation inspection of the proposed school. A school passing the inspection shall be issued a license and may begin operation as soon as the inspection results are received. If the proposed school fails the inspection, the applicant shall submit, within fifteen days, evidence of corrective action taken to improve those aspects of operation found deficient. If, after a second inspection to be conducted within thirty days of receipt of evidence, the school does not receive a satisfactory rating, or if evidence is not received within fifteen days, the application may be denied.

Source:Laws 1986, LB 318, § 100; Laws 1995, LB 83, § 41; Laws 2002, LB 241, § 37; Laws 2004, LB 1005, § 32; R.S.Supp.,2006, § 71-3,139; Laws 2007, LB463, § 363.

38-10,102. Licensed school; operating requirements.

In order to maintain its license in good standing, each school of cosmetology or school of esthetics shall operate in accordance with the following requirements:

(1) The school shall at all times comply with all applicable provisions of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(2) The school owner or owners or the authorized agent thereof shall notify the department at least thirty days prior to any change of ownership, name, or address, and at least sixty days prior to closure, except in emergency circumstances as determined by the department;

(3) No school shall permit anyone other than a student, student instructor, instructor, or guest artist to perform any of the practices of cosmetology or esthetics within its confines or employ, except that such restriction shall not prevent a school from inviting guest teachers who are not licensed or registered to provide lectures to students or student instructors if the guest lecturer does not perform any of the practices of cosmetology or esthetics;

(4) The school shall display a name upon or near the entrance door designating it as a school of cosmetology or a school of esthetics;

(5) The school shall display in a conspicuous place within the clinic area a sign reading: All services in this school are performed by students who are training in cosmetology or esthetics, as applicable. A notice to such effect shall also appear in all advertising conducted by the school for its clinic services;

(6) The school shall permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during the normal operating hours of the school without prior notice, and the owner or manager shall assist the inspector by providing access to all areas of the school, all personnel, and all records requested by the inspector;

(7) The school shall display in a conspicuous place the following records:

(a) The current license to operate a school of cosmetology or school of esthetics;

(b) The current licenses or registrations of all persons, except students, employed by or working in the school; and

(c) The rating sheet from the most recent accreditation inspection;

(8) At no time shall a school enroll more students than permitted by the act or the rules and regulations adopted and promulgated under the act;

(9) The school shall not knowingly permit its students, employees, or clients to use, consume, serve, or in any other manner possess or distribute intoxicating beverages or controlled substances upon its premises;

(10) No instructor or student instructor shall perform, and no school shall permit such person to perform, any of the practices of cosmetology or esthetics on the public in a school of cosmetology or school of esthetics other than that part of the practical work which pertains directly to the teaching of practical subjects to students or student instructors and in no instance shall complete cosmetology or esthetics services be provided for a client unless done in a demonstration class of theoretical or practical studies;

(11) The school shall maintain space, staff, library, teaching apparatus, and equipment as established by rules and regulations adopted and promulgated under the act;

(12) The school shall keep a daily record of the attendance and clinical performance of each student and student instructor;

(13) The school shall maintain regular class and instructor hours and shall require the minimum curriculum;

(14) The school shall establish and maintain criteria and standards for student grading, evaluation, and performance and shall award a certificate or diploma to a student only upon

completing a full course of study in compliance with such standards, except that no student shall receive such certificate or diploma until he or she has satisfied or made an agreement with the school to satisfy all outstanding financial obligations to the school;

(15) The school shall maintain on file the enrollment of each student;

(16) The school shall maintain a report indicating the students and student instructors enrolled, the hours and credits earned, the instructors employed, the hours of operation, and such other pertinent information as required by the department. No hours or credits shall be allowed for any student unless such student is duly registered and the hours and credits are reported by the school; and

(17) The school shall print and provide to each student a copy of the school rules, which shall not be inconsistent with the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, the Uniform Credentialing Act, or the rules and regulations adopted and promulgated under either act and which shall include policies of the school with respect to tuition, reimbursement, conduct, attendance, grading, earning of hours and credits, demerits, penalties, dismissal, graduation requirements, dress, and other information sufficient to advise the student of the standards he or she will be required to maintain. The department may review any school's rules to determine their consistency with the intent and content of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and the rules and regulations and may overturn any school rules found not to be in accord.

Source:Laws 1986, LB 318, § 101; Laws 1987, LB 543, § 20; Laws 1995, LB 83, § 42; Laws 2002, LB 241, § 38; Laws 2004, LB 1005, § 33; R.S.Supp.,2006, § 71-3,140; Laws 2007, LB463, § 364.

38-10,103. School or salon; operation; student; apprentice; student instructor; requirements.

In order to maintain a school or salon license in good standing, each school or salon shall operate in accordance with the following:

(1) Every person accepted for enrollment as a standard student or apprentice shall show evidence that he or she attained the age of seventeen years on or before the date of his or her enrollment in a school of cosmetology, a school of esthetics, or an apprentice salon, has completed the equivalent of a high school education, has been accepted for enrollment at a school of cosmetology, a school of esthetics, or an apprentice salon, and has not undertaken any training in cosmetology or esthetics without being enrolled as a student or apprentice;

(2)(a) Every person accepted for enrollment as a special study student or apprentice shall show evidence that he or she:

(i) Has attained the age of seventeen years on or before the date of enrollment in a school of cosmetology, a school of esthetics, or an apprentice salon;

(ii) Has completed the tenth grade;

(iii) Has been accepted for enrollment at a school of cosmetology, a school of esthetics, or an apprentice salon; and

(iv) Is actively continuing his or her formal high school education on a full-time basis as determined by the department.

(b) An applicant for enrollment as a special study student or apprentice shall not have undertaken any training in cosmetology or esthetics without being enrolled as a student or apprentice.

(c) Special study students shall be limited to attending a school of cosmetology, a school of esthetics, or an apprentice salon for no more than eight hours per week during the school year;

(3) Every person accepted for enrollment as a student instructor shall show evidence of current licensure as a cosmetologist or esthetician in Nebraska and completion of formal education equivalent to a United States high school education; and

(4) No school of cosmetology, school of esthetics, or apprentice salon shall accept an individual for enrollment who does not provide evidence of meeting the age and education requirements. Proof of age shall consist of a birth certificate, baptismal certificate, or other equivalent document as determined by the department. Evidence of education shall consist of a high school diploma, general educational development certificate, transcript from a college or university, or equivalent document as determined by the department.

Source:Laws 1986, LB 318, § 63; Laws 1987, LB 543, § 11; Laws 1995, LB 83, § 31; Laws 2002, LB 241, § 26; Laws 2004, LB 1005, § 28; R.S.Supp.,2006, § 71-3,102; Laws 2007, LB463, § 365.

38-10,104. Licensed school; additional operating requirements.

In order to maintain its license in good standing, each school of cosmetology or school of esthetics shall operate in accordance with the following requirements:

(1) All persons accepted for enrollment as students shall meet the qualifications established in section 38-10,103;

(2) The school shall, at all times the school is in operation, have at least one instructor in the school for each twenty students or fraction thereof enrolled in the school, except (a) that freshman and advanced students shall be taught by different instructors in separate classes and (b) as provided in section 38-10,100;

(3) The school shall not permit any student to render clinical services on members of the public with or without fees until such student has satisfactorily completed the freshman curriculum, except that the board may establish guidelines by which it may approve such practices as part of the freshman curriculum;

(4) No school shall pay direct compensation to any of its students. Student instructors may be paid as determined by the school;

(5) All students and student instructors shall be under the supervision of an instructor at all times, except that students shall be under the direct supervision of an instructor or student instructor at all times when cosmetology or esthetics services are being taught or performed and student instructors may independently supervise students after successfully completing at least one-half of the required instructor program;

(6) Students shall be classified for reporting purposes as follows:

(a) A full-time student shall mean one who regularly trains at least eight hours a day during the normal school week, including normal excused absences as defined in the school rules; and

(b) A part-time student shall mean any student not classified as a full-time student;

(7) Students no longer attending the school shall be classified for reporting purposes as follows:

(a) A graduate shall mean a student who has completed his or her hours and credits, has satisfied all school requirements, and has been granted a certificate or diploma by the school;

(b) A transfer shall mean a student who has transferred to another school in Nebraska or in another state;

(c) A temporary drop shall mean a student who has stopped attending school for a period of less than three months and has given no indication that he or she intends to drop permanently; and

(d) A permanent drop shall mean a student who has stopped attending school for a period of three months or more or one who has stopped attending for a shorter time but has informed the school in writing of his or her intention to drop permanently;

(8) Once a student has been classified as a permanent drop, the school shall keep a record of his or her hours and credits for a period of two years from the last date upon which the student attended school;

(9) No student shall be permitted by the school to train or work in a school in any manner for more than ten hours a day; and

(10) The school shall not credit a student or student instructor with hours and credits except when such hours and credits were earned in the study or practice of cosmetology or esthetics in accordance with the required curriculum. Hours and credits shall be credited on a daily basis. Once credited, hours or credits cannot be removed or disallowed except by the department upon a finding that the hours or credits have been wrongfully allowed.

Source:Laws 1986, LB 318, § 102; Laws 1987, LB 543, § 21; Laws 1995, LB 83, § 43; Laws 2002, LB 241, § 39; Laws 2004, LB 1005, § 34; R.S.Supp.,2006, § 71-3,141; Laws 2007, LB463, § 366.

38-10,105. Intrastate transfer of cosmetology student; requirements.

A student may transfer from one school of cosmetology in Nebraska to another at any time without penalty if all tuition obligations to the school from which the student is transferring have been honored and if the student secures a letter from the school from which he or she is transferring stating that the student has not left any unfulfilled tuition obligations and stating the number of hours and credits earned by the student at such school, including any hours and credits the student transferred into that school, and the dates of attendance of the student at that school. The student may not begin training at the new school until such conditions have been fulfilled. The school to which the student is transferring shall be entitled to receive from the student's previous school, upon request, credit books and any and all records pertaining to the student.

Source:Laws 1986, LB 318, § 103; R.S.1943, (2003), § 71-3,142; Laws 2007, LB463, § 367.

38-10,106. Interstate transfer of cosmetology student; requirements.

Students may transfer into a school of cosmetology in Nebraska from a school in another state if:

(1) The school in the other state meets all requirements of section 38-10,104; and

(2) The student submits to the department evidence that the school from which he or she is transferring was fully accredited by the appropriate body in that state at the time the student attended.

Source:Laws 1986, LB 318, § 104; Laws 1987, LB 543, § 22; R.S.1943, (2003), § 71-3,143; Laws 2007, LB463, § 368.

38-10,107. Licensed barber; waiver of course requirements; conditions.

Any person holding a current barbering license issued by the appropriate authority in Nebraska shall be entitled to waive one thousand hours upon enrolling in a complete course of cosmetology training in a school of cosmetology. The school shall determine, based upon the knowledge and experience of the student, which one thousand hours of training shall be waived for the student. The school shall determine, based upon the knowledge and experience of the student, how many credits to waive and which credits are to be waived for the student, except that no fewer than five hundred credits and no more than one thousand credits may be waived for any such student. No hours shall be waived for a licensed barber enrolling in an esthetician training course or program.

Source:Laws 1986, LB 318, § 105; R.S.1943, (2003), § 71-3,144; Laws 2007, LB463, § 369.

Cross References

- **Barbering license under the Barber Act**, see section 71-224.

38-10,108. School of cosmetology; student instructors; limitation.

No school of cosmetology shall at any time enroll more than two student instructors for each full-time instructor actively working in and employed by the school.

Source:Laws 1986, LB 318, § 107; R.S.1943, (2003), § 71-3,146; Laws 2007, LB463, § 370.

38-10,109. School licenses; renewal; requirements; inactive status; revocation; effect.

(1) The procedure for renewing a school license shall be in accordance with section 38-143, except that in addition to all other requirements, the school of cosmetology or school of esthetics shall provide evidence of minimal property damage, bodily injury, and liability insurance coverage and shall receive a satisfactory rating on an accreditation inspection conducted by the department within the six months immediately prior to the date of license renewal.

(2) Any school of cosmetology or school of esthetics which has current accreditation from a national accrediting organization approved by the board shall be considered to satisfy the accreditation requirements outlined in this section, except that successful completion of an operation inspection shall be required. Each school of cosmetology or school of esthetics, whether or not it is nationally accredited, shall satisfy all curriculum and sanitation requirements outlined in the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to maintain its license.

(3) Any school not able to meet the requirements for license renewal shall have its license placed on inactive status until all deficiencies have been corrected, and the school shall not operate in any manner during the time its license is inactive. If the deficiencies are not corrected within six months of the date of license renewal, the license may be revoked unless the department approves an extension of the time limit. The license of a school that has been revoked or expired for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such school may reopen.

Source:Laws 1986, LB 318, § 108; Laws 1995, LB 83, § 45; Laws 2002, LB 241, § 41; Laws 2003, LB 242, § 88; Laws 2004, LB 1005, § 36; R.S.1943, (2003), § 71-3,147; Laws 2007, LB463, § 371.

38-10,110. School license; change of ownership or location; effect.

Each school license issued shall be in effect solely for the owner or owners and premises named thereon and shall expire automatically upon any change of ownership or change in the county of location. An original application for licensure shall be submitted and approved before such school may reopen, except that a school moving to a new location within the same county may do so by filing an application as required by the department, paying the required fee, submitting a new floor plan, and passing an operation inspection. Materials shall be received by the department no less than thirty days prior to the move, and all provisions of this section shall be complied with before the school may begin operation at its new location.

Source:Laws 1986, LB 318, § 109; R.S.1943, (2003), § 71-3,148; Laws 2007, LB463, § 372.

38-10,111. School of cosmetology; satellite classroom; license; requirements; waiver.

Any school of cosmetology may apply to the department for a license to operate a satellite classroom. A satellite classroom shall be subject to all requirements of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and rules and regulations adopted and promulgated under such act, except as follows:

(1) A satellite classroom shall consist of classroom facilities only, and no clinical activities may be performed thereat. A satellite classroom shall contain a minimum of four hundred square feet of floor space;

(2) Students located at a satellite classroom may move to the home school, or vice versa, without being considered transfer students;

(3) Students in a satellite classroom shall be maintained on the same monthly report form as students in the home school; and

(4) No satellite classroom may operate in any manner unless the home school is at the time operating and possesses a full active license, except a satellite classroom may keep different days and hours of operation from those of its home school. The license to operate a satellite classroom shall be revoked or shall expire at the same time as that for its home school.

The department, with the recommendation of the board, may adopt and promulgate rules and regulations to modify or waive any of the operating or student requirements of a school of cosmetology for a satellite classroom if the department determines that such requirements are not applicable or appropriate to a satellite classroom.

Source:Laws 1986, LB 318, § 110; R.S.1943, (2003), § 71-3,149; Laws 2007, LB463, § 373.

38-10,112. School; owner; liability; manager required.

The owner of each school of cosmetology or school of esthetics shall have full responsibility for ensuring that the school is operated in compliance with all applicable laws and rules and regulations and shall be liable for any and all violations occurring in the school. Each school of cosmetology shall be operated by a manager who shall hold an active instructor's license and who shall be present on the premises of the school no less than thirty-five hours each week. Each manager of a school of esthetics shall hold an active esthetics instructor's license and shall be present on the premises of the school no less than thirty-five hours each week. The manager may have responsibility for the daily operation of the school or satellite classroom and, if so, shall share with the owner liability for any and all violations occurring in the school or satellite classroom.

Source:Laws 1986, LB 318, § 111; Laws 1995, LB 83, § 46; Laws 2002, LB 241, § 42; Laws 2004, LB 1005, § 37; R.S.Supp.,2006, § 71-3,150; Laws 2007, LB463, § 374.

38-10,113. Apprentice salon; license; requirements.

In order to be licensed as an apprentice salon by the department, an applicant shall meet and present to the department evidence of meeting the following requirements:

(1) The proposed apprentice salon shall hold a current active license as a cosmetology salon or esthetics salon;

(2) The proposed apprentice salon shall employ or plan to employ one active instructor for each two apprentices or fraction thereof it enrolls; and

(3) The proposed apprentice salon shall provide an area of not less than one hundred square feet to be used solely for educational purposes.

Source:Laws 1986, LB 318, § 112; Laws 2002, LB 241, § 43; R.S.1943, (2003), § 71-3,151; Laws 2007, LB463, § 375.

38-10,114. Apprentice salon license; application; procedure; additional information.

Any person seeking a license to operate an apprentice salon shall submit a complete application at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be received at least thirty days before training of apprentices is scheduled to begin. Along with the application the applicant shall submit:

(1) A detailed floor plan or blueprint of the proposed apprentice salon sufficient to demonstrate compliance with the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;

(2) Evidence of minimal property damage, bodily injury, and liability insurance coverage;

(3) A list of the names and qualifications of all instructors employed or proposed to be employed;

(4) Completed enrollment forms for all apprentices proposed to be enrolled;

(5) A copy of the rules the salon proposes to use for its apprentices;

(6) A copy of the apprentice contract;

(7) A copy of the curriculum proposed to be used;

(8) A proposed schedule of training for each apprentice; and

(9) A completed cosmetology education evaluation scale.

Source:Laws 1986, LB 318, § 113; Laws 1997, LB 752, § 171; R.S.1943, (2003), § 71-3,152; Laws 2007, LB463, § 376.

38-10,115. Apprentice salon license; application; review; procedure; inspection.

Each application for a license to operate an apprentice salon shall be reviewed by the department for compliance with the requirements of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. In the event an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice further applications by the applicant. In the event an application is approved, the department shall immediately conduct an operation inspection of the proposed apprentice salon. A salon passing the inspection shall be issued a license to operate and may begin training apprentices upon receipt of notification to such effect. A salon failing the operation inspection shall submit, within fifteen days, evidence of corrective action to improve those aspects of operation found deficient. If, after a second inspection to be conducted within thirty days of receipt of evidence, the salon does not receive a satisfactory rating, or if evidence is not submitted within fifteen days, the application may be denied.

Source:Laws 1986, LB 318, § 114; R.S.1943, (2003), § 71-3,153; Laws 2007, LB463, § 377.

38-10,116. Licensed apprentice salon; operating requirements.

In order to maintain and renew its license in good standing, each apprentice salon shall operate in accordance with the following requirements:

(1) The apprentice salon shall at all times comply with all applicable provisions of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(2) The salon shall maintain its salon license in good standing; and

(3) The salon shall operate in accordance with all operating requirements and all student requirements of a school of cosmetology or school of esthetics, except that the department, with the recommendation of the board, may adopt and promulgate rules and regulations to modify or waive any such requirements that are deemed not applicable to an apprentice salon.

Source:Laws 1986, LB 318, § 115; Laws 2002, LB 241, § 44; R.S.1943, (2003), § 71-3,154; Laws 2007, LB463, § 378.

38-10,117. Apprentice salon license; revocation or expiration; effect.

The license of an apprentice salon that has been revoked or expired for any reason may not be reinstated. An original application for licensure shall be submitted and approved before such apprentice salon may accept apprentices for training.

Source:Laws 1986, LB 318, § 117; R.S.1943, (2003), § 71-3,156; Laws 2007, LB463, § 379.

38-10,118. Apprentice salon license; change of ownership or location; effect.

Each apprentice salon license issued shall be in effect solely for the owner or owners and premises named thereon and shall expire automatically upon any change of ownership or location. An original application for licensure shall be submitted and approved before such apprentice salon may accept apprentices for training.

Source:Laws 1986, LB 318, § 118; R.S.1943, (2003), § 71-3,157; Laws 2007, LB463, § 380.

38-10,119. Apprentice salon; owner liability.

The owner of each apprentice salon shall have full responsibility for ensuring that the apprentice salon is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the apprentice salon.

Source:Laws 1986, LB 318, § 119; R.S.1943, (2003), § 71-3,158; Laws 2007, LB463, § 381.

38-10,120. Practice outside licensed establishment; when permitted; home services permit; issuance.

(1) Practice outside a licensed cosmetology establishment shall be permitted in the following circumstances:

(a) A registered cosmetician may apply cosmetics or esthetics products within the scope of such activity permitted a cosmetician in the home of a client or customer; and

(b) A licensed cosmetology salon or esthetics salon may employ licensed cosmetologists and estheticians, according to the licensed activities of the salon, to perform home services by meeting the following requirements:

(i) In order to be issued a home services permit by the department, an applicant shall hold a current active salon license; and

(ii) Any person seeking a home services permit shall submit a complete application at least ten days before the proposed date for beginning home services. Along with the application the applicant shall submit evidence of liability insurance or bonding.

(2) The department shall issue a home services permit to each applicant meeting the requirements set forth in this section.

Source:Laws 1986, LB 318, § 120; Laws 1995, LB 83, § 47; Laws 2002, LB 241, § 46; R.S.1943, (2003), § 71-3,159; Laws 2007, LB463, § 382.

38-10,121. Home services permit; requirements.

In order to maintain in good standing or renew its home services permit, a salon shall at all times operate in accordance with all requirements for operation, maintain its license in good standing, and comply with the following requirements:

(1) Clients receiving home services shall be in emergency circumstances which shall generally be defined as any condition sufficiently immobilizing to prevent the client from leaving his or her residence regularly to conduct routine affairs of daily living such as grocery shopping, visiting friends and relatives, attending social events, attending worship services, and other similar activities. Emergency circumstances may include such conditions or situations as:

(a) Chronic illness or injury leaving the client bedridden or with severely restricted mobility;

(b) Extreme general infirmity such as that associated with the aging process;

(c) Temporary conditions including, but not limited to, immobilizing injury and recuperation from serious illness or surgery;

(d) Having sole responsibility for the care of an invalid dependent requiring constant attention;

or

(e) Any other conditions that, in the opinion of the department, meet the general definition of emergency circumstances;

(2) The salon shall determine that each person receiving home services meets the requirements of subdivision (1) of this section and shall:

(a) Complete a client information form supplied by the department before home services may be provided to any client; and

(b) Keep on file the client information forms of all clients it is currently providing with home services or to whom it has provided such services within the past two years;

(3) The salon shall employ or contract with persons licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to provide home services and shall not permit any person to perform any home services under its authority for which he or she is not licensed;

(4) No client shall be left unattended while any chemical service is in progress or while any electrical appliance is in use; and

(5) Each salon providing home services shall post a daily itinerary for each licensee providing home services. The kit for each licensee shall be available for inspection at the salon or at the home of the client receiving services.

Source:Laws 1986, LB 318, § 121; Laws 1995, LB 83, § 48; R.S.1943, (2003), § 71-3,160; Laws 2007, LB463, § 383.

38-10,122. Home services; inspections.

Agents of the department may make operation inspections in the homes of clients if such inspections are limited to the activities, procedures, and materials of the licensee providing home services.

Source:Laws 1986, LB 318, § 122; R.S.1943, (2003), § 71-3,161; Laws 2007, LB463, § 384.

38-10,123. Home services; requirements.

No licensee may perform home services except when employed by or under contract to a salon holding a valid home services permit.

Source:Laws 1986, LB 318, § 123; Laws 1987, LB 543, § 23; Laws 1995, LB 83, § 49; R.S.1943, (2003), § 71-3,162; Laws 2007, LB463, § 385.

38-10,124. Home services permit; renewal; revocation or expiration; effect.

Each home services permit shall be subject to renewal at the same time as the salon license and shall be renewed upon request of the permitholder if the salon is operating its home services in compliance with the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and if the salon license is renewed. No permit that has been revoked or expired may be reinstated or transferred to another owner or location.

Source:Laws 1986, LB 318, § 124; Laws 1995, LB 83, § 50; R.S.1943, (2003), § 71-3,163; Laws 2007, LB463, § 386.

38-10,125. Home services permit; owner; liability.

The owner of each salon holding a home services permit shall have full responsibility for ensuring that the home services are provided in compliance with all applicable laws and rules and regulations and shall be liable for any violations which occur.

Source:Laws 1986, LB 318, § 125; Laws 1995, LB 83, § 51; R.S.1943, (2003), § 71-3,164; Laws 2007, LB463, § 387.

38-10,126. Nail technology activities; licensure required.

Licensure shall be required before any person may engage in the full, unsupervised practice of nail technology. No person may assume the title of nail technician or nail technology instructor without first being licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. No person, group, company, or other entity shall operate, advertise, or hold himself, herself, or itself out as operating a nail technology establishment in which any of the practices of nail technology are carried out unless such nail technology establishment is licensed under the act. No person shall provide nail technology services unless he or she practices in a currently licensed cosmetology establishment or nail technology establishment.

Source:Laws 1999, LB 68, § 28; R.S.1943, (2003), § 71-3,180; Laws 2007, LB463, § 388.

38-10,127. Nail technology activities; enumerated.

No person, group, company, limited liability company, or other entity shall engage in any of the following acts without being licensed as required by the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, unless specifically excepted by the act:

(1) Performing or advertising or holding oneself out as performing or qualified to perform any of the practices of nail technology;

(2) Teaching or advertising or holding oneself out as teaching or qualified to teach any of the practices of nail technology; or

(3) Operating or advertising or holding oneself out as operating an establishment in which any of the practices of nail technology are performed or taught.

Source:Laws 1999, LB 68, § 29; R.S.1943, (2003), § 71-3,181; Laws 2007, LB463, § 389.

38-10,128. Nail technician or instructor; licensure by examination; requirements.

In order to be licensed as a nail technician or nail technology instructor by examination, an individual shall meet, and present to the department evidence of meeting, the following requirements:

(1) He or she has attained the age of seventeen years on or before the beginning date of the examination for which application is being made;

(2) He or she has completed formal education equivalent to a United States high school education;

(3) He or she possesses sufficient ability to read the English language to permit the applicant to practice in a safe manner, as evidenced by successful completion of the written examination; and

(4) He or she has graduated from a school of cosmetology or nail technology school providing a nail technology program. Evidence of graduation shall include documentation of the total number of hours of training earned and a diploma or certificate from the school to the effect that the applicant has complied with the following:

(a) For licensure as a nail technician, the program of studies shall consist of a minimum of not less than one hundred fifty hours and not more than three hundred hours, as set by the board; and

(b) For licensure as a nail technology instructor, the program of studies shall consist of a minimum of not less than one hundred fifty hours and not more than three hundred hours, as set by the board, beyond the program of studies required for licensure as a nail technician and the individual shall be currently licensed as a nail technician in Nebraska as evidenced by possession of a valid Nebraska nail technician license.

The department shall grant a license in the appropriate category to any person meeting the requirements specified in this section.

Source:Laws 1999, LB 68, § 31; R.S.1943, (2003), § 71-3,183; Laws 2007, LB463, § 390.

Cross References

- **Credentialing**, general requirements and issuance procedures, see section 38-121 et seq.

38-10,129. Application for nail technology licensure or registration; procedure.

No application for any type of licensure or registration shall be considered complete unless all information requested on the application form has been supplied, all seals and signatures required have been obtained, and all supporting and documentary evidence has been received by the department.

Source:Laws 1999, LB 68, § 32; Laws 2003, LB 242, § 91; R.S.1943, (2003), § 71-3,184; Laws 2007, LB463, § 391.

38-10,130. Licensure; examinations; duties; examinees.

The board shall approve and the department shall cause examinations to be administered as required for licensure in nail technology under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act for the purpose of establishing the possession of minimum competency in the knowledge and skills required on the part of the applicant.

Source:Laws 1999, LB 68, § 34; R.S.1943, (2003), § 71-3,186; Laws 2007, LB463, § 392.

38-10,131. Examinations; requirements; grades.

(1) Examinations approved by the board may be national standardized examinations, but in all cases the examinations shall be related to the knowledge and skills necessary to perform the practices being examined and shall be related to the curricula required to be taught in nail technology programs.

(2) At least two examinations shall be given annually.

(3) In order to successfully complete the examination, an applicant shall obtain an average grade of seventy-five percent on the written examination.

Source:Laws 1999, LB 68, § 35; R.S.1943, (2003), § 71-3,187; Laws 2007, LB463, § 393.

38-10,132. Nail technician or instructor; reciprocity; requirements.

The department may grant a license based on licensure in another jurisdiction to a nail technician or nail technology instructor who presents proof of the following:

(1) He or she has attained the age of seventeen years;

(2) He or she has completed formal education equivalent to a United States high school education;

(3) He or she is currently licensed as a nail technician or its equivalent or as a nail technology instructor or its equivalent in another jurisdiction and he or she has never been disciplined or had his or her license revoked;

(4) For licensure as a nail technician, evidence of:

(a) Completion of a program of nail technician studies consisting of a minimum of not less than one hundred fifty hours and not more than three hundred hours, as set by the board, and successful passage of a written examination. If a written examination was not required for licensure in another jurisdiction, the applicant must take the Nebraska written examination; or

(b) At least twelve months of practice as a nail technician following issuance of such license in another jurisdiction; and

(5) For licensure as a nail technology instructor, evidence of:

(a) Completion of a program of studies consisting of a minimum of not less than one hundred fifty hours and not more than three hundred hours, as set by the board, beyond the program of studies required for licensure in another jurisdiction as a nail technician, successful passage of a written examination, and current licensure as a nail technician in Nebraska as evidenced by possessing a valid Nebraska nail technician license. If a written examination was not required for licensure as a nail technology instructor, the applicant must take the Nebraska written examination; or

(b) At least twelve months of practice as a nail technology instructor following issuance of such license in another jurisdiction.

Source:Laws 1999, LB 68, § 39; R.S.1943, (2003), § 71-3,191; Laws 2007, LB463, § 394.

38-10,133. Nail technology license or registration; display.

Every person holding a license or registration in nail technology issued by the department under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act shall display it in a conspicuous place in his or her principal place of employment, and every nail technology establishment shall so display the then current licenses and registrations of all practitioners there employed.

Source:Laws 1999, LB 68, § 40; R.S.1943, (2003), § 71-3,192; Laws 2007, LB463, § 395.

38-10,134. Nail technology temporary practitioner; licensure required.

Licensure shall be required before any person may act as a nail technology temporary practitioner, and no person shall assume such title without first being licensed by the department under section 38-10,135.

Source:Laws 1999, LB 68, § 41; R.S.1943, (2003), § 71-3,193; Laws 2007, LB463, § 396.

38-10,135. Nail technology temporary practitioner; application; qualifications.

An applicant for licensure as a nail technology temporary practitioner shall show evidence that his or her completed application for regular licensure has been accepted by the department, that he or she has not failed any portion of the licensure examination, and that he or she has been accepted for work in a licensed nail technology or cosmetology establishment under the supervision of a licensed nail technician or licensed cosmetologist. An individual registered as a temporary practitioner on December 1, 2008, shall be deemed to be licensed as a temporary practitioner under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act on such date. The temporary practitioner may continue to practice under such registration as a license until it would have expired under its terms.

Source:Laws 1999, LB 68, § 42; R.S.1943, (2003), § 71-3,194; Laws 2007, LB463, § 397.

38-10,136. Nail technology temporary practitioner; expiration of license; extension.

A license as a nail technology temporary practitioner shall be granted for a set period of time and cannot be renewed. The license shall expire eight weeks following the date of issuance or upon receipt of examination results, whichever occurs first. The license of a temporary practitioner who fails to take the first scheduled examination shall expire immediately unless the department finds that the temporary practitioner was unable to attend the examination due to an emergency or other valid circumstances. If the department so finds, it may extend the license for an additional eight weeks or until receipt of the examination results, whichever occurs first. No license may be extended in such manner more than once for each temporary practitioner.

Source:Laws 1999, LB 68, § 43; R.S.1943, (2003), § 71-3,195; Laws 2007, LB463, § 398.

38-10,137. Continuing competency; limited exemption.

The department, with the recommendation of the board, may waive continuing competency requirements, in part or in total, for any two-year licensing period when a licensee submits documentation that circumstances beyond his or her control prevented completion of such requirements as provided in section 38-146. In addition to circumstances determined by the department to be beyond the licensee's control pursuant to such section, a nail technology instructor who meets the continuing competency requirements for the nail technology instructor's license shall be exempt from meeting the continuing competency requirements for his or her nail technician license for that biennium.

Source:Laws 1999, LB 68, § 55; Laws 2002, LB 1021, § 53; R.S.1943, (2003), § 71-3,206; Laws 2007, LB463, § 399.

38-10,138. Nail technology establishment; license required.

No person shall operate or profess or attempt to operate a nail technology establishment unless such establishment is licensed by the department under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. The department shall not issue or renew a license for a nail technology establishment until all requirements of the act have been complied with. No person shall engage in any of the practices of nail technology in any location or premises other than a licensed nail technology or cosmetology establishment except as specifically permitted in the act.

Source:Laws 1999, LB 68, § 57; R.S.1943, (2003), § 71-3,208; Laws 2007, LB463, § 400.

38-10,139. Nail technology salon; license; requirements.

In order to be licensed as a nail technology salon by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

- (1) The proposed nail technology salon shall be a fixed, permanent structure or part of one;
- (2) The proposed nail technology salon shall be physically separated from all other business or residential activities except cosmetology, barbering, manicuring, pedicuring, and retail sales;

(3) The separation required in subdivision (2) of this section shall be by fixed walls or by partitions not less than six feet high;

(4) All areas of the nail technology salon, including those used for manicuring, pedicuring, or retail sales, shall comply with the sanitary requirements of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;

(5) A nail technology salon located in a residence shall be entirely distinct and separate from any living quarters, except that there may be one connecting door to the living portion of the dwelling as an access entrance to the salon for the owner or operator, but such entrance shall not be for the use of the general public;

(6) The entrance into the proposed nail technology salon used by the general public shall lead directly from the outside to the salon, except that a salon located in a commercial building may have its entrance open from a public area such as a foyer, hallway, mall, concourse, or retail sales floor. The requirements of this subdivision do not apply to nail salons located within licensed cosmetology salons;

(7) The proposed nail technology salon shall have at least one hundred fifty square feet of floor space. If more than one practitioner is to be employed in the salon at the same time, the salon shall contain an additional space of at least fifty square feet for each additional practitioner, except that a salon employing a licensee exclusively to perform home services need not provide additional space for such employee;

(8) The proposed nail technology salon shall include toilet facilities unless the salon is located in a commercial building in which public toilet facilities are available that open directly off of a public area;

(9) The proposed nail technology salon shall have handwashing facilities within the salon; and

(10) The proposed nail technology salon shall meet all state or local building code and fire code requirements.

Source:Laws 1999, LB 68, § 59; R.S.1943, (2003), § 71-3,210; Laws 2007, LB463, § 401.

38-10,140. Nail technology salon; license application.

Any person seeking a license to operate a nail technology salon shall submit a completed application at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be submitted at least thirty days before the proposed opening of the salon for operation. Along with the application the applicant shall submit:

(1) A detailed floor plan or blueprint of the proposed salon sufficient to demonstrate compliance with the requirements of section 38-10,139; and

(2) Evidence of minimal property damage, bodily injury, and liability insurance coverage for the proposed salon.

Source:Laws 1999, LB 68, § 60; R.S.1943, (2003), § 71-3,211; Laws 2007, LB463, § 402.

38-10,141. Nail technology salon; application; review; certificate of consideration; inspection.

Each application for a license to operate a nail technology salon shall be reviewed by the department for compliance with the requirements of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. If an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice future applications by the applicant. If an application is approved, the department shall issue the applicant a certificate of consideration to operate a salon pending an operation inspection. The department shall conduct an operation inspection of each salon issued a certificate of consideration within six months after the issuance of such certificate. Salons passing the inspection shall be issued a permanent license. Salons failing the inspection shall submit within fifteen days evidence of corrective action taken to improve those aspects of operation found deficient. If evidence is not submitted within

fifteen days or if after a second inspection the salon does not receive a satisfactory rating, it shall immediately relinquish its certificate of consideration and cease operation.

Source:Laws 1999, LB 68, § 61; R.S.1943, (2003), § 71-3,212; Laws 2007, LB463, § 403.

38-10,142. Nail technology salon; operating requirements.

In order to maintain its license in good standing, each nail technology salon shall operate in accordance with the following requirements:

(1) The nail technology salon shall at all times comply with all applicable provisions of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(2) The nail technology salon owner or his or her agent shall notify the department at least thirty days prior to any change of ownership, name, or address, and at least one week prior to closure, except in emergency circumstances as determined by the department;

(3) No nail technology salon shall permit any unlicensed or unregistered person to perform any of the practices of nail technology within its confines or employment;

(4) The nail technology salon shall display a name upon, over, or near the entrance door distinguishing it as a nail technology salon;

(5) The nail technology salon shall permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during the normal operating hours of the nail technology salon, without prior notice, and the owner and manager shall assist the inspector by providing access to all areas of the nail technology salon, all personnel, and all records requested by the inspector;

(6) The nail technology salon shall display in a conspicuous place the following records:

(a) The current license or certificate of consideration to operate a nail technology salon;

(b) The current licenses or registrations of all persons employed by or working in the nail technology salon; and

(c) The rating sheet from the most recent operation inspection;

(7) At no time shall a nail technology salon employ more employees than permitted by the square footage requirements of the act; and

(8) The nail technology salon shall not knowingly permit its employees or clients to use, consume, serve, or in any manner possess or distribute intoxicating beverages or controlled substances upon its premises.

Source:Laws 1999, LB 68, § 62; R.S.1943, (2003), § 71-3,213; Laws 2007, LB463, § 404.

38-10,143. Nail technology salon license; renewal; insurance.

The procedure for renewing a nail technology salon license shall be in accordance with section 38-143, except that in addition to all other requirements, the salon shall submit evidence of minimal property damage, bodily injury, and liability insurance coverage.

Source:Laws 1999, LB 68, § 63; Laws 2003, LB 242, § 94; R.S.1943, (2003), § 71-3,214; Laws 2007, LB463, § 405.

38-10,144. Nail technology salon license; revoked or expired; effect.

A nail technology salon license that has been revoked or expired for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such salon may reopen for business.

Source:Laws 1999, LB 68, § 64; R.S.1943, (2003), § 71-3,215; Laws 2007, LB463, § 406.

38-10,145. Nail technology salon license; change of ownership or location; effect.

Each nail technology salon license issued shall be in effect solely for the owner or owners and premises named on the license and shall expire automatically upon any change of ownership or

location. An original application for licensure shall be submitted and approved before such salon may reopen for business.

Source:Laws 1999, LB 68, § 65; R.S.1943, (2003), § 71-3,216; Laws 2007, LB463, § 407.

38-10,146. Nail technology salon owner; responsibilities.

The owner of each nail technology salon shall have full responsibility for ensuring that the salon is operated in compliance with all applicable laws, rules, and regulations and shall be liable for any and all violations occurring in the salon.

Source:Laws 1999, LB 68, § 66; R.S.1943, (2003), § 71-3,217; Laws 2007, LB463, § 408.

38-10,147. Nail technology school; license; requirements.

In order to be licensed as a nail technology school by the department, an applicant shall meet, and present to the department evidence of meeting, the following requirements:

- (1) The proposed school shall be a fixed, permanent structure or part of one;
- (2) The proposed school shall have a contracted enrollment of students;
- (3) The proposed school shall contain at least five hundred square feet of floor space and facilities, staff, apparatus, and equipment appropriate to its projected enrollment in accordance with the standards established by rule and regulation; and
- (4) The proposed school shall not have the same entrance as or direct access to a cosmetology salon or nail technology salon.

Source:Laws 1999, LB 68, § 67; R.S.1943, (2003), § 71-3,218; Laws 2007, LB463, § 409.

38-10,148. School of cosmetology; exempt.

A licensed school of cosmetology is not required to be licensed as a nail technology school in order to provide a nail technology program.

Source:Laws 1999, LB 68, § 68; R.S.1943, (2003), § 71-3,219; Laws 2007, LB463, § 410.

38-10,149. Nail technology school; license; application.

Any person seeking a license to operate a nail technology school shall submit a completed application at least thirty days before construction or remodeling of the building proposed for use is scheduled to begin. If no construction or remodeling is planned, the application shall be received at least thirty days before the proposed opening of the school.

Source:Laws 1999, LB 68, § 69; R.S.1943, (2003), § 71-3,220; Laws 2007, LB463, § 411.

38-10,150. Nail technology school; license; application; requirements.

Along with the application, an applicant for a license to operate a nail technology school shall submit:

- (1) A detailed floor plan or blueprint of the proposed school building sufficient to show compliance with the relevant rules and regulations;
- (2) Evidence of minimal property damage, personal injury, and liability insurance coverage for the proposed school;
- (3) A copy of the curriculum to be taught for all courses;
- (4) A copy of the school rules and the student contract;
- (5) A list of the names and credentials of all persons licensed or registered under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to be employed by the school and the name and qualifications of the school manager;
- (6) A completed nail technology education evaluation scale;
- (7) A schedule of proposed hours of operation and class and course scheduling; and
- (8) Any additional information the department may require.

A nail technology school's license shall be valid only for the location named in the application. When a school desires to change locations, it shall comply with section 38-10,158.

Source:Laws 1999, LB 68, § 70; Laws 2003, LB 242, § 95; R.S.1943, (2003), § 71-3,221; Laws 2007, LB463, § 412.

38-10,151. Nail technology school; application; review; inspection.

Each application for a license to operate a nail technology school shall be reviewed by the department for compliance with the requirements of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. If an application is denied, the applicant shall be informed in writing of the grounds for denial and such denial shall not prejudice future applications by the applicant. If an application is accepted, the department shall immediately conduct an accreditation inspection of the proposed school. A school passing the inspection shall be issued a license and may begin operation as soon as the inspection results are received. If the proposed school fails the inspection, the applicant shall submit, within fifteen days, evidence of corrective action taken to improve those aspects of operation found deficient. If, after a second inspection to be conducted within thirty days after receipt of evidence, the school does not receive a satisfactory rating, or if evidence is not received within fifteen days, the application may be denied.

Source:Laws 1999, LB 68, § 71; R.S.1943, (2003), § 71-3,222; Laws 2007, LB463, § 413.

38-10,152. Nail technology school; operating requirements.

In order to maintain its license in good standing, each nail technology school shall operate in accordance with the following requirements:

(1) The school shall at all times comply with all applicable provisions of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and all rules and regulations adopted and promulgated under such act;

(2) The school owner or owners or their authorized agent shall notify the department at least thirty days prior to any change of ownership, name, or address, and at least sixty days prior to closure, except in emergency circumstances as determined by the department;

(3) No school shall permit anyone other than a nail technology student, nail technology student instructor, or nail technology instructor to perform any of the practices of nail technology within its confines or employ, except that such restriction shall not prevent a school from inviting guest teachers who are not licensed or registered to provide lectures to students or student instructors if the guest lecturer does not perform any of the practices of nail technology;

(4) The school shall display a name upon or near the entrance door designating it as a nail technology school;

(5) The school shall display in a conspicuous place within the clinic area a sign reading: All services in this school are performed by students who are training in nail technology. A notice to such effect shall also appear in all advertising conducted by the school for its clinic services;

(6) The school shall permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during the normal operating hours of the school without prior notice, and the owner or manager shall assist the inspector by providing access to all areas of the school, all personnel, and all records requested by the inspector;

(7) The school shall display in a conspicuous place the following records:

(a) The current license to operate a nail technology school;

(b) The current licenses or registrations of all persons licensed or registered under the act, except students, employed by or working in the school; and

(c) The rating sheet from the most recent accreditation inspection;

(8) At no time shall a school enroll more students than permitted by the act or the rules and regulations adopted and promulgated under the act;

(9) The school shall not knowingly permit its students, employees, or clients to use, consume, serve, or in any other manner possess or distribute intoxicating beverages or controlled substances upon its premises;

(10) No nail technology instructor or nail technology student instructor shall perform, and no school shall permit such person to perform, any of the practices of nail technology on the public in a nail technology school other than that part of the practical work which pertains directly to the teaching of practical subjects to nail technology students or nail technology student instructors, and complete nail technology services shall not be provided for a client unless done in a demonstration class of theoretical or practical studies;

(11) The school shall maintain space, staff, library, teaching apparatus, and equipment as established by rules and regulations adopted and promulgated under the act;

(12) The school shall keep a daily record of the attendance and clinical performance of each student and student instructor;

(13) The school shall maintain regular class and instructor hours and shall require the minimum curriculum;

(14) The school shall establish and maintain criteria and standards for student grading, evaluation, and performance and shall award a certificate or diploma to a student only upon completing a full course of study in compliance with such standards, except that no student shall receive such certificate or diploma until he or she has satisfied or made an agreement with the school to satisfy all outstanding financial obligations to the school;

(15) The school shall maintain on file the enrollment of each student; and

(16) The school shall print and provide to each student a copy of the school rules, which shall not be inconsistent with the act or with the rules and regulations adopted and promulgated under such act and which shall include policies of the school with respect to tuition, reimbursement, conduct, attendance, grading, earning of hours and credits, demerits, penalties, dismissal, graduation requirements, dress, and other information sufficient to advise the student of the standards he or she will be required to maintain. The department may review any school's rules to determine their consistency with the intent and content of the act and the rules and regulations and may overturn any school rules found not to be in accord.

Source:Laws 1999, LB 68, § 72; R.S.1943, (2003), § 71-3,223; Laws 2007, LB463, § 414.

38-10,153. Nail technology school; students; requirements.

In order to maintain its license in good standing, each nail technology school shall operate in accordance with the following requirements:

(1) Every person accepted for enrollment as a standard student shall meet the following qualifications:

(a) He or she has attained the age of seventeen years on or before the date of his or her enrollment in a nail technology school;

(b) He or she has completed the equivalent of a high school education; and

(c) He or she has not undertaken any training in nail technology in this state after January 1, 2000, without being enrolled as a nail technology student;

(2)(a) Every person accepted for enrollment as a special study nail technology student shall meet the following requirements:

(i) He or she has attained the age of seventeen years on or before the date of enrollment in a nail technology school;

(ii) He or she has completed the tenth grade; and

(iii) He or she is actively continuing his or her formal high school education on a full-time basis as determined by the department.

(b) Special study nail technology students shall be limited to attending a nail technology school for no more than eight hours per week during the school year;

(3) Proof of age shall consist of a birth certificate, baptismal certificate, or other equivalent document as determined by the department. Evidence of education shall consist of a high school diploma, general educational development certificate, transcript from a college or university, or equivalent document as determined by the department. No nail technology school shall accept

an individual for enrollment who does not provide evidence of meeting the age and education requirements for registration;

(4) Every person accepted for enrollment as a nail technology student instructor shall show evidence of current licensure as a nail technician in Nebraska and completion of formal education equivalent to a United States high school education;

(5) The school shall, at all times the school is in operation, have at least one nail technology instructor in the school for each twenty students or fraction thereof enrolled in the school;

(6) The school shall not permit any nail technology student to render clinical services on members of the public with or without fees until such student has satisfactorily completed the beginning curriculum, except that the department may establish guidelines by which it may approve such practices as part of the beginning curriculum;

(7) No school shall pay direct compensation to any of its nail technology students. Nail technology student instructors may be paid as determined by the school;

(8) All nail technology students and nail technology student instructors shall be under the supervision of a cosmetology instructor, nail technology instructor, or nail technology student instructor at all times when nail technology services are being taught or performed;

(9) No student shall be permitted by the school to train or work in a school in any manner for more than ten hours a day; and

(10) The school shall not credit a nail technology student or nail technology student instructor with hours except when such hours were earned in the study or practice of nail technology in accordance with the required curriculum. Hours shall be credited on a daily basis. Once credited, hours cannot be removed or disallowed except by the department upon a finding that the hours have been wrongfully allowed.

Source:Laws 1999, LB 68, § 73; Laws 2001, LB 209, § 17; R.S.1943, (2003), § 71-3,224; Laws 2007, LB463, § 415.

38-10,154. Nail technology school; instate transfer of students.

Nail technology students or nail technology student instructors may transfer from one nail technology school in Nebraska to another at any time.

The school to which the student is transferring shall be entitled to receive from the student's previous school, upon request, any and all records pertaining to the student.

Source:Laws 1999, LB 68, § 74; R.S.1943, (2003), § 71-3,225; Laws 2007, LB463, § 416.

38-10,155. Nail technology school; out-of-state transfer of students.

Nail technology students or nail technology student instructors may transfer into a nail technology school in Nebraska from a school in another state if:

(1) The school in the other state meets all requirements of section 38-10,153; and

(2) The student submits to the department evidence that the school from which he or she is transferring was fully accredited by the appropriate body in that state at the time the student attended.

Source:Laws 1999, LB 68, § 75; R.S.1943, (2003), § 71-3,226; Laws 2007, LB463, § 417.

38-10,156. Nail technology school; student instructor limit.

No nail technology school shall at any time enroll more than one nail technology student instructor for each full-time nail technology instructor or cosmetology instructor actively working in and employed by the school.

Source:Laws 1999, LB 68, § 76; R.S.1943, (2003), § 71-3,227; Laws 2007, LB463, § 418.

38-10,157. Nail technology school license; renewal; inactive status.

The procedure for renewing a school license shall be in accordance with section 38-143, except that in addition to all other requirements, the nail technology school shall receive a

satisfactory rating on an accreditation inspection conducted by the department within the six months immediately prior to the date of license renewal.

Any nail technology school not able to meet the requirements for license renewal shall have its license placed on inactive status until all deficiencies have been corrected, and the school shall not operate in any manner during the time its license is inactive. If the deficiencies are not corrected within six months after the date of license renewal, the license may be revoked unless the department approves an extension of the time limit. The license of a school that has been revoked or expired for any reason shall not be reinstated. An original application for licensure shall be submitted and approved before such school may reopen.

Source:Laws 1999, LB 68, § 77; Laws 2003, LB 242, § 96; R.S.1943, (2003), § 71-3,228; Laws 2007, LB463, § 419.

38-10,158. Nail technology school; change of ownership or location; effect.

Each nail technology school license issued shall be in effect solely for the owner or owners and premises named thereon and shall expire automatically upon any change of ownership or change in the county of location. An original application for licensure shall be submitted and approved before such school may reopen, except that a school moving to a new location within the same county may do so by filing an application as required by the department, paying the required fee, submitting a new floor plan, and passing an operation inspection. Materials shall be received by the department no less than thirty days prior to the move, and all provisions of this section shall be complied with before the school may begin operation at its new location.

Source:Laws 1999, LB 68, § 78; R.S.1943, (2003), § 71-3,229; Laws 2007, LB463, § 420.

38-10,159. Nail technology home services permit.

A licensed nail technology salon may employ licensed nail technicians to perform nail technology home services by meeting the following requirements:

(1) In order to be issued a nail technology home services permit by the department, an applicant shall hold a current active cosmetology salon license or nail technology salon license; and

(2) Any person seeking a nail technology home services permit shall submit a complete application at least ten days before the proposed date for beginning home services. Along with the application the applicant shall submit evidence of application for liability insurance or bonding.

The department shall issue a nail technology home services permit to each applicant meeting the requirements set forth in this section.

Source:Laws 1999, LB 68, § 79; R.S.1943, (2003), § 71-3,230; Laws 2007, LB463, § 421.

38-10,160. Nail technology home services permit; salon operating requirements.

In order to maintain in good standing or renew its nail technology home services permit, a nail technology salon shall at all times operate in accordance with all requirements for operation, maintain its license in good standing, and comply with the following requirements:

(1) Clients receiving nail technology home services shall be in emergency circumstances which shall generally be defined as any condition sufficiently immobilizing to prevent the client from leaving his or her residence regularly to conduct routine affairs of daily living such as grocery shopping, visiting friends and relatives, attending social events, attending worship services, and other similar activities. Emergency circumstances may include such conditions or situations as:

(a) Chronic illness or injury leaving the client bedridden or with severely restricted mobility;

(b) Extreme general infirmity such as that associated with the aging process;

(c) Temporary conditions including, but not limited to, immobilizing injury and recuperation from serious illness or surgery;

(d) Having sole responsibility for the care of an invalid dependent requiring constant attention;

or

(e) Any other conditions that, in the opinion of the department, meet the general definition of emergency circumstances;

(2) The nail technology salon shall determine that each person receiving nail technology home services meets the requirements of subdivision (1) of this section and shall:

(a) Complete a client information form supplied by the department before nail technology home services may be provided to any client; and

(b) Keep on file the client information forms of all clients it is currently providing with nail technology home services or to whom it has provided such services within the past two years;

(3) The nail technology salon shall employ or contract with persons licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to provide nail technology home services and shall not permit any person to perform any home services under its authority for which he or she is not licensed;

(4) No client shall be left unattended while any chemical service is in progress or while any electrical appliance is in use; and

(5) Each nail technology salon providing nail technology home services shall post a daily itinerary for each licensee providing home services. The kit for each licensee shall be available for inspection at the salon or at the home of the client receiving services.

Source:Laws 1999, LB 68, § 80; R.S.1943, (2003), § 71-3,231; Laws 2007, LB463, § 422.

38-10,161. Nail technology home services; inspections.

Agents of the department may make operation inspections in the homes of clients if such inspections are limited to the activities, procedures, and materials of the licensee providing nail technology home services.

Source:Laws 1999, LB 68, § 81; R.S.1943, (2003), § 71-3,232; Laws 2007, LB463, § 423.

38-10,162. Nail technology home services; performed by licensee.

No licensee may perform nail technology home services except when employed by or under contract to a nail technology salon holding a valid nail technology home services permit.

Source:Laws 1999, LB 68, § 82; R.S.1943, (2003), § 71-3,233; Laws 2007, LB463, § 424.

38-10,163. Nail technology home services permit; renewal.

Each nail technology home services permit shall be subject to renewal at the same time as the nail technology salon license and shall be renewed upon request of the permitholder if the salon is operating its nail technology home services in compliance with the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act and if the salon license is renewed. No permit that has been revoked or expired may be reinstated or transferred to another owner or location.

Source:Laws 1999, LB 68, § 83; R.S.1943, (2003), § 71-3,234; Laws 2007, LB463, § 425.

38-10,164. Nail technology home services permit; owner; responsibility.

The owner of each salon holding a nail technology home services permit shall have full responsibility for ensuring that the nail technology home services are provided in compliance with all applicable laws and rules and regulations and shall be liable for any violations which occur.

Source:Laws 1999, LB 68, § 84; R.S.1943, (2003), § 71-3,235; Laws 2007, LB463, § 426.

38-10,165. Body art; consent required; when; violation; penalty.

No person shall perform body art on or to any person under eighteen years of age without the prior written consent of the parent or court-appointed guardian of such person. The person giving such consent must be present during the procedure. A copy of such consent shall be retained for a period of five years by the person performing such body art. Nothing in this section shall be construed to require the performance of body art on a person under eighteen years of age. Violation of this section is a Class III misdemeanor.

Source:Laws 2004, LB 906, § 34; R.S.Supp.,2006, § 71-3,236; Laws 2007, LB463, § 427.

38-10,166. Body art; act, how construed.

Nothing in the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act shall be construed to authorize a person performing body art to engage in the practice of medicine and surgery.

Source:Laws 2004, LB 906, § 35; R.S.Supp.,2006, § 71-3,237; Laws 2007, LB463, § 428.

38-10,167. Ordinances governing body art; authorized.

The licensure of persons performing body art or operating a body art facility under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act shall not be construed to restrict or prohibit a governing body of a county, city, or village from providing further requirements for performing body art or operating a body art facility within its jurisdiction under ordinances at least as stringent as, or more stringent than, the regulations of the act.

Source:Laws 2004, LB 906, § 36; R.S.Supp.,2006, § 71-3,238; Laws 2007, LB463, § 429.

38-10,168. Fees.

The department shall establish and collect fees for credentialing under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act as provided in sections 38-151 to 38-157.

Source:Laws 2007, LB463, § 430.

38-10,169. Department; conduct inspections; types; rules and regulations; manner conducted.

(1) The department shall conduct inspections as required by the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. Two types of inspections shall be conducted which shall be known as operation inspections and accreditation inspections. An operation inspection shall be conducted to ascertain that an establishment or a facility is operating in full compliance with all laws, rules, and regulations. An accreditation inspection shall be conducted to accomplish the purposes of an operation inspection and to ascertain that a school of cosmetology, a nail technology school, a school of esthetics, or an apprentice salon is maintaining academic standards and requirements of a quality consistent with the purpose of the act. All accreditation inspections shall be announced at least two weeks prior to the actual inspection.

(2) The department, with the recommendation of the board, shall adopt and promulgate rules and regulations governing the standards and criteria to be used in the conduct of inspections, the rating system to be used, and the level of achievement necessary to receive a passing grade.

(3) Operation inspections shall be unannounced and shall be conducted during the normal working hours of the establishment or facility.

(4) At the conclusion of the inspection, the owner or manager of the establishment or facility shall receive a copy of the rating form, which form shall be promptly displayed, and a statement of any deficiencies noted.

Source:Laws 1986, LB 318, § 130; Laws 1995, LB 83, § 52; Laws 1999, LB 68, § 85; Laws 2002, LB 241, § 47; Laws 2004, LB 906, § 29; Laws 2004, LB 1005, § 38; R.S.Supp.,2006, § 71-3,169; Laws 2007, LB463, § 431.

38-10,170. Inspection; unsatisfactory rating; effect.

If a cosmetology establishment, a nail technology establishment, or a body art facility receives a rating of unsatisfactory, it shall submit evidence to the department within fifteen days providing proof of corrective action taken. A repeat inspection shall be conducted within sixty days after the original inspection to determine if corrective action has occurred. The department may assess a

fee for each repeat inspection required. If the establishment or facility receives an unsatisfactory rating on the repeat inspection, the establishment shall be fined as determined by the department by rule and regulation. If the establishment or facility receives an unsatisfactory rating after the second unsatisfactory inspection or fails to pay the fine assessed within thirty days after notice, the license shall immediately be placed on inactive status pending action by the department, and the establishment or facility may not operate in any manner while its license is inactive.

The owner or manager of an establishment or a facility whose license has been placed on inactive status may appear before the board and the department to show cause why the department should not ask the Attorney General to initiate steps to revoke the license. The department may, as a result of such appearance, grant additional time for corrective action to occur, but the establishment or facility may not operate during such time. The establishment or facility may not return to operation until it has achieved a satisfactory rating on an inspection.

Source:Laws 1986, LB 318, § 131; Laws 1999, LB 68, § 86; Laws 2004, LB 906, § 30; R.S.Supp.,2006, § 71-3,170; Laws 2007, LB463, § 432.

38-10,171. Unprofessional conduct; acts enumerated.

Each of the following may be considered an act of unprofessional conduct when committed by a person licensed or registered under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act:

(1) Performing any of the practices regulated under the act for which an individual is not licensed or registered or operating an establishment or facility without the appropriate license;

(2) Obstructing, interfering, or failing to cooperate with an inspection or investigation conducted by an authorized representative of the department when acting in accordance with the act;

(3) Failing to report to the department a suspected violation of the act;

(4) Aiding and abetting an individual to practice any of the practices regulated under the act for which he or she is not licensed or registered;

(5) Engaging in any of the practices regulated under the act for compensation in an unauthorized location;

(6) Engaging in the practice of any healing art or profession for which a license is required without holding such a license;

(7) Enrolling a student or an apprentice without obtaining the appropriate documents prior to enrollment;

(8) Knowingly falsifying any student or apprentice record or report;

(9) Initiating or continuing home services to a client who does not meet the criteria established in the act;

(10) Knowingly issuing a certificate of completion or diploma to a student or an apprentice who has not completed all requirements for the issuance of such document;

(11) Failing, by a school of cosmetology, a nail technology school, a school of esthetics, or an apprentice salon, to follow its published rules;

(12) Violating, by a school of cosmetology, nail technology school, or school of esthetics, any federal or state law involving the operation of a vocational school or violating any federal or state law involving participation in any federal or state loan or grant program;

(13) Knowingly permitting any person under supervision to violate any law, rule, or regulation or knowingly permitting any establishment or facility under supervision to operate in violation of any law, rule, or regulation;

(14) Receiving two unsatisfactory inspection reports within any sixty-day period;

(15) Engaging in any of the practices regulated under the act while afflicted with any active case of a serious contagious disease, infection, or infestation, as determined by the department, or in any other circumstances when such practice might be harmful to the health or safety of clients;

(16) Violating any rule or regulation relating to the practice of body art; and

(17) Performing body art on or to any person under eighteen years of age (a) without the prior written consent of the parent or court-appointed guardian of such person, (b) without the presence of such parent or guardian during the procedure, or (c) without retaining a copy of such consent for a period of five years.

Source:Laws 1986, LB 318, § 138; Laws 1995, LB 83, § 54; Laws 1999, LB 68, § 88; Laws 2002, LB 241, § 49; Laws 2004, LB 906, § 32; Laws 2004, LB 1005, § 39; R.S.Supp.,2006, § 71-3,177; Laws 2007, LB463, § 433.