

## COMMITTEE REPORT

TO: Patrick O'Donnell  
Clerk of the Legislature

FROM: Senator Sara Howard  
Chair, Health and Human Services Committee

DATE: 11.13.2020

RE: Health and Human Services Committee Report and Recommendations on Regulated Occupations within Committee Jurisdiction – Body Brander, Body Piercer, Permanent Color Technician, Tattoo Artist, Cosmetologist, Cosmetology Instructor, Electrologist, Electrology Instructor, Esthetician, Esthetics Instructor, Nail Technician, and Nail Technology Instructor

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### **GENERAL INFORMATION**

- I. Occupation Regulated
  - A) Body Brander, Body Piercer, Permanent Color Technician, Tattoo Artist, Cosmetologist, Cosmetology Instructor, Electrologist, Electrology Instructor, Esthetician, Esthetics Instructor, Nail Technician, and Nail Technology Instructor
  
- II. Name of Occupational Board Responsible for Enforcement
  - A) Per Nebraska Revised Statutes Section [38-161](#), the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art provides recommendations to the Department of Health and Human Services regarding the issuance or denial of credentials, and provides recommendations to the Department of Health and Human Services regarding rules and regulations to carry out the Uniform Credentialing Act.
  
- III. Public Purpose and Assumptions Underlying License Creation
  - A) Branding means a permanent mark made on human tissue by burning with a hot iron or other instrument. A Body Brander makes a permanent mark on a person by burning it into their skin. A Body Piercer punctures the skin of a person by aid of needles or other instruments for the purpose of inserting removable jewelry or other objects through the human body. A Body Piercing license is NOT required when only puncturing the external part of the human earlobe. 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. Permanent Color Technicians insert nontoxic dyes for cosmetic purposes, such as permanent makeup and/or cosmetic tattoos. Tattoo Artists mark or color the skin 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. A cosmetologist works with hair, skin, and nails. A cosmetology instructor teaches in a cosmetology school. An esthetician works with the skin (top layer only). An esthetic instructor teaches esthetics in a school of cosmetology or school of esthetics. A temporary license may be issued to a graduate of a Nebraska cosmetology or esthetics school who is waiting to take the national exam. The temporary licensee must work under a supervisor. An Electrologist provides permanent hair removal by using an electrical current. An Electrology Instructor teaches electrolysis. A Nail Technician attaches, shapes or adjusts artificial nails using acrylic, resin, fabric, or gel application systems; sanitizes the nail plate to get ready for artificial nails; cuts, files, buffs, polishes, cleans or does other cosmetic services on the nails when done as part of the artificial nail service; and cleans, massages or does similar acts on the hands or feet of any person when done as part of the artificial nail service.

Licenses were created to protect the public health, safety, and welfare.

#### IV. Number of Regulated Professionals in Nebraska

- A) There are 11,663 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art licenses in Nebraska, including 1 Body Brander; 112 Body Piercers; 179 Permanent Color Technicians; 389 Tattoo Artists; 8,440 Cosmetologists; 156 Cosmetology Instructors; 12 Electrologists; 1,116 Estheticians; 19 Esthetics Instructors; 1,225 Nail Technicians; and 14 Nail Technology Instructors. Some individuals may have more than one license.

### **BOARD MEMBERSHIPS AND MEETINGS**

#### I. Number of Members

- A) There are 13 members of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art.

#### II. Who Appoints Members of the Board / Is Legislative Approval Required?

- A) The Board of Health appoints the members of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art. Legislative approval is not required.

### III. Term Length

- A) The length of term for service on the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art is up to two consecutive five year terms, on a rotating basis.

### IV. Qualifications for Membership of the Board

- A) The Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art is made up of ten professional members, one tanning facility owner, and two public members. The professional members shall include: one school owner who is also licensed as either a cosmetologist, nail technician, or esthetician; one salon owner who is licensed as a cosmetologist; two cosmetologists who are not school owners; one nail technician who is not a school owner; one esthetician who is not a school owner; one electrologist; one practitioner of body art; one nail technology instructor or esthetics instructor who is not a school owner; and one cosmetology instructor who is not a school owner. The professional members shall have held and maintained an active credential and be and have been actively engaged in the practice of his or her profession for a period of five years just preceding his or her appointment and shall maintain such credential and practice while serving as a board member. No professional members may be affiliated with the same establishment.

### V. The Number of Meetings Required Per Year / Meetings Actually Held

- A) For fiscal year (FY) 2014-2015: Meetings Required – 1; Meetings Held – 15.
- B) For FY 2015-2016: Meetings Required – 1; Meetings Held – 12.
- C) For FY 2016-2017: Meetings Required – 1; Meetings Held – 11.
- D) For FY 2017-2018: Meetings Required – 1; Meetings Held – 15.
- E) For FY 2018-2019: Meetings Required – 1; Meetings Held – 12.

### VI. Annual Budget Information for the Previous Five Years

- A) The Board of Chiropractic is cash-funded from licensure fees. Funds for credentialed occupations may come from interest earned on the Professional and Occupational Credentialing Cash Fund, certification and verification of credentials, administrative fees, reinstatement fees, general funds and federal funds, fees for miscellaneous services, gifts, and grants.
- B) For FY 2014-2015: \$66,173

- C) For FY 2015-2016: \$61,743
- D) For FY 2016-2017: \$652,917
- E) For FY 2017-2018: \$617,505
- F) For FY 2018-2019: \$452,515

VII. Statement from Occupational Board on Effectiveness of Regulations

- A) The Chair of the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art stated, “The regulations for the Cosmetology board have been effective through the years. The regulations have a broad description and are not completely specific to each and every service provided. But with that said, it is a good thing, as things change in the profession and you do not want to be so specific that the Board has to change the Regulations constantly. Regulations are constantly being reviewed, simplified, and are changing, because the industry requires it. It is extremely important to keep the licensing, certification, and regulation.”

**AUTHORIZATION**

I. Statutory Authorization

- A) Statutory authorization for the Body Brander, Body Piercer, Permanent Color Technician, Tattoo Artist, Cosmetologist, Cosmetology Instructor, Electrologist, Electrology Instructor, Esthetician, Esthetics Instructor, Nail Technician, and Nail Technology Instructor occupations may be found in the Nebraska Revised Statutes, sections [38-1001](#) to [38-10,172](#), which may be cited as the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act. For text of the Nebraska statutes relating to these occupations, see Appendix A.

II. Other Authorization

- A) Rules and regulations regarding the practice of body art may be found in the Nebraska Administrative Code [Title 172, Chapter 44](#). Rules and regulations regarding body art facilities may be found in the Nebraska Administrative Code [Title 172, Chapter 45](#). Rules and regulations regarding the safety, sanitation, and sterilization relating to body art facilities may be found in the Nebraska Administrative Code [Title 172, Chapter 46](#). Rules and regulations regarding Cosmetology, Electrology, Esthetics, and Nail Technology may be found in the Nebraska Administrative Code [Title 172, Chapter 36](#). Rules and regulations regarding sanitation and safety relating to Cosmetology and Esthetics services may be found in the Nebraska Administrative Code [Title 172, Chapter 43](#). Rules and regulations regarding sanitation and safety

relating to Nail Technology services may be found in the Nebraska Administrative Code [Title 172, Chapter 34](#).

## **CREDENTIALING**

- I. Number of Licenses, Certifications, or Registrations Issued In Past Five Years
  - A) There were 4,264 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art licenses issued in the past five years, including 1 Body Brander; 101 Body Piercers; 187 Permanent Color Technicians; 274 Tattoo Artists; 1,965 Cosmetologists; 62 Cosmetology Instructors; 2 Electrologists; 640 Estheticians; 9 Esthetics Instructors; 371 Nail Technicians; 9 Nail Technology Instructors, and 643 temporary practitioner licenses. Some individuals may have more than one license.
  
- II. Number of Licenses, Certifications, or Registrations Denied in Past Five Years
  - A) There were 46 licenses denied in the past five years, including 13 Body Artists, 27 Cosmetologists, and 6 Nail Technicians.
  - B) Reasons for denial included conviction history and failed examinations.
  
- III. Number of Licenses, Certifications, or Registrations Revoked in Past Five Years
  - A) There were 18 licenses revoked in the past five years.
  - B) Reasons for revocation included substance use disorder, misdemeanor convictions, felony convictions, failure to file mandatory reports, probation violation, dishonorable conduct, violation of a department order, and failure to report convictions within 30 days.
  
- IV. Number of Licenses, Certifications, or Registrations Penalized in Past Five Years
  - A) There were 37 licenses penalized in the past five years, including 24 Cosmetologists, 3 Estheticians, 2 Body Piercers, 1 Permanent Color Technician, and 7 Tattoo Artists.
  - B) The penalties imposed were civil penalties, not to exceed a \$20,000 fine.
  
- V. Comparison of How Other States Regulate This Occupation
  - A) Nebraska's statutory requirements to obtain a license as a Cosmetologist, Esthetician and Nail Technician are higher than some states; Nebraska requires 1,800 hours of training to obtain a cosmetology license; states average 1,500-1,800 hours; and some states require 1,000 hours (Massachusetts/New York). Esthetics hours of training range from 300-600, Nebraska requires 600; and Nail Technology training ranges from 150-300 hours, Nebraska requires 300. However, Iowa requires 2,100

hours to obtain a cosmetology license, 600 for an esthetic license, and 325 for a nail technology license. The National Interstate Council of State Boards of Cosmetology maintains a document with state education and licensing requirements, which may be found [here](#). The National Conference of State Legislatures maintains a website which details state laws regarding body art, which may be found [here](#).

VI. What Is The Potential Harm if This Occupation Is No Longer Licensed, Certified, or Regulated?

- A) If the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art professions were no longer licensed, certified, or regulated, it would be detrimental to the public health, safety, and welfare. Licensure ensures the practitioners have the requisite education, training, and experience to safely provide services. Unlicensed practitioners operating unsafely and in an unsanitary manner could cause chemical burns, infections, permanent scarring, or disfigurement. Infections could lead to more serious issues such as amputation or death. It would be detrimental to the public health, safety, and welfare.

**COMMITTEE RECOMMENDATION ON CONTINUATION, MODIFICATION, OR TERMINATION OF OCCUPATIONAL REGULATIONS**

Regulated occupations under the purview of the Health and Human Services Committee are unique in that through the Nebraska Regulation of Health Professions Act (Neb. Rev. Stat. Sections 71-6201 to 71-6229), health professions which are not licensed or regulated, or health professions that wish to change their scope of practice, go through a three-stage credentialing process.

Credentialing review is a three-stage process conducted by the following review bodies in the following order:

- 1) The review of an ad hoc technical review committee appointed by the Director of the Division of Public Health;
- 2) The review of the State Board of Health;
- 3) The review of the Director of the Division of Public Health.

The three review bodies each create their own independent report on each proposal. All reports created by the review process are available to members of the Health and Human Services Committee to assist them during their review of any bills that might arise from credentialing review proposals. These reports include recommendations regarding the level of licensure of the health profession. These reports are advisory to the Legislature, and only the action of the Legislature may create changes in the regulatory status of a profession. These reports represent expert input into possible public health and safety aspects of credentialing review proposals,

and the nine-month process is overseen by those with experience in the provision of health-related or medical services.

The licenses, certifications, and registrations overseen by the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art and the Department of Health and Human Services are intended to protect the health, safety, and welfare of Nebraskans. The current regulation of the Body Brander, Body Piercer, Permanent Color Technician, Tattoo Artist, Cosmetologist, Cosmetology Instructor, Electrologist, Electrology Instructor, Esthetician, Esthetics Instructor, Nail Technician, and Nail Technology Instructor occupations by licensure is appropriate and balanced and does not need modification at this time.

## **APPENDIX A**



## **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; Laws 2018, LB731, § 3. **Operative Date: July 19, 2018.**

### **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; Laws 2018, LB731, § 4. **Operative Date: July 19, 2018.**

### **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. Repealed. Laws 2018, LB731, § 106.**

**Source: Operative Date: July 19, 2018**

**38-1014. Repealed. Laws 2018, LB731, § 106.**

**Source: Operative Date: July 19, 2018**

**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, a mobile cosmetology salon, an esthetics salon, a school of cosmetology, a school of esthetics, an apprentice salon, 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; Laws 2018, LB731, § 6. **Operative Date: July 19, 2018**

**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 under such act.

**Source:**Laws 1986, LB 318, § 14; R.S.1943, (2003), § 71-353; Laws 2007, LB463, § 280; Laws 2018, LB731, § 7. **Operative Date: July 19, 2018**

**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. Repealed. Laws 2018, LB731, § 106.**

**Source: Operative Date: July 19, 2018**

**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. Repealed. Laws 2018, LB731, § 106. Source: Operative Date: July 19, 2018**

**38-1030. Repealed. Laws 2018, LB731, § 106. Source: Operative Date: July 19, 2018**

**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.

**38-1033.01. Mobile cosmetology salon, defined.**

Mobile cosmetology salon means a self-contained, self-supporting, enclosed mobile unit licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act as a mobile site for the performance of the practices of cosmetology by persons licensed under the act.

**Source:** Laws 2018, LB731, § 9. **Operative Date: July 19, 2018**

**38-1033.02. Mobile nail technology salon, defined.**

Mobile nail technology salon means a self-contained, self-supporting, enclosed mobile unit licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to serve as a mobile site for the performance of the practices of nail technology by persons licensed under the act.

**Source:** Laws 2018, LB731, § 10. **Operative Date: July 19, 2018**

**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, a mobile nail technology salon, a 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; Laws 2018, LB731, § 11. **Operative Date: July 19, 2018**

**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 under the act.

**Source:** Laws 1999, LB 68, § 13; R.S.1943, (2003), § 71-361.05; Laws 2007, LB463, § 300; Laws 2018, LB731, § 12. **Operative Date: July 19, 2018**

**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.

**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 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; Laws 2018, LB731, § 13. **Operative Date: July 19, 2018**

**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 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 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; Laws 2018, LB731, §

**14. Operative Date: July 19, 2018**

**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; categories; use of titles prohibited; practice in licensed establishment or facility.**

(1) All practitioners shall be licensed 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; Laws 2018, LB731, § 15.

**Operative Date: July 19, 2018**

**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 one thousand eight hundred hours;

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

(c) For licensure as a cosmetology instructor, the program of studies shall consist of a minimum of six hundred hours beyond the program of studies required for licensure as a cosmetologist;



(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;

(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; Laws 2018, LB731, § 16. **Operative Date: July 19, 2018**

### **38-1063. Application for examination.**

No application for any type of licensure 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; Laws 2018, LB731, § 17. **Operative Date: July 19, 2018**

### **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) 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.

(3) 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; Laws 2018, LB731, § 18.

**Operative Date: July 19, 2018**

### **38-1066. Reciprocity; requirements; military spouse; temporary license.**

(1) 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:

(a) 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;

(b) 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

(c) 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 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:

(i) 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;

(ii) 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;

(iii) 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;

(iv) 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

(v) 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.

(2) An applicant who is a military spouse may apply for a temporary license as provided in section 38-129.01 and may practice under the temporary license without supervision.

**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; Laws 2017, LB88, § 43; Laws 2018, LB731, § 19.

**Operative Date: July 19, 2018**

**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 except as provided in section 38-129.01. 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; Laws 2017, LB88, § 44.

**Operative Date: April 26, 2017**

**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. License; when required; temporary practitioner; license.**

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 Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act.

**Source:** Laws 1986, LB 318, § 59; Laws 2004, LB 906, § 22; R.S.Supp.,2006, § 71-398; Laws 2007, LB463, § 331; Laws 2018, LB731, § 20. **Operative Date: July 19, 2018**

**38-1070. Temporary license; general requirements.**

An individual making application for a temporary license, other than a temporary license issued as provided in section 38-129.01, shall meet, and present to the department evidence of meeting, the requirements for the specific type of license applied for.

**Source:** Laws 1986, LB 318, § 60; R.S.1943, (2003), § 71-399; Laws 2007, LB463, § 332; Laws 2017, LB88, § 45; Laws 2018, LB731, § 21. **Operative Date: July 19, 2018**

**38-1071. Repealed. Laws 2018, LB731, § 106. Source: Operative Date: July 19, 2018**

**38-1072. Repealed. Laws 2018, LB731, § 106. Source: Operative Date: July 19, 2018**

**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.

**Source:** Laws 1986, LB 318, § 65; R.S.1943, (2003), § 71-3,104; Laws 2007, LB463, § 335; Laws 2018, LB731, § 22. **Operative Date: July 19, 2018**

**38-1074. Temporary licensure; expiration dates; extension.**

Licensure as a temporary practitioner shall expire eight weeks following the date of issuance or upon receipt of examination results, whichever occurs first. The department may extend the license an additional eight weeks.

**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; Laws 2018, LB731, § 23. **Operative Date: July 19, 2018**

**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 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;
- (12) Any person or licensee engaged in the practice of airbrush tanning or temporary, nonpermanent airbrush tattooing; and
- (13) Any person applying cosmetics.

**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; Laws 2018, LB731, § 24.

**Operative Date: July 19, 2018**

**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 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 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 to use or consume intoxicating beverages upon its premises.

**Source:**Laws 1986, LB 318, § 85; R.S.1943, (2003), § 71-3,124; Laws 2007, LB463, § 348; Laws 2018, LB731, § 25. **Operative Date: July 19, 2018**

**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. Repealed. Laws 2018, LB731, § 106. Source: Operative Date: July 19, 2018**

**38-1092. Repealed. Laws 2018, LB731, § 106. Source: Operative Date: July 19, 2018**

**38-1093. Repealed. Laws 2018, LB731, § 106. Source: Operative Date: July 19, 2018**

**38-1094. Repealed. Laws 2018, LB731, § 106. Source: Operative Date: July 19, 2018**

**38-1095. Repealed. Laws 2018, LB731, § 106. Source: Operative Date: July 19, 2018**

**38-1096. Repealed. Laws 2018, LB731, § 106. Source: Operative Date: July 19, 2018**

**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 ten full-time or part-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; Laws 2018, LB731, § 26. **Operative Date: July 19, 2018**

**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 catalog, handbook, or policies and the student contract; and
- (5) A list of the names and credentials of all licensees to be employed by the school.

**Source:** Laws 1986, LB 318, § 99; Laws 2002, LB 241, § 36; R.S.1943, (2003), § 71-3,138; Laws 2007, LB463, § 361; Laws 2018, LB731, § 27. **Operative Date: July 19, 2018**

**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 full-time or part-time students;
- (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; Laws 2018, LB731, § 28. **Operative Date: July 19, 2018**

**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, or instructor 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 educators who are not licensed to provide education to students or student instructors if the guest educator 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 of all persons licensed 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 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 earned, the instructors employed, the hours of operation, and such other pertinent information as required by the department; 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, 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; Laws 2018, LB731, § 29.

**Operative Date: July 19, 2018**



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

In order to maintain a school or apprentice salon license in good standing, each school or apprentice 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.

**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; Laws 2018, LB731, § 30.

**Operative Date: July 19, 2018**

**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 that freshman and advanced students shall be taught by different instructors in separate classes;

(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) 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

(7) The school shall not credit a student or student instructor with hours except when such hours were earned in the study or practice of cosmetology, esthetics, nail technology, or barbering 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 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; Laws 2018, LB731, § 31.

**Operative Date: July 19, 2018**

**38-10,105. Transfer of cosmetology student; requirements.**

A student may transfer from one school of cosmetology to another school 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 earned by the student at such school, including any hours 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, all records pertaining to the student.

**Source:** Laws 1986, LB 318, § 103; R.S.1943, (2003), § 71-3,142; Laws 2007, LB463, § 367; Laws 2018, LB731, § 32. **Operative Date: July 19, 2018**

**38-10,106. Repealed. Laws 2018, LB731, § 106. Source: Operative Date: July 19, 2018**

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

(1) Barbers licensed in the State of Nebraska attending a school of cosmetology may be given credit of one thousand hours of training applied toward the course hours required for graduation.

(2) Cosmetologists licensed in the State of Nebraska attending a barber school or college may be given credit of one thousand hours of training applied toward the course hours required for graduation.

**Source:** Laws 1986, LB 318, § 105; R.S.1943, (2003), § 71-3,144; Laws 2007, LB463, § 369; Laws 2018, LB731, § 33. **Operative Date: July 19, 2018**

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

No school of cosmetology shall at any time enroll more than three 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; Laws 2018, LB731, § 34. **Operative Date: July 19, 2018**

**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.**

- (1) 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.
- (2) Each school of cosmetology or school of esthetics shall be operated by a manager who 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.

**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; Laws 2018, LB731, § 35. **Operative Date: July 19, 2018**

**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. Home services permit; issuance.**

(1) 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:

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

(b) 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; Laws 2018, LB731, § 36. **Operative Date: July 19, 2018**

**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 permit holder 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.

**38-10,125.01. Mobile cosmetology salon; license; requirements.**

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

- (1) The proposed salon is a self-contained, self-supporting, enclosed mobile unit;
- (2)(a)(i) The mobile unit has a global positioning system tracking device that enables the department to track the location of the salon over the Internet;
  - (ii) The device is on board the mobile unit and functioning at all times the salon is in operation or open for business; and
  - (iii) The owner of the salon provides the department with all information necessary to track the salon over the Internet; or
- (b) The owner of the salon submits to the department, in a manner specified by the department, a weekly itinerary showing the dates, exact locations, and times that cosmetology services are scheduled to be provided. The owner shall submit the itinerary not less than seven calendar days prior to the beginning of the service described in the itinerary and shall submit to the department any changes in the itinerary not less than twenty-four hours prior to the change. A salon shall follow the itinerary in providing service and notify the department of any changes;
- (3) The salon has insurance coverage which meets the requirements of the department for the mobile unit;
- (4) The salon is clearly identified as such to the public by a sign;
- (5) The salon complies with the sanitary requirements of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;
- (6) The entrance into the proposed salon used by the general public provides safe access by the public;
- (7) The proposed salon has 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; and
- (8) The proposed salon includes a functional sink and toilet facilities and maintains an adequate supply of clean water and wastewater storage capacity.

**Source:** Laws 2018, LB731, § 37. **Operative Date:** January 1, 2019

**38-10,125.02. Mobile cosmetology salon license; application.**

Any person seeking a license to operate a mobile cosmetology salon shall submit a completed application to the department, and along with the application, the applicant shall submit a detailed floor plan or blueprint of the proposed salon sufficient to demonstrate compliance with the requirements of section 38-10,125.01.

**Source:** Laws 2018, LB731, § 38. **Operative Date:** January 1, 2019

**38-10,125.03. Mobile cosmetology salon; application; review; denial; inspection.**

Each application for a license to operate a mobile cosmetology 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 mobile cosmetology 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. A salon which passes the inspection shall be issued a permanent license. A salon which fails 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 2018, LB731, § 39. **Operative Date:** January 1, 2019

**38-10,125.04. Mobile cosmetology salon; operating requirements.**

In order to maintain its license in good standing, each mobile cosmetology 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 the act;
- (2) The salon owner or his or her agent shall notify the department of any change of ownership, name, or office address and if a salon is permanently closed;
- (3) No salon shall permit any unlicensed 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 of all persons licensed under the act who are 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;

(8) No cosmetology services may be performed in a salon while the salon is moving. The salon must be safely and legally parked in a legal parking space at all times while clients are present inside the salon. A salon shall not park or conduct business within three hundred feet of another licensed cosmetology establishment. The department is not responsible for monitoring for enforcement of this subdivision but may discipline a license for a reported and verified violation;

(9) The owner of the salon shall maintain a permanent business address at which correspondence from the department may be received and records of appointments, license numbers, and vehicle identification numbers shall be kept for each salon being operated by the owner. The owner shall make such records available for verification and inspection by the department; and

(10) 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 2018, LB731, § 40. **Operative Date:** January 1, 2019

**38-10,125.05. Mobile cosmetology salon license; renewal.**

The procedure for renewing a mobile cosmetology 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 and evidence of coverage which meets the requirements of the Motor Vehicle Registration Act for the salon.

**Source:** Laws 2018, LB731, § 41. **Operative Date:** January 1, 2019

**38-10,125.06. Mobile cosmetology salon license; revocation or expiration; effect.**

The license of a mobile cosmetology 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 2018, LB731, § 42. **Operative Date:** January 1, 2019

**38-10,125.07. Mobile cosmetology salon license; change of ownership or mobile unit; effect.**

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

**Source:** Laws 2018, LB731, § 43. **Operative Date:** January 1, 2019

**38-10,125.08. Mobile cosmetology salon; owner liability.**

The owner of each mobile cosmetology 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 2018, LB731, § 44. **Operative Date:** January 1, 2019

**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 three hundred hours; and
  - (b) For licensure as a nail technology instructor, the program of studies shall consist of three hundred hours 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; Laws 2018, LB731, § 45. **Operative Date: July 19, 2018**

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

No application for any type of licensure 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; Laws 2018, LB731, § 46. **Operative Date: July 19, 2018**

**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) 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; Laws 2018, LB731, § 47. **Operative Date: July 19, 2018**

**38-10,132. Nail technician or instructor; reciprocity; requirements; military spouse; temporary license.**

- (1) 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:



- (a) He or she has attained the age of seventeen years;
- (b) He or she has completed formal education equivalent to a United States high school education;
- (c) 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;
- (d) For licensure as a nail technician, evidence of completion of a program of nail technician studies consisting of three hundred hours 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. Each month of full-time practice as a nail technician within the five years immediately preceding application shall be valued as equivalent to one hundred hours toward a nail technician license; and
- (e) For licensure as a nail technology instructor, evidence of completion of a program of studies consisting of three hundred hours 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. Each month of full-time practice as a nail technology instructor within the five years immediately preceding application shall be valued as equivalent to one hundred hours toward a nail technology instructor license.

(2) An applicant who is a military spouse may apply for a temporary license as provided in section 38-129.01.

**Source:** Laws 1999, LB 68, § 39; R.S.1943, (2003), § 71-3,191; Laws 2007, LB463, § 394; Laws 2017, LB88, § 46; Laws 2018, LB731, § 48. **Operative Date: July 19, 2018**

**38-10,133. Nail technology license; display.**

Every person holding a license 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 of all practitioners there employed.

**Source:**Laws 1999, LB 68, § 40; R.S.1943, (2003), § 71-3,192; Laws 2007, LB463, § 395; Laws 2018, LB731, § 49. **Operative Date: July 19, 2018**

**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.

**Source:** Laws 1999, LB 68, § 42; R.S.1943, (2003), § 71-3,194; Laws 2007, LB463, § 397; Laws 2018, LB731, § 50. **Operative Date: July 19, 2018**

**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 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 of all persons licensed under the act who are 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 to use or consume intoxicating beverages upon its premises.

**Source:** Laws 1999, LB 68, § 62; R.S.1943, (2003), § 71-3,213; Laws 2007, LB463, § 404; Laws 2018, LB731, § 51. **Operative Date: July 19, 2018**

**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; Laws 2018, LB731, § 52. **Operative Date: July 19, 2018**

**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 catalog, handbook, or policies and the student contract; and
- (5) A list of the names and credentials of all persons licensed under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act to be employed by the school.

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; Laws 2018, LB731, § 53. **Operative Date: July 19, 2018**

**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 employment, except that such restriction shall not prevent a school from inviting guest educators who are not licensed to provide education to students or student instructors if the guest educator 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 of all persons licensed 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; Laws 2018, LB731, § 54. **Operative Date: July 19, 2018**

### **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) No nail technology school shall accept an individual for enrollment who does not provide evidence of meeting the age and education requirements;

(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; Laws 2018, LB731, § 55. **Operative Date: July 19, 2018**

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

Nail technology students or nail technology student instructors may transfer from one nail technology school to another school 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 after all financial obligations of the student to the previous school are met.

**Source:** Laws 1999, LB 68, § 74; R.S.1943, (2003), § 71-3,225; Laws 2007, LB463, § 416; Laws 2018, LB731, § 56. **Operative Date: July 19, 2018**

#### **38-10,155. Repealed. Laws 2018, LB731, § 106. Source: Operative Date: July 19, 2018**

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

No nail technology school shall at any time enroll more than two nail technology student instructors 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; Laws 2018, LB731, § 57. **Operative Date: July 19, 2018**

#### **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.

**38-10,158.01. Mobile nail technology salon; license; requirements.**

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

- (1) The proposed salon is a self-contained, self-supporting, enclosed mobile unit;
- (2)(a)(i) The mobile unit has a global positioning system tracking device that enables the department to track the location of the salon over the Internet;
  - (ii) The device is on board the mobile unit and functioning at all times the salon is in operation or open for business; and
  - (iii) The owner of the salon provides the department with all information necessary to track the salon over the Internet; or
- (b) The owner of the salon submits to the department, in a manner specified by the department, a weekly itinerary showing the dates, exact locations, and times that nail technology services are scheduled to be provided. The owner shall submit the itinerary not less than seven calendar days prior to the beginning of the service described in the itinerary and shall submit to the department any changes in the itinerary not less than twenty-four hours prior to the change. A salon shall follow the itinerary in providing service and notify the department of any changes;
- (3) The salon has insurance coverage which meets the requirements of the department for the mobile unit;
- (4) The salon is clearly identified as such to the public by a sign;
- (5) The salon complies with the sanitary requirements of the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act;
- (6) The entrance into the proposed salon used by the general public provides safe access by the public;
- (7) The proposed salon has 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; and
- (8) The proposed salon includes a functional sink and toilet facilities and maintains an adequate supply of clean water and wastewater storage capacity.

**Source:** Laws 2018, LB731, § 58. **Operative Date: January 1, 2019**

**38-10,158.02. Mobile nail technology salon license; application.**

Any person seeking a license to operate a mobile nail technology salon shall submit a completed application to the department, and along with the application, the applicant shall submit a detailed floor plan or blueprint of the proposed salon sufficient to demonstrate compliance with the requirements of section 38-10,158.01.

**Source:** Laws 2018, LB731, § 59. **Operative Date: January 1, 2019**

**38-10,158.03. Mobile nail technology salon; application; review; denial; inspection.**

Each application for a license to operate a mobile 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 mobile nail technology 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. A salon which passes the inspection shall be issued a permanent license. A salon which fails 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 2018, LB731, § 60. **Operative Date:** January 1, 2019

**38-10,158.04. Mobile nail technology salon; operating requirements.**

In order to maintain its license in good standing, each mobile nail technology 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 the act;
- (2) The salon owner or his or her agent shall notify the department of any change of ownership, name, or office address and if a salon is permanently closed;
- (3) No salon shall permit any unlicensed person to perform any of the practices of nail technology 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 of all persons licensed under the act who are 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;
- (8) No nail technology services may be performed in a salon while the salon is moving. The salon must be safely and legally parked in a legal parking space at all times while clients are present inside the salon. A salon shall not park or conduct business within three hundred feet of another licensed nail technology establishment. The department is not responsible for monitoring for enforcement of this subdivision but may discipline a license for a reported and verified violation;
- (9) The owner of the salon shall maintain a permanent business address at which correspondence from the department may be received and records of appointments, license numbers, and vehicle identification numbers shall be kept for each salon being operated by the owner. The owner shall make such records available for verification and inspection by the department; and
- (10) 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 2018, LB731, § 61. **Operative Date:** January 1, 2019

**38-10,158.05. Mobile nail technology salon license; renewal.**

The procedure for renewing a mobile 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 for the salon and evidence of coverage which meets the requirements of the Motor Vehicle Registration Act for the salon.

**Source:** Laws 2018, LB731, § 62. **Operative Date:** January 1, 2019

**38-10,158.06. Mobile nail technology salon license; revocation or expiration; effect.**

The license of a mobile nail technology 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 2018, LB731, § 63. **Operative Date:** January 1, 2019

**38-10,158.07. Mobile nail technology salon license; change of ownership or mobile unit; effect.**

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

**Source:** Laws 2018, LB731, § 64. **Operative Date:** January 1, 2019



**38-10,158.08. Mobile nail technology salon; owner liability.**

The owner of each mobile 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 2018, LB731, § 65. **Operative Date: January 1, 2019**

**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 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 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;
- (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; Laws 2018, LB731, § 66. **Operative Date: July 19, 2018**

## STATUTES PERTAINING TO THE INDOOR TANNING FACILITY ACT

**71-3901. Act, how cited.** Sections 71-3901 to 71-3909 shall be known and may be cited as the Indoor Tanning Facility Act.

Source: Laws 2014, LB132, § 1. Effective Date: July 18, 2014.

**71-3902. Terms, defined.** For purposes of the Indoor Tanning Facility Act:

- (1) Board means the Board of Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art;
- (2) Department means the Division of Public Health of the Department of Health and Human Services;
- (3) Operator means a person designated by the tanning facility owner or tanning equipment lessee to operate, or to assist and instruct in the operation and use of, the tanning facility or tanning equipment;
- (4) Tanning equipment means any device that emits electromagnetic radiation with wavelengths in the air between two hundred nanometers and four hundred nanometers and that is used for tanning of the skin. Tanning equipment includes, but is not limited to, a sunlamp, tanning booth, or tanning bed; and
- (5) Tanning facility means a location, place, area, structure, or business that provides access to tanning equipment. Tanning facility includes, but is not limited to, any tanning business, salon, health club, apartment, or condominium, which has tanning equipment that is made available for public or commercial use, regardless of whether a fee is charged for access to the tanning equipment.

Source: Laws 2014, LB132, § 2. Effective Date: July 18, 2014.

**71-3903. Legislative intent.** It is the intent of the Legislature that the Indoor Tanning Facility Act be implemented and enforced in a manner that ensures equal treatment of all tanning facilities regardless of the type of business or facility or number of pieces of tanning equipment at the tanning facility.

Source: Laws 2014, LB132, § 3. Effective Date: July 18, 2014.

**71-3904. Applicability of act.** The Indoor Tanning Facility Act does not apply to:

- (1) A physician licensed under the Uniform Credentialing Act who uses, in the practice of medicine, medical diagnostic and therapeutic equipment that emits ultraviolet radiation; or
- (2) Any individual who owns tanning equipment exclusively for personal, noncommercial use.

Source: Laws 2014, LB132, § 4. Effective Date: July 18, 2014.

**71-3905. Operator, owner, or lessee; prohibited acts; signed statement required; when; consent; proof of age; duties.** It shall be unlawful for an operator, an owner of a tanning facility, or a lessee of a tanning facility to allow any person less than sixteen years of age to use tanning equipment at the tanning facility unless the person is accompanied by a parent or legal guardian. Before each use of tanning equipment by any person less than sixteen years of age, the operator, owner, or lessee shall secure a statement signed at the tanning facility by the minor's parent or legal guardian stating that the person signing the statement is the minor's parent or legal guardian, that the parent or legal guardian has read and understood the warnings given by the tanning facility, that the parent or legal guardian consents to the minor's use of tanning equipment, and that the parent or legal guardian agrees that the minor will use protective eyewear while using the tanning equipment. The operator, owner, or lessee shall require proof of age from each person before allowing the person access to tanning equipment. For purposes of this section, proof of age shall include, but not be limited to, a driver's license or other government-issued identification containing the person's date of birth and photograph or digital image.

Source: Laws 2014, LB132, § 5. Effective Date: July 18, 2014.

**71-3906. Operator, owner, or lessee; civil penalty.** Any operator, owner of a tanning facility, or lessee of a tanning facility who allows any person less than sixteen years of age to use tanning equipment at the tanning facility without being accompanied by the parent or legal guardian who signed the statement required under section 71-3905 shall be subject to a civil penalty of one hundred dollars to be imposed and collected by the department. The department shall remit the civil penalty to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 2014, LB132, § 6. Effective Date: July 18, 2014.

**71-3907. Operator, owner, or lessee; post warning sign; information.** (1) An operator, an owner of a tanning facility, or a lessee of a tanning facility shall post a warning sign in a conspicuous location in the tanning facility where it is readily visible by any person entering the tanning facility. The warning sign shall have black letters which are at least one-fourth inch in height.

(2) The warning sign shall include the following information:

DANGER —" Ultraviolet Radiation

Follow instructions.

Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injuries and allergic reactions. Repeated exposure may cause premature aging of the skin and skin cancer.

WEAR PROTECTIVE EYEWEAR — Failure to do so may result in severe burns or long-term injury to eyes.

Medicines or cosmetics can increase your sensitivity to ultraviolet radiation. Consult your physician before using sunlamps if you are using medication or have a history of skin problems or believe yourself to be especially sensitive to sunlight. If you do not tan in the sun, you are unlikely to tan from the use of tanning equipment.

It is unlawful for a tanning facility to allow a person under sixteen years of age to use tanning equipment without being accompanied by the person's parent or legal guardian.

Any person may report a violation of the Indoor Tanning Facility Act to the Department of Health and Human Services.

Source: Laws 2014, LB132, § 7. Effective Date: July 18, 2014.

**71-3908. Operator, owner, or lessee; ensure compliance.** An operator, an owner of a tanning facility, or a lessee of a tanning facility shall ensure that the tanning facility complies with all applicable federal laws and regulations and the Indoor Tanning Facility Act.

Source: Laws 2014, LB132, § 8. Effective Date: July 18, 2014.

**71-3909. Complaint; department; powers.** Upon receipt of a complaint regarding a tanning facility, the department, with the recommendation of the board, may inspect any tanning facility during the hours of operation of the tanning facility to ensure compliance with the Indoor Tanning Facility Act.

Source: Laws 2014, LB132, § 9. Effective Date: July 18, 2014.

**71-301 to 71-312. Repealed.** Laws 1961, c. 340, §29.

**71-312.01 to 71-322. Repealed.** Laws 1986, LB 318, §145.

**71-322.01. Repealed.** Laws 1978, LB 569, §14.

**71-322.02 to 71-339. Repealed.** Laws 1986, LB 318, §145.

**71-340. Transferred to section 38-1001.**

**71-341. Transferred to section 38-1002.**

**71-342. Transferred to section 38-1003.**

**71-343. Transferred to section 38-1004.**

**71-344. Transferred to section 38-1005.**

**71-345. Transferred to section 38-1006.**

**71-346. Transferred to section 38-1007.**

**71-346.01. Transferred to section 38-1008.**

**71-346.02. Transferred to section 38-1009.**

**71-346.03. Transferred to section 38-1010.**

**71-346.04. Transferred to section 38-1011.**

**71-347. Transferred to section 38-1012.**

**71-348. Transferred to section 38-1013.**

**71-349. Transferred to section 38-1014.**

**71-350. Transferred to section 38-1015.**

**71-351. Transferred to section 38-1016.**

**71-352. Transferred to section 38-1017.**

**71-353. Transferred to section 38-1018.**

**71-354. Repealed.** Laws 2007, LB 463, § 1319.

**71-355. Repealed.** Laws 2007, LB 296, § 815.

**71-356. Transferred to section 38-1019.**

**71-356.01. Transferred to section 38-1020.**

**71-356.02. Transferred to section 38-1021.**

**71-356.03. Transferred to section 38-1022.**

**71-356.04. Transferred to section 38-1023.**

**71-356.05. Transferred to section 38-1024.**