

Appearance Enhancement

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New York State
DEPARTMENT OF STATE
Division of Licensing Services
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Licensing of Nail Specialty, Natural Hair Styling, Waxing, Esthetics and Cosmetology

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GENERAL BUSINESS LAW

ARTICLE 27

§400. Definitions

As used in this article, unless the context requires otherwise:

1. "Secretary" means the Secretary of State.
2. "Person" means an individual, firm, limited liability company, partnership or corporation.
3. "Licensee" means a person licensed pursuant to this article to engage in the practice of natural hair styling, esthetics, nail specialty, cosmetology or waxing, or to operate an appearance enhancement business in which such practice, as herein defined, is provided to the public.
4. The practice of "nail specialty" means providing services for a fee or any consideration or exchange to cut, shape or to enhance the appearance of the nails of the hands or feet. Nail specialty shall include the application and removal of sculptured or artificial nails.
5. The practice of "natural hair styling" means providing for a fee, or any consideration or exchange, whether direct or indirect, any of the following services to the hair of a human being: shampooing, arranging, dressing, twisting, wrapping, weaving, extending, locking or braiding the hair or beard by either hand or mechanical appliances. Such practice shall not include cutting, shaving or trimming hair except that such activities are permissible to the extent that such activities are incidental to the practice of natural hair styling. Such practice shall not include the application of dyes, reactive chemicals, or other preparations to alter the color or to straighten, curl, or alter the structure of the hair. Techniques which result in tension on hair roots such as certain types of braiding, weaving, wrapping, locking and extending of the hair may only be performed by a natural hair styling or cosmetology licensee who has successfully completed an approved course of study in such techniques.
6. The practice of "esthetics" means providing for a fee, or any consideration or exchange, whether direct or indirect, services to enhance the appearance of the face, neck, arms, legs, and shoulders of a human being by the use of compounds or procedures including makeup, eyelashes, depilatories, tonics, lotions, waxes, sanding and tweezing, whether performed by manual, mechanical, chemical or electrical means and instruments but shall not include the practice of electrology.
7. The practice of "cosmetology" means providing the services described in subdivisions four, five and six of this section, providing service to the hair, head, face, neck or scalp of a human being, including but not limited to shaving, trimming, and cutting the hair or beard either by hand or mechanical appliances and the application of antiseptics, powders, oils, clays, lotions or applying tonics to the hair, head, or scalp, and in addition includes providing, for a fee or any consideration or exchange, whether direct or indirect, services for the application of dyes, reactive chemicals, or other preparations to alter the color or to straighten, curl, or alter the structure of the hair of a human being.
8. "Appearance enhancement business" means the business of providing any or all of the services licensed pursuant to this article at a fixed location.
9. "Department" means the Department of State.
10. The practice of "waxing" means providing for a fee, or any consideration or exchange, whether direct or indirect, services to enhance the appearance of the face, neck, arms, legs, or shoulders of a human being by the removal of hair by the use of depilatories, waxes or tweezing but shall not include the practice of electrology.
11. "Trainee" means a person pursuing in good faith a course of study in the practice of nail specialty under the tutelage, supervision and direction of a licensed nail practitioner. Such trainee shall be employed by a licensed appearance enhancement business.

§401. License required

1. No person shall engage in the practice of nail specialty, waxing, natural hair styling, esthetics or cosmetology, as defined in §400 of this article, without having received a license to engage in such

practice in the manner prescribed in this article. No person shall act as a trainee or perform any service as such unless he or she has obtained a certification of registration pursuant to this article.

2. No person shall own, control or operate, whether as a sole proprietor, partner, shareholder, officer, independent contractor or other person, an appearance enhancement business without having received a license for such business in the manner provided in this article.

3. A person licensed by any other state or country to practice nail specialty, waxing, natural hair styling, esthetics or cosmetology shall be allowed to practice in New York State for three months or less within any calendar year for the purpose of giving to, or receiving from, persons who are licensed under this article training in current styles, techniques or materials, provided however, that no such unlicensed person may provide services to the public for any fee, or other compensation, whether direct or indirect.

§402. Powers of the Secretary of State

In addition to the powers and duties elsewhere prescribed in this article, the secretary shall have power to:

1. Appoint a sufficient number of assistants, inspectors and other employees as may be necessary to carry out the provisions of this article, to prescribe their duties, and to fix their compensation within the amount appropriated therefor;
2. Examine the qualifications and fitness of applicants for licenses and prospective applicants taking examinations under this article;
3. Keep records of all licenses issued, suspended or revoked, or orders directing the cessation of unlicensed activities;
4. Prepare a manual of rules and regulations for the conduct of examinations and to furnish copies thereof to persons desiring the same upon payment of a reasonable fee therefor; and
5. Adopt such rules and regulations not inconsistent with the provisions of this article, as may be necessary with respect to the form and content of applications for licenses, the reception thereof, the investigation and examination of applicants and of prospective applicants taking examinations and their qualifications, and the other matters incidental or appropriate to the powers and duties of the secretary as prescribed by this article and for the proper administration and enforcement of the provisions of this article.

§403. Advisory committee

1. There shall be established within the department an advisory committee which shall consist of nine members broadly representative of the appearance enhancement industry, including one person engaged in the practice of either nail specialty or waxing, two persons engaged in natural hair styling, one of whom shall be knowledgeable in the practice of styling techniques which place tension on the hair roots, one person engaged in esthetics, two persons engaged in cosmetology, two persons engaged in training of persons for such practices, and one person licensed as a dermatologist. The secretary shall appoint such persons to serve on the advisory committee, provided, that two shall be appointed by the secretary on the recommendation of the temporary president of the senate and two shall be appointed by the secretary on the recommendation of the speaker of the assembly. Each member of the committee shall be appointed for terms of two years. Any member may be reappointed for additional terms. The secretary shall designate from among the members of the committee a chairperson who shall serve at the pleasure of the secretary.

2. The advisory committee shall meet no less than three times each year.

3. The advisory committee shall advise the Secretary on all matters relating to this article, and on such other matters as the secretary shall request. In advising the secretary on matters concerning professional education or curriculum, the advisory committee shall, to the extent practicable, consult with the State Education Department.

4. The secretary shall designate an employee of the department to act as secretary of the advisory committee, and shall provide such

advisory committee such stenographic or other assistance as may be necessary.

5. Members of the advisory committee shall receive no compensation but shall be entitled to actual and necessary traveling and other expenses while engaged in the performance of such member's duties hereunder.

§404. Rules and regulations

The secretary shall promulgate rules and regulations which establish standards for practice and operation by licensees and trainees under this article in order to ensure the health, safety and welfare of the public including licensees and trainees when they are working within such establishments. Such rules and regulations shall include, but not be limited to, the sanitary conditions and procedures required to be maintained, a minimum standard of training appropriate to the duties of nail specialists, trainees, waxers, natural hair stylists, estheticians, and cosmetologists and the provision of service by nail specialists, trainees, waxers, natural hair stylists, estheticians or cosmetologists at remote locations other than the licensee's home provided that such practitioner holds an appearance enhancement business license to operate at a fixed location or is employed by the holder of an appearance enhancement business license. Regulations setting forth the educational requirements for nail specialists and trainees shall include education in the area of causes of infection and bacteriology. In promulgating such rules and regulations the secretary shall consult with the State Education Department, the advisory committee established pursuant to this article, any other state agencies and private industry representatives as may be appropriate in determining minimum training requirements.

§404-a. Monomeric methyl methacrylate

1. No owner or operator of an appearance enhancement business shall knowingly and willfully:

- a. sell, use or apply to any person monomeric methyl methacrylate; or
- b. direct any agent or employee of such business to sell, use or apply to any person monomeric methyl methacrylate.

2. A first violation of this section shall be punishable by a civil penalty of not more than one thousand dollars. A second or any subsequent violation of this section shall be a class B misdemeanor.

§404-b. Nail Specialty; owner responsibilities

In addition to any rules and regulations establishing standards for practices and operations by licensees under this article, in order to ensure the health, safety and welfare within appearance enhancement businesses, all owners and operators of appearance enhancement businesses which practice nail specialty shall make available for use, gloves and facemasks for nail specialty licensees and trainees who work in such businesses.

§405. Appearance enhancement business license; requirements

1. Any person who receives an appearance enhancement business license shall operate such business at the location named in the license and in accordance with the rules and regulations promulgated by the secretary pursuant to §404 of this article. Any or all of the practices regulated by this article may be provided under one appearance enhancement business license so long as each practitioner is an appropriate licensee.

2. An appearance enhancement business licensee shall file and maintain during the term of the license evidence of a bond or liability insurance.

§406. License application; procedure; requirements; temporary license

1. a. Any person intending to practice nail specialty, waxing, natural hair styling, esthetics or cosmetology as defined in this article, or to own or operate an appearance enhancement business, shall first make application to the secretary for a license therefor.
- b. Such application shall be in a form and manner prescribed by the secretary and shall contain such information as, in the

secretary's judgment, is reasonable and necessary to determine the qualifications and fitness for licensing of the applicant.

- c. The application shall be subscribed by the applicant and affirmed under penalty of perjury.
 - d. Each application shall be accompanied by the appropriate fee as prescribed by this article.
 - e. Each application shall be accompanied by a certificate of a duly licensed physician, or nurse practitioner (see also Public Health Law, §3704) to the extent authorized by law and consistent with the written practice agreement pursuant to subdivision three of section 6902 of the education law on a form prescribed by the secretary, showing freedom from any infectious or communicable disease which certificate shall have been issued within 30 days prior to the date of the filing of the application.
 - f. Notwithstanding the educational requirements of this section, a trainee may obtain a license to practice nail specialty if such trainee provides satisfactory evidence to the secretary that such trainee has been actively engaged in a traineeship for a period of one year and has completed a course of study set forth by the secretary. Such course of study may be delivered by electronic means.
2. a. Any person 17 years of age or older may apply to the secretary for a license to practice nail specialty, waxing, natural hair styling, esthetics or cosmetology.
 - b. Each such application shall also be accompanied by satisfactory evidence of having taken and passed the appropriate examination or examinations offered by the secretary pursuant to this article for the license sought and evidence of the successful completion of an approved course of study in nail specialty, waxing, natural hair styling, esthetics or cosmetology in a school duly licensed pursuant to the Education Law.
 - c. Any applicant for a license to practice nail specialty, waxing, natural hair styling, esthetics or cosmetology may submit satisfactory evidence of licensure to practice an equivalent occupation issued by any other state, territory, protectorate or dependency of the United States or any other country in lieu of the evidence of schooling and examination required by this subdivision, provided that such license was granted in compliance with standards which were, in the judgment of the secretary, not lower than those of this State and provided that such state, territory, protectorate, dependency, or country extends similar reciprocity to the licensees of this State or the applicant practiced an equivalent occupation in such state, territory, protectorate, dependency or country for a minimum of five years, or the applicant is a member of the household of a member of the armed forces of the United States, National Guard or Reserves and was a member of such household before such member relocated to the state.
 - d. Notwithstanding the educational requirements of this section and the testing requirements of this section, an applicant who otherwise has met the licensing requirements of this article for a nail specialist, waxer, natural hair stylist, esthetician or cosmetologist who shall provide satisfactory evidence he or she has been actively and continuously engaged in the practice of nail specialty, waxing, natural hair styling, esthetics or cosmetology for at least one year prior to the effective date of this article, may be issued a license for nail specialty, waxing, natural hair styling, esthetics or cosmetology pursuant to this article. Notwithstanding the educational and testing requirements of this section, a person licensed to practice barbering under article 28 of this chapter who otherwise has met the licensing requirements of this article may be issued a license to practice natural hair styling. Other than applicants licensed under article 28 of this chapter, those persons who apply after a 12-month period from the effective date of this article will be required to provide evidence of training and to

take the examination or examinations as required for other licenses pursuant to this article.

- e. Upon acceptance by the secretary of a proper application for an operator's license to practice nail specialty, waxing, natural hair styling, esthetics or cosmetology, the secretary may issue a temporary operator's license which shall expire six months from issuance. Upon good cause shown, the secretary may renew a temporary operator's license for one additional six-month period upon filing the appropriate application and fee.
3. Appearance enhancement business license.
 - a. Any person, 18 years of age or older, or any firm, limited liability company, partnership or corporation having at least one member 18 years of age or older may apply to the secretary for an appearance enhancement business license.
 - b. Each such application for an appearance enhancement business license shall be accompanied by evidence of a bond or liability insurance.
4. a. Notwithstanding any provision contained in this article to the contrary, if any person, eligible for any license pursuant to this article, should be called to active military service at or during the time application for any license is required to be filed and license fee paid, pursuant to the provisions of this article, the period within which said application may be filed and license fee may be paid, is extended on behalf of such person, until three months after the termination of said military service.
 - b. In the case of persons who are called to active military service and will be discharged from active military service, the period of two years specified in paragraph d of subdivision 2 of this section need not be continuous. The length of time such person was engaged in the practice of nail specialty, waxing, natural hair styling, esthetics or cosmetology before entering active military service may be added to any period of time during which such person was or is engaged in the practice of nail specialty, waxing, natural hair styling, esthetics or cosmetology after the termination of active military service.

§407. Examinations

1. The examinations for the license to practice natural hair styling, esthetics, nail specialty and cosmetology shall be practical and written. The examination for the license to practice waxing shall be limited to a written examination only. The secretary shall determine reasonable standards of performance for each license and shall evaluate the prospective applicants and applicants on the basis of such standards. The objectives of the examinations shall be to insure that prospective applicants and applicants have sufficient basic skills to safeguard the health and safety of the public and to insure that prospective applicants and applicants have attained adequate levels of skill to competently engage in the activities authorized by the license.

2. The secretary shall prepare examination questions for persons to qualify for licensure under this article. All such examinations shall be the same for all persons for the license sought at any given examination. Such test shall not be limited to any specific method or system.

3. Examinations shall be in the English language and, at the discretion of the secretary, may be translated or transposed into any other language if requested by the prospective applicant and upon satisfactory proof of the need therefor provided that a request for such a translated examination is made of the secretary at the time the application for license is filed. In the case of physically disabled persons, provision for the alternative administration of the examination may be made, provided a request for such procedure is made of the secretary a reasonable time in advance of the examination. Examinations shall be held at least quarterly and shall be given in at least four convenient places in the State.

§408. Licenses; display; renewal; duplicates

1. All licenses shall expire four years from the date of issuance.
2. No license shall be assignable or transferrable except pursuant to the provisions of this article.

3. An appearance enhancement business license may be assigned. When the appearance enhancement business licensee is a partnership or a limited liability company, or a corporation, the license may be assigned upon the consent of all members of a partnership or a majority of the voting members of a limited liability company or the majority shareholders of a corporation, respectively. The application for such transfer or assignment must be accompanied by proof satisfactory to the department that the requirements herein provided have been complied with. No assignment or transfer shall become effective unless and until the endorsement has been made on the face of the license by the department and such license, as endorsed, has been returned to the assignee or transferee. All such requests for endorsements shall be accompanied by a \$5 fee. A bona fide purchaser of a licensed appearance enhancement business may continue to use the license of the seller for a period of 30 days from the date of the sale, provided there is endorsed on the face thereof the name of the purchaser, the date of the sale, and the signatures of the seller and the purchaser; and provided further within five working days from the date of the sale an application, in accordance with the provisions of this article, shall be presented by the purchaser to the secretary for an appearance enhancement business license.

4. An appearance enhancement business license issued to an individual or to a partnership may be used after the death of the licensed individual or co-partner by the next of kin or duly appointed administrator or executor in the name of the estate for a period of not more than 120 days from the date of death of such individual or co-partner provided that there is endorsed upon the face of the license certificate after the name of the decedent the word "deceased", the date of death and the name of the next of kin, administrator or executor under whose authority the license is being used; the period of 120 days aforesaid may be extended upon application to the Secretary of State and for good cause shown for an additional period not to exceed 120 days. Any license so continued which shall expire during such period of 120 days or the extension thereof may be renewed by the next of kin, administrator or executor for the balance of such period or the extension thereof.

5. A license certificate issued pursuant to this article shall be posted in some conspicuous place in the licensed premises or in the place where the practice of an occupation licensed pursuant to this article is conducted. At the entrance to each licensed premises or at the entrance to any place where the practice of an occupation licensed pursuant to this article is conducted, a sign shall be posted which shall include the rules and regulations governing such practice and a manner in which aggrieved persons may register a complaint with the department. The department shall prepare and furnish such sign to each licensee.

6. Any license, which has not been suspended or revoked, may, upon the payment of the renewal fee, be renewed for additional periods of four years from its application, without further examination, upon the filing of an application for such renewal, on a form to be prescribed by the secretary.

7. Any person failing to file for renewal of a license pursuant to the provisions of this article within one year immediately following the expiration of such person's last license shall pay an additional fee of \$10, and if such person fails to file application and fee for renewal within five years, such person shall be ineligible for such license until such person shall have again passed an examination.

8. A duplicate license certificate may be issued for one lost, destroyed or mutilated upon the application therefor on a form prescribed by the secretary and the payment of the fee prescribed therefor by this article. Each such duplicate license shall have the word "duplicate" stamped across the face thereof and shall bear the same number as the one it replaces.

9. Notice in writing shall be given the secretary at the office of the secretary in Albany by the holder of an appearance enhancement business license of any change of address. The licensee shall correct the address on the license upon the filing of such notice.

10. Any licensee who fails to file any notice of change in the status of a license required by the provisions of this article shall be subject to the monetary fines set forth in §410 of this article.

11. Such license certificate shall contain a photograph of the licensee and the licensee's name. Nowhere on the license shall be the address of the licensee.

§408-a. Trainee

1. Each applicant for a certificate of registration as a trainee shall make an application which shall include the physician's certificate required by paragraph e of subdivision 1 of §460 of this article, two recent photographs, and such other information required by such section and in such form as the secretary may prescribe.

2. A certificate of registration as a trainee shall be for a period of one year, renewable for a second year, and may be renewed for additional terms within the discretion of the secretary.

3. Each certificate of registration issued as provided in this section shall be posted in a conspicuous place in the appearance enhancement business in which the trainee is actually engaged in the practice of nail specialty as a trainee.

4. The holder of a certificate of registration as a trainee shall not be entitled to an appearance enhancement business license.

§409. Fees

1. The non-refundable fee for an application for a license to engage in the practice of nail specialty, waxing, natural hair styling, esthetics or cosmetology, shall be \$40 initially and for each renewal thereof the fee shall be \$40; the fee for a temporary license and each renewal shall be \$10.

2. The fee for an appearance enhancement business license shall be \$60 initially and \$60 for each renewal thereof.

3. Upon a determination that it is in the best public interest to do so, the secretary may promulgate rules imposing fees not to exceed twenty dollars for the registration and renewal of the registration of a trainee.

4. The secretary shall receive a non-refundable examination fee of \$15 from each person who takes a written examination pursuant to this article. Fees collected for written examinations shall be paid into the licensing examinations services account, pursuant to §97-aa of the State Finance Law.

5. The fee for issuing a duplicate license certificate, in substitution for one lost, destroyed or mutilated shall be \$10.

6. The fee for changing a name on an appearance enhancement business license shall be \$30.

7. The fee for changing the address on a license shall be \$10.

8. The fees herein set forth shall be those for licenses issued for the license period of four years.

§410. Administration

1. Suspension and revocation of licenses or registrations; fines; reprimands. A license or registration issued pursuant to this article may be suspended or revoked, or a fine not exceeding \$500 payable to the department may be imposed for any one or more of the following causes:

- a. Fraud or bribery in securing a license or registration or permission to take an examination therefor.
- b. The making of any false statement as to a material matter in any application or other statement or certificate required by or pursuant to this article.
- c. Incompetence or untrustworthiness.
- d. Failure to display the license as provided in this article.
- e. Violation of any provision of this article, or of any rule or regulation adopted hereunder.
- f. Conviction of any of the following crimes subsequent to the issuance of a license or registration pursuant to this article: fraud pursuant to §§170.10, 170.15, 176.15, 176.20, 176.25, 176.30 and 190.65; falsifying business records pursuant to §175.10; grand larceny pursuant to article 155; bribery pursuant to §§180.03, 180.08, 180.15, 180.25, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.45, 200.50; perjury pursuant to §§210.10, 210.15, 210.40; assault pursuant to §120.05,

120.10, 120.11, 120.12; robbery pursuant to article 160; homicide pursuant to §§125.25 and 125.27; man- slaughter pursuant to §§125.15 and 125.20; kid- napping and unlawful imprisonment pursuant to §§135.10, 135.20 and 135.25; unlawful weapons possession pursuant to §§265.02, 265.03 and 265.04; criminal use of a weapon pursuant to §§265.08 and 265.09; criminal sale of a weapon pursuant to §§265.11 and 265.12; compelling prostitution pursuant to §230.33; sex trafficking pursuant to §230.34; and sex offenses pursuant to article 130 of the Penal Law. Provided, however, that for the purposes of this article, none of the following shall be considered criminal convictions or reported as such:

- (i) a conviction for which an executive pardon has been issued pursuant to the Executive Law;
- (ii) a conviction which has been vacated and replaced by a youthful offender finding pursuant to article 720 of the Criminal Procedure Law, or the applicable provisions of law of any other jurisdiction; or
- (iii) a conviction the records of which have been expunged or sealed pursuant to the applicable provisions of the laws of this state or of any other jurisdiction; and
- (iv) a conviction for which other evidence of successful rehabilitation to remove the disability has been issued. Provided, however, a fine shall not be imposed for the causes specified in paragraph f of this subdivision. In lieu of or in conjunction with the suspension or revocation of a license or registration, or the imposition of a fine pursuant to this section, the secretary may issue a reprimand. When a license or registration issued pursuant to this article is revoked, such license or registration shall not be reinstated or reissued until after the expiration of a period of one year from the date of such revocation. No license or registration shall be issued after a second revocation.

2. Unlicensed activities.

- a. The secretary may issue an order directing the cessation of any activity related to nail specialty, waxing, natural hair styling, esthetics or cosmetology for which a license is required by this article upon a determination that a person, partnership, limited liability company or business corporation, engaging in the business or occupation of, or holding himself, herself or itself out as or acted, temporarily or otherwise, as a nail specialist, natural hair stylist, esthetician or cosmetologist within this state without a valid license being in effect. The secretary shall, before making such determination and order, afford such person, partnership, limited liability company or business corporation an opportunity to be heard in person or by counsel in reference thereto in an adjudicatory proceeding held pursuant to §411 of this article as applicable.
- b. Notwithstanding any provision to the company, if the secretary finds that a person, partnership, limited liability company or business corporation, is holding himself, herself or itself out as or is acting as, temporarily or otherwise, an appearance enhancement business within this state without a valid license, the secretary shall provide the person, partnership, limited liability company or business corporation with a written notice of violation and complaint, and shall afford an opportunity to be heard, either in person or by counsel, before an administrative law judge no sooner than three days from delivery of such notice of violation. If documentary proof that the deficiency has been cured is not provided to the secretary at or before such hearing, following a hearing determination that unlicensed activities have occurred, the secretary may issue an immediate order directing the cessation of any activity for which an appearance enhancement license is required.
- c. The secretary may issue an order directing the cessation of any activity if the secretary finds that a person, including a partnership, a limited liability company or business corporation, is holding himself, herself or itself out as or is acting as,

temporarily or otherwise, an appearance enhancement business within the state without a (i) bond or (ii) liability insurance or liability coverage which is covered through a bond. The secretary shall, before making such determination and order, afford such person, partnership, limited liability company or business corporation an opportunity to be heard in person or by counsel in reference thereto in an adjudicatory proceeding held pursuant to §411 of this article. The enforcement of this provision shall require the department of financial services to certify in writing to the secretary that any bonds or liability insurance that is required by the department is readily available to appearance enhancement businesses from the market place.

- d. The attorney general, acting on behalf of the secretary, may commence an action or proceeding in a court of competent jurisdiction to obtain a judgment against such person, partnership, limited liability company or business corporation in an amount equal to that assessed as a civil penalty. Said judgment shall thereafter be enforceable by any means authorized by the Civil Practice Law and Rules.
- e. Where an appearance enhancement business operator continues to operate without a license following the issuance of an order by the secretary directing cessation, the attorney general, acting on behalf of the secretary, may commence an action or proceeding in a court of competent jurisdiction against such operator to obtain an order enjoining further operation of such business. An appearance enhancement business that has been ordered to cease operation shall not re-open without first obtaining a license as required by this article and paying any assessed fines.

§411. Denial of license; complaints; notice of hearing

1. Denial of license or registration. The department shall, before making a final determination to deny an application for a license or registration, notify the applicant in writing of the reasons for such proposed denial and shall afford the applicant an opportunity to be heard in person or by counsel prior to denial of the application. Such notification shall be served personally or by certified mail or in any manner authorized by the Civil Practice Law and Rules for service of a summons. If a hearing is requested, such hearing shall be held at such time and place as the department shall prescribe. If the applicant fails to make a written request for a hearing within 30 days after receipt of such notification, then the notification of denial shall become the final determination of the department. The department, acting by such officer or person in the department as the secretary may designate, shall have the power to subpoena and bring before the officer or person so designated any person in this state, and administer an oath to and take testimony of any person or cause his deposition to be taken. A subpoena issued under this section shall be regulated by the Civil Practice Law and Rules. If, after such hearing, the application is denied, written notice of such denial shall be served upon the applicant personally or by certified mail or in any manner authorized by the Civil Practice Law and Rules for the service of a summons.

2. Revocation, suspension, reprimands, fines; unlicensed activities. The department shall, before revoking or suspending any license or registration or imposing any fine or reprimand on the holder thereof, or before issuing any order directing the cessation of unlicensed activities, and at least 10 days prior to the date set for the hearing, notify in writing the holder of such license or registration, or the person alleged to have engaged in unlicensed or unregistered activities, of any charges made and shall afford such person an opportunity to be heard in person or by counsel in reference thereto. Such written notice may be served by delivery of same personally to the licensee or registrant or person charged, or by mailing same by certified mail to the last known business or other address provided by such person to the Secretary of State, or by any method authorized by the Civil Practice Law and Rules for the service of a summons. The hearing on such charges shall be at such time and place as the department shall prescribe.

3. The department, acting by such officer or person in the department as the secretary may designate, shall have the power to

subpoena and bring before the officer or person so designated any person in this state, and administer an oath to and take testimony of any person or cause his deposition to be taken. A subpoena issued under this section shall be regulated by the Civil Practice Law and Rules.

§412. Penalties

1. The practice of nail specialty, waxing, natural hair styling, esthetics or cosmetology without a license or while under suspension or revocation, or in violation of an order directing the cessation of unlicensed activity issued by the secretary pursuant to §410 or §411 of this article, is a violation and is subject to a civil penalty of up to \$500 for the first violation; \$1,000 for a second such violation; and \$2,500 for a third violation and any subsequent violation.

2. The following violations shall be deemed separate offenses and be deemed a misdemeanor, and upon conviction, shall be punishable by imprisonment for not more than six months, or by a fine of up to \$2,500 or by both such fine and imprisonment:

- a. The operation of an appearance enhancement business without a license or when such license has been suspended or revoked; or
 - b. The operation of an appearance enhancement business in violation of an order directing the cessation of unlicensed activity issued by the secretary pursuant to §410 of this article.
3. The operation of an appearance enhancement business without a
- a. bond or
 - b. liability insurance or liability coverage which is covered through a bond shall be punishable by a civil penalty of up to \$2,500. The enforcement of this provision shall require the department of financial services to certify in writing to the secretary that any bonds or liability insurance that is required by the department is readily available to appearance enhancement businesses from the market place.

§413. Judicial review

The action of the secretary in suspending, revoking or refusing to issue or renew a license, or issuing an order directing the cessation of unlicensed activity or imposing a fine or reprimand may be appealed by a proceeding brought under and pursuant to article 78 of the Civil Practice Law and Rules.

§414. Official acts used as evidence

The official acts of the secretary and the department shall be prima facie evidence of the facts therein and shall be entitled to be received as evidence on all actions at law and other legal proceedings in any court or before any board, body or officer.

§415. Disposition of moneys

With the exception of fees collected for examinations which are to be paid into the licensing examinations services account pursuant to §97-aa of the State Finance Law, all moneys derived from the operation of this article shall on or before the 10th day of each month be paid into the general fund of the state treasury to the credit of the state purposes account therein.

§416. Application of article

1. This article shall not apply to or affect the practice of the profession by duly licensed physicians, osteopaths, dentists, optometrists, nurses or physiotherapists.

2. This article shall not apply to, affect or prevent home administration, without compensation or other consideration, of any practices defined in this article, nor shall the provisions of this article be construed to prevent the application of facial creams and lotions by persons working for the manufacturer of such creams and lotions in its establishment and under the direction of a licensed esthetician. Also, this article shall not apply to the retail sale, or the trial demonstration by application to the skin for purposes of retail sale, of tonics, antiseptics, powders, oils, clays, lotions, creams, cosmetics, cosmetic preparations or compounds.

§417. Separability clause

If any part or provision of this article or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this article or application thereof to other persons or circumstances and the legislature hereby declares that it would have enacted this article or the remainder thereof had the invalidity of such provision or application thereof been apparent.

ARTICLE 37 PUBLIC HEALTH LAW

§3704. Statutory construction

A physician assistant may perform any function in conjunction with a medical service lawfully performed by the physician assistant, in any health care setting, that a statute authorizes or directs a physician to perform and that is appropriate to the education, training and experience of the registered physician assistant and within the ordinary practice of the supervising physician. This section shall not be construed to increase or decrease the lawful scope of practice of a physician assistant under the education law.

APPEARANCE ENHANCEMENT RULES AND REGULATIONS PART 160

§160.1. Definitions.

- (a) Person means an individual, firm, company, partnership or corporation.
- (b) Appearance enhancement means and includes any or all of the license categories: waxing, nail specialty, natural hair styling, esthetics and cosmetology.
- (c) Licensee means a person licensed to operate an appearance enhancement business or to practice in an appearance enhancement license category.
- (d) Owner means a person who or which owns, controls or operates, whether as a partner shareholder, officer, independent contractor (including area renter) or proprietor an appearance enhancement business.
- (e) Area renter means a licensed individual not on the payroll of or subject to the withholding of taxes by a licensed business.
- (f) OSHA means the Occupational Safety and Health Administration and the statutes, rules and regulations relevant thereto.
- (g) EPA means the Environmental Protection Agency.
- (h) Disinfection is a process that kills or destroys most disease producing organisms and renders the object safe for external use. Such process shall be accomplished by the use of EPA approved hospital grade disinfectants.
- (i) Sanitization is a process of making objects clean and safe for use.
- (j) Sterilization is a process that kills all disease producing organisms (including bacteria, viruses, fungi and spores) and renders an object safe for internal contact or skin penetration.
- (k) Cleaning is the physical removal of all visible dust, soil, and any other foreign material from an object. Cleaning must precede any disinfection or sterilization process and usually involves the use of a detergent.

§160.2. Individual license.

A person shall not engage in the practice of waxing, nail specialty, natural hair styling, esthetics or cosmetology without first having obtained a license therefor.

§160.3. Business license.

An owner shall not engage in the business of appearance enhancement without first having obtained a license therefor.

§160.4. Area renter business license requirement.

No area renter may engage in appearance enhancement activities without first having obtained a business license therefor.

§160.5. Temporary license.

An applicant who meets all requirements of licensure but for the passage of a written and/or practical examination may make application for a temporary license. Such temporary license shall expire six months from issuance. A second temporary license will not be issued without proof that the applicant has passed the written or practical examination.

§160.6. Business name.

A business licensee may conduct the business only in the name in which it is licensed.

§160.7. Business licenses issued to residential practitioners.

- (a) A residential business must be confined to a room or rooms separate and apart from any residential or other, non-business uses, thereby segregating the hazards of the workplace to such confined areas.
- (b) The residential business must be equipped with the facilities and instruments required by this Part.
- (c) The business area of the residence shall be subject to inspection by representatives of the department at any reasonable time.

§160.8. Remote locations.

A licensee may practice at remote locations, but shall hold an appearance enhancement business license at a fixed location, or shall be directly and actively employed by the holder of an appearance enhancement business license. Any records kept for each service rendered at any remote location must be maintained at the licensed business location for a minimum of three years.

§160.9. Bond or liability insurance.

- (a) An owner must maintain proof of minimum financial security in the following amounts:
 - (1) for accident and professional liability, at least \$25,000 per individual occurrence and \$75,000 in the aggregate; and
 - (2) for payment of wages and remuneration legally due employees who provide nail specialty services pursuant to the following schedule:
 - (i) if owner employs the equivalent of two to five full time individuals who provide nail specialty services, at least \$25,000 or in such other amount as directed by the Secretary;
 - (ii) if owner employs the equivalent of six to ten full time individuals who provide nail specialty services, at least \$40,000 or in such other amount as directed by the Secretary;
 - (iii) if owner employs the equivalent of 11 to 25 full time individuals who provide nail specialty services, at least \$75,000 or in such other amount as directed by the Secretary; or
 - (iv) if owner employs the equivalent of 26 or more full time individuals who provide nail specialty services, at least \$125,000 or in such other amount as directed by the Secretary.
- (b) Such proof may be satisfied by purchasing:
 - (1) accident and professional liability insurance, or general liability insurance; or
 - (2) a bond with a corporate surety, from a company authorized to do an insurance business in this state; payable in favor of the people of the state of New York; or
 - (3) any combination of (1) or (2) as provided in this Subdivision provided that the coverage amounts set forth in Subdivision (a) of this Section are satisfied.

(c) Proof of bond and liability insurance coverage, as applicable, must be filed with the Secretary and may be terminated only in accordance with the following provisions:

(1) A bond shall not be cancelled, revoked, or terminated by the owner, nor shall the owner take action that would result in the cancellation, revocation, or termination of such bond, except after notice to, and with the consent of, the Secretary at least forty-five days in advance of such cancellation, revocation, or termination. The bond shall include a provision requiring the surety to provide forty-five days' notice to the Secretary prior to terminating the bond, except in the case of termination for nonpayment of premium in which case such notice shall be provided to the Secretary upon termination.

(2) A liability insurance policy obtained pursuant to this Section shall not be cancelled, revoked, or terminated by the owner, nor shall the owner take action that would result in the cancellation, revocation, or termination of such insurance policy, except after notice to the Secretary at least forty-five days in advance of such cancellation, revocation, or termination, in a form prescribed by the Secretary.

(d) Proof of such bond or liability insurance policy must be maintained on the business premises. Such proof shall be accessible by all employees at all times that the business is open.

§160.10. Posting requirements.

(a) An owner shall conspicuously post a sign at the entrance of the business indicating that the business and individual operators are licensed by the New York State Department of State and that rules and regulations governing the business and practices are available for review upon request.

(b) An individual holding a license in waxing, nail specialty, esthetics, natural hair styling, or cosmetology must conspicuously post the license at the station or location where the occupation is being practiced.

(c) An owner shall conspicuously post its business license at: the entrance or reception area of the establishment; or, the public business desk or counter of the establishment; or, the area where the licensed activities are performed.

(d) An owner shall conspicuously post an itemized list of all services performed at the business establishment and the prices charged for those services.

(e) An owner who permits the practice of nail specialty to be conducted in an appearance enhancement business shall conspicuously post a nail practitioner bill of rights in a place where it will be readily visible by practitioners and the public. The Department of State shall furnish such sign to every place of business that permits the practice of nail specialty.

§160.11. Owner responsibilities.

(a) An owner shall be responsible for the proper conduct of the licensed business and for the proper provision of appearance enhancement services to the public by its employees or operators.

(b) An owner shall be responsible for compliance with all applicable health and sanitary codes, and all statutory and regulatory requirements with respect to the practices of the occupation and business prescribed by this Part.

(c) An owner shall be responsible for maintaining the following equipment at each workstation, to be made available, upon request and without cost, to each person providing nail care services who uses such workstation:

(1) A properly fitting N-95 or N-100 respirator, approved by the National Institute for Occupational Safety and Health ("NIOSH"), for each individual who uses such workstation, to reduce inhalation of dust and particulate matter;

(2) Protective gloves made of nitrile, or other similar non-permeable material for workers with a sensitivity to nitrile gloves, in quantities sufficient to allow each individual providing nail care services to have a new pair of gloves for each customer served; and

(3) Eye protection sufficient to protect from splashes when pouring or transferring potentially hazardous chemicals from bulk

containers or when preparing potentially hazardous chemicals for use in nail care services.

§160.12. Open sources of ignition.

(a) In order to ensure that products or chemicals are not inadvertently ignited, open sources of ignition, flame or sparks, including candles, gas burners and cigarettes, are prohibited. Owners, managers and individual operators shall be responsible for such compliance.

(b) Owners may designate a smoking area for employees and clients. However, such designated area must be separated from the operational areas of the premises and be properly ventilated.

§160.13. Original applications.

In determining qualifications and fitness of an applicant for original licensure pursuant to Article 27 of the New York General Business Law, the Secretary shall conduct a review of factors unrelated to prior criminal history, including, but not limited to:

(a) findings of violations related to any provision of Article 27 or any regulation adopted thereunder;

(b) findings of unlicensed practice of nail specialty, waxing, natural hair styling, esthetics or cosmetology;

(c) findings of failure to pay taxes or of tax liens; and

(d) findings of failure to pay child support.

§160.14. Inspection and investigation.

(a) An appearance enhancement business shall be subject to reasonable inspection by representatives of the department at any reasonable time and without notice.

(b) A licensee shall cooperate with any inspection or investigation made by the department.

(c) Owners or area renters of any appearance enhancement business shall retain the invoices of all sterilants and disinfectants used in the shop for a period of two years. Evidence of such invoices must be available at the time of any inspection.

§160.15. Barbering prohibitions.

(a) An owner shall not permit the practice of barbering at its business location without such owner having first obtained a barber shop license pursuant to article 28 of the General Business Law.

(b) Apprentice barbers shall not be sponsored or supervised by licensed natural hair stylists.

§160.16. Facilities: ancillary provisions.

In addition to any requirement of the State Uniform Code, State Sanitary Code, State Industrial Code or similar law or regulation, an owner shall provide:

(a) hot and cold running water;

(b) toilet facilities and wash basins for use by clients and employees;

(c) illumination for the safe provision of licensed services;

(d) covered containers for hair, paper and other waste material; and

(e) sufficient space or working area to ensure the safety and health for both the operator and client.

§160.17. Cleaning, disinfection or sterilization of implements.

(a) Disinfectants used for reprocessing implements must be registered by the Environmental Protection Agency (EPA) as a "hospital grade disinfectant" and the active ingredients and scope of activity clearly described on the original label.

(1) EPA approved hospital grade disinfectants must be used in accordance with the manufacturers' directions for the intended implement or surface.

(2) Categories of EPA approved hospital grade disinfectants that are recognized for use on implements or environmental surfaces include ethyl or isopropyl alcohols, phenolics, quaternary ammonium compounds, iodophors and sodium hypochlorite.

(b) Implements requiring sterilization shall be autoclaved or immersed for no less than 10 hours in a liquid sterilant registered by the EPA.

(c) Reprocessing standards.

(1) After each client use, combs, brushes and other implements that are used on the hair shall be cleaned with warm water and soap or a detergent to remove all hair and scalp debris, rinsed thoroughly, dried with clean toweling or other absorbent material, and completely immersed in an EPA hospital grade disinfectant. Such implements shall be soaked for 10 minutes or more, removed, rinsed, dried and stored in a drawer, cabinet or covered container.

(2) After each client use, electric razor heads, cuticle scissors, and other implements which may abrade or clip superficial layers of skin shall be cleaned with warm water and soap or detergent, rinsed thoroughly, dried with clean toweling or other material, and completely immersed in an EPA approved hospital grade disinfectant in accordance with manufacturers' recommendations for the implement, and no less than 10 minutes. Following disinfection, the implement shall be rinsed, dried, and stored in a drawer, cabinet or covered container.

(3) Implements that are intended to penetrate skin or enter pores shall be either single use disposable or subject to sterilization. Implements that will be reused shall be thoroughly cleaned with warm water and soap or a detergent, rinsed and sterilized after each client use. Implements that will be autoclaved shall be packaged prior to sterilization.

(d) All solutions and equipment used for disinfection or sterilization shall be stored, maintained and monitored so as to protect from contamination and to assure the continued integrity of the intended process.

(e) Transport of "clean" and "dirty" equipment to and from remote locations. All supplies and implements shall be transported to and from the remote location in covered containers. Clean implements and supplies (e.g., towels) shall be kept in containers separate from those implements and supplies that have been used and marked according to their status.

§160.18. Restricted use of certain items.

(a) The use of the following is prohibited or limited as follows:

(1) Bar soap for more than one person is prohibited. Liquid or powder soap dispensers may be used.

(2) A razor may not be used for more than one application. Disposable razors are permitted and shall be disposed of in accord with §160.19(b) of this Part.

(3) Chamois buffers and pumice stones are prohibited.

(4) Nail white pencils are prohibited (unless pencil is sharpened after each use).

(5) "Credo" knives are prohibited.

(6) An emery board for more than one person is prohibited.

(7) Finger bowls, pedicure bowls and footbaths must be cleaned, rinsed and disinfected after each client use.

(8) The use of shaving mugs in common is prohibited. Sanitary paper or plastic inner cups are to be used for each client and destroyed after each use.

(9) The use of non-disposable powder puffs, neck dusters which cannot be immersed in an EPA approved hospital grade disinfectant and sponges is prohibited.

(10) Styptic pencils are prohibited.

(b) The presence in the workplace of implements or items as set forth in paragraphs (a)(3), (5), (8), (9) and (10) of this section shall be presumptive evidence of their use.

§160.19. Procedures with respect to blood, body fluids and client contact.

All blood encountered in the workplace shall be treated as if it is infectious. Direct contact with blood should be avoided and disposable gloves used whenever such contact can be reasonably anticipated. In

addition to any other statutory or regulatory procedures with respect to blood, body fluids and client contact, the following precautionary measures must be taken:

(a) Any disposable materials coming into contact with blood or body fluids, such as discharge from open sores, pimples and sebaceous glands shall be disposed of in a plastic bag which will be sealed in a manner that not only protects the licensee and the client but also others, such as sanitation workers, who may come into contact with the material.

(b) Any disposable sharp objects that come into contact with blood or other body fluids shall be disposed of in a sealable rigid container (puncture-proof) that is strong enough to protect the licensee and the client or others from accidental cuts or puncture wounds that could happen during the disposal process.

(c) Plastic bags and sealable rigid containers shall be available for use at all times when services are being performed. Absence of containers shall be presumptive evidence of noncompliance.

(d) Any material used to stop the flow of blood shall be disposed of immediately after use in accord with subdivision (b) of this section, or shall be in liquid or powder form. The use of styptic pencils is strictly prohibited.

§160.20. Hygienic practices.

(a) Cotton applicators may be used and must be stored in a closed container or sealed bag.

(b) A clean sheet of paper or a clean towel not previously used for any purpose shall be placed on the table or headrest before any client reclines on a table or chair.

(c) Cloth towels may be used once then bagged, machine washed and dried.

(d) A paper strip or clean towel shall be placed completely around the neck of each client before an apron or any other protective device is fastened around the neck.

(e) All practitioners and nail care clients must wash hands with soap and water before each client service.

(f) All sharp or pointed equipment shall be stored when not in use so as not to be accessible to consumers.

(g) All fluids, semifluids and powders must be dispensed with a shaker, dispenser pump or spray type container. All creams, lotions and other cosmetics used for clients must be kept in closed containers and dispensed with disposable applicators. When only a portion of a preparation is to be used on a client, it shall be removed from the container in such a way as not to contaminate the remaining portion.

(h) All practitioners shall have access to and may use a properly fitted N-95 or N-100 respirator, provided by the owner and approved by the National Institute for Occupational Safety Health ("NIOSH"), in accordance with manufacturer's specifications when buffing or filing artificial nails or using acrylic powder.

(i) All practitioners shall have access to and may wear gloves, provided by the owner, when handling potentially hazardous chemicals or waste and during cleanup, or when performing any procedure that has a risk of breaking a customer's skin.

(j) All practitioners shall have access to and may wear eye protection, provided by the owner, when pouring or transferring potentially hazardous chemicals from bulk containers and when preparing potentially hazardous chemicals for use in nail care services.

§160.21. Sanitary dress.

Any clothing worn by licensed individuals shall be clean and pose no health or safety hazard to the client or to the operator while attending a client.

§160.22. Sanitary facilities.

The facilities wherein licensed services are provided shall be kept clean and in good repair. Dangerous conditions or hazards shall not be permitted. Specifically:

(a) Ceilings, walls and baseboards shall be maintained in good repair and kept free of dust, dirt and hair. Any cracks, holes or other

openings shall be filled in. Broken ceilings shall be repaired and cracks in walls, especially around baseboards, shall be filled in.

(b) Shelves, furniture and fixtures shall be kept clean, free of dust, dirt and hair, and in good working condition.

(c) Floors shall be kept clean and in good repair. There shall be no accumulation of dust or hair on floors. Acceptable floor coverings are cement, tile, hardwood, linoleum, vinyl or low nap carpeting. Floors constructed of composition material shall be swept daily. No hair shall be allowed to accumulate on floors.

(d) Plumbing fixtures, including toilets and wash basins, shall be of impervious material and kept clean. They must be free from cracks and from parts which are not readily accessible for cleaning, and must be in compliance with applicable State or local codes.

(e) Styling stations, working station and manicure tables shall be sanitized and cleaned between each client service.

(f) Hand washing facilities shall be available in all lavatories. Disposable paper towels or hot air dryers shall be available for hand drying. Cloth reusable hand towels are prohibited unless a clean towel is made available for each person using the facilities.

§160.23. Food and beverages.

Food and beverages are not to be prepared, kept or sold in the licensed premises. However, such prohibition shall not apply where such foodstuffs are prepared or kept in a room adequately ventilated with exhaust of fumes away from the public area and completely separate and apart from the workplace, or in the case of beverages which are kept in covered containers.

§160.24. Towels and linens.

Every client shall be served with clean, freshly laundered linen or disposable towels. Immediately after use, linens or towels shall be placed in a covered receptacle used for that purpose alone.

§160.25. Chemical storage and MSDS.

(a) Any chemicals used in the conduct of appearance enhancement shall be mixed only in a dispensing area which has adequate ventilation.

(b) Flammable and combustible chemicals shall be stored in a metal cabinet remote from potential sources of ignition, such as an open flame or an electrical device.

(c) All nail care chemicals must be stored in closed bottles.

(d) An owner have on file all Material Safety Data Sheets (MSDS) for inspection. MSDS must be stored in a metal file accessible to all employees.

§160.26. Product labeling.

In order to assure the safe provision of services to the public, all products used in the conduct of an appearance enhancement business must be maintained with the original manufacturer labeling intact. All bottles containing poisonous or corrosive substances shall be additionally and distinctly marked as such and shall be stored in an area not open or available to the public.

§160.27. Applicability.

Appearance enhancement licensure is not applicable to the following:

(a) Permanent makeup (micropigmentation): The practice of micropigmentation or tattooing. However, should such practice be performed in an appearance enhancement business, the owner and any licensed operator performing such services shall be responsible for the proper sanitation and disinfection and sterilization of all implements according to applicable State and local standards and regulations.

(b) Massage: No appearance enhancement practitioner shall be authorized to practice massage, including manual lymphatic drainage, as defined by §7801 of the State Education Law. Licensed appearance enhancement practitioners may practice light massage of the surface layers of soft tissue for purposes of beautification.

(c) Practice of medicine: No appearance enhancement licensee shall be authorized to diagnose or treat diseases, including diseases of the skin, hair and nails. Such activity is within the practice of medicine. An owner

shall not permit the practice of medicine at its business location without appropriate licensure therefor.

(d) Practice of nursing: No appearance enhancement licensee shall be authorized to practice nursing. An owner shall not permit the practice of nursing at its business location without appropriate licensure therefor.

(e) Permanent dyeing: No appearance enhancement licensee shall be authorized or permitted to apply dye of any kind to eyelash or eyebrow hair.

(f) Physician's supervision: The performance of services under the direct supervision of a physician or nurse when performed within the direct employ of and on the premises of a medical facility.

§160.28. Photograph requirements.

(a) An appearance enhancement practitioner shall affix his/her photograph (containing only the head and full face) to the license in the appropriate space indicated, and subscribe beneath or alongside the photograph the date it was taken. A photograph on a license cannot be more than four years old.

(b) A business licensee shall have affixed to the license a 1½" × 1½" photograph of the person who owns or manages the business (containing only the head and full face) with a subscription beneath or alongside the photograph indicating the date it was taken. A photograph on a license cannot be more than four years old.

§160.29. Untimely renewal.

An individual failing to file for renewal of an appearance enhancement license within five years of the expiration date cited on the individual's license shall be ineligible for such license until he/she passes a written examination.

§160.30. Reciprocity.

The department may establish reciprocity with other states when in the judgment of the Secretary of State, the license in the other state was issued in compliance with standards which were not lower than those of the State of New York and provided the other state extends similar reciprocity to the licensees of the State of New York.

§160.31. Equivalent occupation.

(a) Individuals who have legally practiced an occupation that is equivalent to any appearance enhancement category for a period of at least five years in another jurisdiction may be licensed to practice in New York State.

(b) Applicants must provide evidence of five years legal experience practicing the occupation and demonstrating the equivalency of such occupation to the relevant category of appearance enhancement.

Evidence may include but is not limited to:

- (1) certifications from licensing agencies;
- (2) copies of passports which indicate occupation of individual;
- (3) tax returns;
- (4) letters from employers;
- (5) practical and written examination results; and
- (6) course curricula.

(c) Such evidence must be presented in legible form and in English. If a translation is provided, it must be certified as true and accurate by the translator.

§160.32. Education credit.

Application for full educational credit may be made by individuals who have completed an approved course of study in another jurisdiction that equals or exceeds the number of hours and content required for New York State licensure.

§160.33. Verification of education.

An application for licensure must be verified by a representative of the approved appearance enhancement school. A school shall authorize such individual to make such verification, and file such authorization with the department.

§160.34. Applicability of examination results.

Passing grades for practical and written examinations in any appearance enhancement discipline may be applied towards licensure for a period of five years.

§160.35. Photograph requirement for practical examination.

Any applicant participating in a practical examination must at the time of the examination, submit a recent photograph that contains only the head and full face of the applicant.

§160.36. Practical examiners.

Every practical examiner shall be a New York State licensed, practicing cosmetologist, natural hair stylist, esthetician, nail specialist or waxer who has five or more years of active experience in the related discipline.

§160.37. Examination interpreters.

If an examination is not available in the applicant’s language at the time of application, an examinee who is not fluent in the English language may provide for an interpreter to accompany him or her to the examination. Such interpreter must be fluent in both the examinee’s native language and English. The department may refuse entrance to any interpreter who possesses specialized knowledge in appearance enhancement or barber disciplines or who has previously provided interpretive services within a three-month period. Prior to entrance an examinee and interpreter will be required to verify such facts and an interpreter will be required to present three forms of identification acceptable to the department.

§160.38. Compliance with other laws.

In the course of its operation of an appearance enhancement business, an owner shall refrain from engaging in any conduct violative of any State or Federal law, rule or regulation.

§160.39. Notification of proceeding to direct cessation of unlicensed activity.

(a) All businesses and operators served with a Notice of Violation relating to unlicensed activity pursuant to Article 27 of the New York General Business Law shall immediately affix a copy of such notice on the front window, door or exterior wall of the business. The Notice of Violation shall be within five feet of the front door or other opening to the business where customers enter from the street, at a vertical height no less than four feet and no more than six feet from the ground or floor. An establishment without a direct entrance from the street shall post such Notice of Violation at its immediate point of entry in a place where customers are likely to see it.

(b) Such Notice of Violation shall not be removed except when authorized by the Department.

**APPEARANCE
ENHANCEMENT:
CURRICULUM
PART 162**

§162.1. Nail specialty.

(a) Scope of curriculum. Educational requirements for nail specialists shall include the following subjects and the hours assigned to each:

Scope of Curriculum	Hours
Orientation	4
(1) Safety and Health	8
(2) Anatomy and Physiology of the Nail, Hand, Arm, Foot and Leg	10
(3) Bacteria and Infectious Diseases; Nail, Foot, Skin Disorders and Diseases	10

(4) Methods of Infection Control	10
(5) Client Consultation	4
(6) Manicuring and Hand/Arm Massage	20
(7) Pedicuring	15
(8) Tip Application and Design	12
(9) Nail Wraps	25
(10) Liquid and Powder Nail Extensions	50
(11) Gel Nails	20
(12) Nail Art	4
(13) Retailing Techniques	6
(14) Business Practices	8
(15) Job Skills	6
Unassigned Hours	38
Total	250

(b) Subject matter. Each subject (including orientation) shall include a treatment of the topics as set forth herein:

ORIENTATION—4 HOURS

- School Rules and Regulations
- Qualities of the Professional Nail Specialist
- Code of Ethics
- Familiarization of School Facilities and Supplies

Subject 1

SAFETY AND HEALTH—8 HOURS

- Local, State, Federal Safety Codes
- Salon/Clinic Rules and Regulations
- General Salon/Clinic Safety
- First Aid
- Hazardous Materials Communications (HAZMAT)

Subject 2

ANATOMY AND PHYSIOLOGY OF THE NAIL, HAND, ARM, FOOT AND LEG—10 HOURS

- Cell Metabolism and Structure
- Tissues and Organs
- Systems of the Body and Their Relationship
- Histology of the Skin and Its Function
- Bones, Muscles, Nerves of the Hand, Arm, Leg and Foot
- Nail Structure

Subject 3

BACTERIA AND INFECTIOUS DISEASES; NAIL, FOOT, SKIN DISORDERS AND DISEASES—10 HOURS

- Bacterial Infections
- Immunity
- AIDS Awareness
- Hepatitis
- Viruses
- Mold and Fungus
- Disorders of the Nails and Skin
- Foot Disease

Subject 4

METHODS OF INFECTION CONTROL—10 HOURS

- Chemical Methods of Sanitation
- Physical Methods of Sanitation
- Sanitary Rules and Regulations
- Bloodborne Pathogen Infection Control

Subject 5

CLIENT CONSULTATION—4 HOURS

- Client Lifestyle Profile
- Diagnosis of Skin Type and Nail Plate Type and Shape
- Nail Services
- Nail Service and Product Usage

Subject 6

MANICURING AND HAND/ARM MASSAGE—20 HOURS

- Basic Manicure
- Men’s Manicure
- Conditioning Manicures
- Nail Shape and Color Analysis
- Types of Massage
- Massage of the Hand/Arm

Subject 7

PEDICURING—15 HOURS

- Pedicuring Procedures
- Procedure for Paraffin Treatment
- Massage and Manipulation
- Massage of the Foot/Leg

Subject 8

TIP APPLICATION AND DESIGN—12 HOURS

- Technology of Nail Tips
- Tip Adhesives
- Tip Fitting and Design
- Procedure for Tip Application
- Nail Tipping on Problem Nails
- Tip Removal

Subject 9

NAIL WRAPS—25 HOURS

- Silk, Fiberglass, and Linen Procedures
- Surface Wrapping Natural Nail and Mending
- Tip Overlay Wrapping
- Liquid Nail Wrap
- Maintenance

Subject 10

LIQUID AND POWDER NAIL EXTENSIONS—50 HOURS

- Application Procedures for:
 - Tip and Overlay
 - Natural Nail
 - Sculptured Nail
 - Mending and Repair
- Re-Balance and Repairs
- Problem Nails
- Chemical Reactions to Liquid and Powder

Subject 11

GEL NAILS—20 HOURS

- Gel Procedure
 - Natural Nails
 - Tip and Overlay
 - Sculptured Gel Nails
- Repair and Maintenance

Subject 12

NAIL ART—4 HOURS

- Nail Art Procedures

Subject 13

RETAILING TECHNIQUES—6 HOURS

- Sales Ethics
- Advertising Campaign
- Design a Retail Center for Nail Care Products
- Selling Techniques

Subject 14

BUSINESS PRACTICES—8 HOURS

- Business Operation
- Site Planning and Design
- Accounting and Inventory
- Payroll Regulations

Subject 15

JOB SKILLS—6 HOURS

- Basic Job Skills

§162.2. Esthetics.

(a) Scope of curriculum. Educational requirements for estheticians shall include the following subjects and the hours assigned to each:

Scope of Curriculum	Hours
Orientation	4
(1) Safety and Health	8
(2) Bacteriology	18
(3) Anatomy, Physiology, and Nutrition	25
(4) Structure and Functions of the Skin	12
(5) Superfluous Hair	24
(6) Chemistry	3
(7) Chemistry as Applied to Cosmetics	21
(8) Electricity and Machines	18
(9) Facial Treatments	225
(10) Body Procedures (No Machines)	48
(11) Make-Up Techniques	84
(12) Business Practices	50
(13) Job Skills	6
(14) Introduction to Paramedical Esthetics	18
	Unassigned 36
	Total 600

(b) Subject matter. Each Subject (including orientation) shall include a treatment of the topics as set forth herein:

ORIENTATION—4 HOURS

- School Rules and Regulations
- History of Esthetics
- The Role of the Esthetician
- Qualities of the Professional Esthetician
- Code of Ethics

Subject 1

SAFETY AND HEALTH—8 HOURS

- Local, State, Federal Safety Codes
- Salon/Clinic Rules and Regulations
- General Salon/Clinic Safety
- First Aid
- Hazardous Materials Communications (HAZMAT)

Subject 2

BACTERIOLOGY—18 HOURS

- Types and Classification
- Bacterial Growth and Reproduction

- Bacterial Infections and Their Prevention
- Immunity and Body Defenses
- Methods of Infection Control
- Physical and Chemical Agents

Subject 3

ANATOMY, PHYSIOLOGY AND NUTRITION—25 HOURS

- Cells, Tissues, and Organs
- Body Systems
- Importance of Water
- Nutrition for Healthy Skin and Longevity

Subject 4

STRUCTURE AND FUNCTIONS OF THE SKIN—12 HOURS

- Physiology and Histology of the Skin
- Structure and Functions of the Skin
- Appendages—Hair Structure and Functions With Relation to Esthetics (Nails, Sebaceous Glands, and Sweat Glands)

Subject 5

SUPERFLUOUS HAIR—24 HOURS

- Theoretical Overview of Permanent Methods (Electrolysis, Thermolysis, Blend)
- Temporary Methods of Hair Removal: Manual Tweezing, Depilatory Lotion, and Waxing (Strip and Non-strip)
- Bleaching of the Hair

Subject 6

CHEMISTRY—3 HOURS

- Chemistry and Matter As Related to Esthetics; Chemical Reactions and Solutions/Elements, Compounds and Mixtures/Biochemistry
- The pH Scale

Subject 7

CHEMISTRY AS APPLIED TO COSMETICS—21 HOURS

- Cosmetics
- Skin Care Products
- Massage Creams and Oils, Ampoules, and Scrubs
- New Technologies
- FDA Laws Governing Cosmetics and Cosmetic Safety

Subject 8

ELECTRICITY AND MACHINES—18 HOURS

- Electricity and Its Effects on the Skin
- Galvanic Current for Iontophoresis or Disincrustation
- High Frequency Current
- Use of: Magnifying Lamp and Wood's Lamp, Brushing Machine, Spray Machine and Suction Machine, Vaporizer and Pulverizador, Hot Towel Cabinet
- Paraffin Unit
- Electric Mittens, Booties, and Face Mask

Subject 9

FACIAL TREATMENTS—225 HOURS

- Client Preparation
- Skin Analysis and Consultation
- Skin Types
- Skin Conditions and Disorders
- Facial Procedures
- Facial Treatments With or Without Machines
- Overview of Aromatherapy and Manual Lymphatic Drainage for the Face and Neck
- Product Recommendation

Subject 10

BODY PROCEDURES (NO MACHINES)—48 HOURS

- Body Exfoliation (Wet and Dry)
- Back Treatments
- Use of Various Products to Enhance the Appearance of the Skin: Seaweed, Salt, Paraffin, Mud, Ampoules, Creams, etc.
- Discussion for Further Training Required for Advanced Body Techniques Such as Aromatherapy, Manual Lymphatic Drainage, Water Therapies

Subject 11

MAKE-UP TECHNIQUES—84 HOURS

- Color Analysis
- Morphology of the Face
- Product Knowledge, Chemistry, and Related Composition
- Eyebrow Contouring
- Make-Up Application
- Corrections and Contouring
- False Eyelashes
- Eyelash and Eyebrow Tinting
- Further Training Required for Advanced Techniques

Subject 12

BUSINESS PRACTICES—50 HOURS

- Business Operation
- Site Planning and Design
- Accounting, Inventory, and Sales Tax
- Payroll Regulations
- Ethics and Professional Conduct
- Communication Skills
- Retailing Techniques
- Marketing (Advertising, Retailing, and Promotion)
- Customer Relations

Subject 13

JOB SKILLS—6 HOURS

- Resume
- Interviews
- Letter Writing
- Licensing Regulations
- Job Attitudes
- Professional Organizations
- Continuing Education
- Industry Trade Shows, Magazines, etc.
- Career Opportunities

Subject 14

INTRODUCTION TO PARAMEDICAL ESTHETICS—18 HOURS

- Overview of Dermatologic Procedures
- Topical and Oral Medications
- Insight Into Plastic Surgery
- Pre- and Post-Operative Care
- Camouflage Therapy

§162.3. Natural hair styling.

(a) Scope of curriculum. The educational requirements for natural hair styling shall include the following subjects and the hours assigned to each:

Scope of Curriculum	Hours
(1) Professional Requirements	10
(2) Safety and Health	20

(3) Anatomy and Physiology	5
(4) Hair Analysis	10
(5) Hair and Scalp Disorders and Diseases	10
(6) Chemistry as Applied to Natural Hair Styling	5
(7) Shampoos, Rinses, Conditioners and Treatments	20
(8) Hair Braiding, Locking, Weaving and Styling	220
Total	300

(b) Subject matter. Each subject shall include a treatment of the topics as set forth herein:

Subject 1

PROFESSIONAL REQUIREMENTS—10 HOURS

- New York State License Requirements
- State and Federal Payroll Requirements
- New York State Sales Tax Requirements
- Career Opportunities and Placement
- Professional Ethics, Conduct and Attitude
- Professional Organizations, Trade Shows and Publications

Subject 2

SAFETY AND HEALTH—20 HOURS

- New York State Laws, Rules and Regulations
- OSHA Regulations Concerning Hazardous Materials Communications
- Types and Classification of Infectious Organisms
 - Bacteria
 - Viruses
 - Mold and Fungus
- Growth and Reproduction of Infectious Organisms
- Infections and Their Prevention
- Immunity and Body Defenses
- Decontamination and Infection Control
- Physical and Chemical Agents

Subject 3

ANATOMY AND PHYSIOLOGY—5 HOURS

- Cells, Tissues, and Organs
- Body Systems
- Basic Principles of Nutrition

Subject 4

HAIR ANALYSIS—10 HOURS

- Structure
- Types of Hair and Curl Structure
- Growth Patterns
- Texture
- Porosity
- Elasticity

Subject 5

HAIR AND SCALP DISORDERS AND DISEASES—10 HOURS

- Dandruff
- Alopecia
- Fungal Infections
- Infestations
- Infections

Subject 6

CHEMISTRY AS APPLIED TO NATURAL HAIR STYLING—5 HOURS

- Forms and Properties of Matter
- Elements, Compounds and Mixtures
- Chemical Reactions and Solutions

- The pH Scale
- FDA Laws Governing Hair Care Products and Product Safety

Subject 7

SHAMPOOS, RINSES, CONDITIONERS AND TREATMENTS—20 HOURS

- Client Preparation, Analysis and Consultation
- Hair Analysis Instruments and Equipment
- Shampooing Products, Composition and Procedures
- Rinsing Products, Composition and Procedures
- Conditioning Products, Composition and Procedures
- Procedures for Hair and Scalp Disorders
- Scalp Manipulations

Subject 8

HAIR BRAIDING, LOCKING, WEAVING AND STYLING—220 HOURS

- Tools
- Materials for Extensions
- Single Braids With and Without Extensions
- Cornrows With and Without Extensions
- Double Strand Twisting
- Thread Wrapping
- Lock Theory
 - Palm Roll
 - Comb Twisting
 - Two-Strand Twisting
- Traditional Weaving and Styling
- Roller Styling
- Finishing Techniques
- Hair Styling Services
 - Tools and Implements
 - Blowdrying
 - Thermal Curling
 - Hair Pressing
- Hair Pieces

§162.4. Cosmetology.

(a) Scope of curriculum. The educational requirements for cosmetologists shall include the following subjects and the hours assigned to each:

Scope of Curriculum	Hours
(1) Professional Requirements	24
(2) Safety and Health	26
(3) Anatomy and Physiology	15
(4) Hair Analysis	10
(5) Hair and Scalp Disorders and Diseases	10
(6) Chemistry as Applied to Cosmetology	5
(7) Shampoos, Rinses, Conditioners and Treatments	30
(8) Hair Cutting and Shaping	175
(9) Hair Styling	245
(10) Chemical Restructuring	180
(11) Hair Coloring and Lightening	180
(12) Nail Care and Procedures	40
(13) Skin Care and Procedures	60
Total	1000

(b) Subject matter. Each subject shall include a treatment of the topics as set forth herein:

Subject 1

PROFESSIONAL REQUIREMENTS—24 HOURS

- New York State License Requirements
- State and Federal Payroll Requirements
- New York State Sales Tax Requirements
- Career Opportunities and Placement
- Professional Ethics, Conduct and Attitude
- Professional Organizations, Trade Shows and Publications

Subject 2

SAFETY AND HEALTH—26 HOURS

- New York State Laws, Rules and Regulations
- OSHA Regulations Concerning Hazardous Materials Communications
- Types and Classification of Infectious Organisms
 - Bacteria
 - Viruses
 - Molds
 - Fungus
- Growth and Reproduction of Infectious Organisms
- Infections and Their Prevention
- Immunity and Body Defenses
- Decontamination and Infection Control
- Physical and Chemical Agents

Subject 3

ANATOMY AND PHYSIOLOGY — 15 HOURS

- Cells, Tissues and Organs
- Body Systems
- Basic Principles of Nutrition
- Overview of Bones and Muscles of the Head, Arms, Hands, Legs and Feet

Subject 4

HAIR ANALYSIS—10 HOURS

- Structure
- Growth Patterns
- Texture
- Porosity
- Elasticity

Subject 5

HAIR AND SCALP DISORDERS AND DISEASES — 10 HOURS

- Dandruff
- Alopecia
- Fungal Infections
- Infestations
- Infections

Subject 6

CHEMISTRY AS APPLIED TO COSMETOLOGY — 5 HOURS

- Forms and Properties of Matter
- Elements, Compounds and Mixtures
- Chemical Reactions and Solutions
- The pH Scale
- FDA Laws Governing Hair Care Products and Product Safety

Subject 7

SHAMPOOS, RINSES, CONDITIONERS AND TREATMENTS — 30 HOURS

- Client Preparation, Analysis and Consultation
- Hair Analysis Instruments and Equipment

- Shampooing Products, Composition and Procedures
- Rinsing Products, Composition and Procedures
- Conditioning Products, Composition and Procedures
- Procedures for Hair and Scalp Disorders
- Scalp Manipulations

Subject 8

HAIR CUTTING AND SHAPING — 175 HOURS

- Fundamentals, Principles and Concepts of Design
 - Nomenclature and Care of Scissors
 - Techniques and Procedures
- Razor Haircutting
 - Nomenclature and Care of Razor
 - Techniques and Procedures
- Clipper Haircutting
 - Nomenclature and Care of Tools
 - Techniques and Procedures
- Removal/Trim of Superfluous Hair
- Contemporary and Specialized Haircutting
 - Female Styles
 - Male Styles
 - Children Styles
- Mustache and Beard Shaping
- Shaving
 - Dexterity of the Hands and Razor
 - Preparation and Procedures

Subject 9

HAIR STYLING — 245 HOURS

- Fingerwaving
- Pincurling
- Skipwaving
- Roller Styling
- Patterns in Hairstyling
 - Waves, Pin Curls, Rollers and Combinations
- Finishing Techniques
- Twisting, Wrapping, Weaving, Extending, Locking and Braiding
- Traditional Weaving and Styling
- Services in Hairstyling
 - Tools and Implements
 - Blowdrying
 - Thermal Curling
 - Hair Pressing
- Hair Pieces

Subject 10

CHEMICAL RESTRUCTURING — 180 HOURS

- Chemistry
- Chemical Restructuring Products
- Client Consultation
- Preliminary Procedure of Chemical Restructuring
- Procedure of Chemical Restructuring
- Corrective Chemical Restructuring

Subject 11

HAIR COLORING AND LIGHTENING — 180 HOURS

- Color Theory
- Chemistry

- Preliminary Procedures of Hair Coloring
- Client Consultation
- Hair Coloring Procedures
- Hair Lightening
- Special Effects
- Corrective Procedures

Scope of Curriculum	Hours
(1) Professional Requirements	10
(2) Safety and Health	20
(3) Skin Structure, Disorders and Diseases	10
(4) Removal of Superfluous Hair	35
Total	75

Subject 12

NAIL CARE AND PROCEDURES — 40 HOURS

- Nail Structure
- Nail Disorders and Diseases
- Nail Shape and Color Analysis
- Basic Manicuring and Pedicuring
- Manipulations of the Hand, Arm, Leg and Foot
- Nail Tip Application
 - Adhesives
 - Fitting, Design and Application
- Nail Wrap Application
 - Silk, Fiberglass and Linen Procedures
 - Surface Wrapping Natural Nail and Mending
 - Tip Overlay Wrapping
 - Repair, Maintenance and Removal
- Liquid and Powder Nail Extensions
 - Application Procedures for Tips with Overlays, Natural Nails and Sculptured Nails
 - Repair, Maintenance and Removal
 - Chemical Reactions to Liquid and Powder

Subject 13

SKIN CARE AND PROCEDURES — 60 HOURS

- Structure and Function of the Skin
- Skin Conditions and Disorders
- Facial and Body Procedures
 - Client Preparation
 - Skin Analysis and Consultation
- Wet and Dry Exfoliations and Applications
- Use of Various Products to Enhance the Appearance of the Skin
 - Seaweed, salt, paraffin, mud, ampules, creams, etc.
- Discussion for Further Training Required for Advanced Techniques Such as Aromatherapy and Water Therapies
- Temporary Methods of Hair Removal
 - Manual Tweezing
 - Depilatory Lotion
 - Waxing
 - Bleaching
- Make-Up Application
 - Color Analysis
 - Morphology of the Face
 - Product Knowledge, Chemistry and Related Composition
 - Eyebrow Contouring
 - Corrections and Contouring
 - False Eyelashes
 - Further Training Required for Advanced Techniques

§162.5. Waxing.

(a) Scope of curriculum. The educational requirements for waxing shall include the following subjects and the hours assigned to each:

(b) Subject matter. Each subject shall include a treatment of the topics as set forth herein:

Subject 1

PROFESSIONAL REQUIREMENTS—10 HOURS

- New York State License Requirements
- State and Federal Payroll Requirements
- New York State Sales Tax Requirements
- Career Opportunities and Placement
- Professional Ethics, Conduct and Attitude
- Professional Organizations, Trade Shows and Publications

Subject 2

SAFETY AND HEALTH — 20 HOURS

- New York State Laws, Rules and Regulations
- OSHA Regulations Concerning Hazardous Materials Communications
- Types and Classification of Infectious Organisms
 - Bacteria
 - Viruses
 - Mold and Fungus
- Growth and Reproduction of Infectious Organisms
- Infections and Their Prevention
- Immunity and Body Defenses
- Decontamination and Infection Control
- Physical and Chemical Agents

Subject 3

SKIN STRUCTURE, DISORDERS AND DISEASES — 10 HOURS

- Histology of the Skin and its Functions
- Skin Disorders and Diseases
- Hair Structure and Functions With Relation to Waxing

Subject 4

REMOVAL OF SUPERFLUOUS HAIR — 35 HOURS

- Theoretical Overview of Permanent Methods (Electrolysis, Thermolysis, Blend)
- Temporary Methods of Hair Removal
 - Manual tweezing
 - Depilatory lotion
 - Waxing (strip and non-strip)

§162.6. Nail specialist trainee.

(a) Scope of curriculum. Educational requirements for nail specialist trainees shall include the following subjects and the hours assigned to each:

Scope of Curriculum	Hours
(1) Course Overview/Content	1
(2) Workplace Safety and Health	5
(3) Infection Control	6
(4) Bacteria and Infectious Disorders and Diseases	6
(5) Anatomy and Physiology of the Nail, Hand, Arm, Foot and Leg	3
(6) Client Consultation and Service Protocols	5
(7) Examination	N/A
Total	26

(b) Subject matter. Each subject (including the course overview) shall include a treatment of the topics as set forth herein:

Subject 1

COURSE OVERVIEW/CONTENT—1 HOUR

- Course Overview
- The Role of the Nail Specialist
- New York State Law, Rules, and Regulations

Subject 2

WORKPLACE SAFETY AND HEALTH—5 HOURS

- Local, State, and Federal Safety Codes
- General Salon Safety
- Hazardous Materials Communications (HAZMAT)

Subject 3

INFECTION CONTROL—6 HOURS

- Methods of Infection Control
- Physical and Chemical Agents of Infection Control
- Bloodborne Pathogen Infection Control

Subject 4

BACTERIA AND INFECTIOUS DISORDERS AND DISEASES—6 HOURS

- Types and Classification of Bacteria
- Immunity and Body Defenses
 - Viral Infections
 - Mold and Fungal Infections
 - Disorders and Diseases of the Nails and Skin

Subject 5

ANATOMY AND PHYSIOLOGY OF THE NAIL, HAND, ARM, FOOT AND LEG—3 HOURS

- Significance of Anatomy and Physiology to the Nail Specialist
- Cell Metabolism and Structure
- Tissues and Organs
- Systems of the Body and Their Relationship
- Histology of the Skin and Its Function
- Bones, Muscles, Nerves of the Hand, Arm, Leg and Foot
- Nail Structure

Subject 6

CLIENT CONSULTATION AND SERVICE PROTOCOLS—5 HOURS

- Client Needs Assessment
- Nail and Skin Analysis/Product Selection and Treatment Recommendations

APPROVAL OF NAIL SPECIALIST TRAINEE COURSES PART 163

Section 163.1. Scope and authority.

The provisions of this Part apply to the requirements and procedures relating to the courses of instruction required for nail specialist trainees.

Notwithstanding any provision to the contrary, no offering of a course of study concerning nail specialist trainees, for the purpose of compliance with Article 27 of the New York General Business Law, shall be acceptable for credit unless such course of study has been approved by the Department of State in compliance with this Part.

Authority for this Part is provided by Article 27 of the New York General Business Law.

Section 163.2. Approved entities.

Nail specialist trainee courses may be given by any college, university, public or private school accredited or recognized by the Commissioner of Education of the State of New York, or any entity authorized to conduct business within the State and approved by the Department of State pursuant to this Part.

No nail specialist trainee course may be affiliated with or controlled by any licensed nail specialist, nail specialist trainee, licensed appearance enhancement business, or affiliated with or controlled by any subsidiary of any licensed appearance enhancement business, or affiliated with or controlled by any subsidiary or applicant thereof.

Section 163.3. Requests for approval of courses of study.

Applications for approval to conduct courses of study to satisfy the requirements for nail specialist trainees shall be made at least 60 days before the proposed course is to be conducted. The application shall include the following:

- (a) name and business address of the entity which will present the course;
- (b) if applicant is a partnership, the names and home addresses of all the partners of the entity;
- (c) if applicant is a corporation, the names and home addresses of persons who own five percent or more of the stock of the entity;
- (d) the name, home and business address and telephone number of the education coordinator that will be responsible for implementing the program in accordance with the regulations contained in this Part;
- (e) locations where classes will be conducted;
- (f) title of each course to be conducted;
- (g) detailed outline of each course subject, together with the time sequence of each segment;
- (h) final examination(s), including make-up examination(s) to be presented for each course, including the answer key and all reference sources used to support each correct answer;
- (i) description of materials that will be distributed;
- (j) a course cancellation and tuition refund policy;
- (k) the books that will be used for the outline and the final exams; and
- (l) such other information as directed by the Department.

Section 163.4. Scope of curriculum.

Educational requirements for nail specialist trainees shall include the subjects and hours assigned to each subject required by Section 162.6 of Title 19 of the NYCRR.

Section 163.5. Equivalency of out-of-state education courses.

(a) Students who have completed a course of study outside the State, which has not been approved by the Department, may request to have such course count as credit toward their education requirement. To receive credit a student must submit the following:

- (1) An official school transcript showing satisfactory completion of equivalent education;
- (2) An official school description of the courses completed; and
- (3) Such other information as the Department may require.

(b) No student shall be given credit for out of state education, unless the Department finds that such course or courses covered substantially the same subject matter, and equaled or exceeded the standards as required by this Part. Students may not be given partial credit for any out of state education.

(c) Notwithstanding any equivalency credit granted for course work, a nail trainee must demonstrate that he or she has been actively engaged in a traineeship within the State for a period of one year under the tutelage, supervision and direction of a licensed nail specialist prior to the issuance of his or her own nail specialist license.

Section 163.6. Computation of instruction time.

To meet the minimum requirements, attendance shall be computed on the basis of an hour equaling 50 minutes.

Section 163.7. Attendance and examinations.

- (a) An approved entity may not give credit to a student who is absent during any instructional period or periods totaling more than 10 percent of the curricula.
- (b) An approved entity, may in its discretion, permit a student to make up a missed subject matter during subsequent classes.
- (c) An approved entity may not allow a student who has not satisfied the attendance requirements, to take a final examination.
- (d) An approved entity may allow a student to take make-up examination at its discretion.
- (e) All examinations required for course work shall be written and given within a reasonable time after the course work has been conducted.

Section 163.8. Facilities.

No course shall be presented in any location other than a location approved by the Department.

Section 163.9. Record retention.

- (a) Approved entities shall retain the attendance records of each enrolled student, the final examinations and a list of students who successfully complete each course for a period of five years after completion of each course, and, in addition, shall maintain for five years the following records concerning each course:
 - (1) the approval number issued by the Department of State for the course;
 - (2) title and description of the course;
 - (3) the dates and hours the course was given; and
 - (4) the names and unique identification numbers, if applicable, of the persons who took the course and whether they completed it successfully.
- (b) All documents shall at all times during such period be available for inspection by duly authorized representatives of the Department of State.

Section 163.10. Faculty.

- (a) Each instructor for an approved nail specialist trainee course must be approved by the Department of State. To be approved, an instructor must demonstrate three years of experience as a licensed nail specialist.
- (b) An instructor who does not qualify under subdivision (a) of this section may be approved as a technical expert if the instructor submits an application and resume establishing, to the satisfaction of the Department of State, that the applicant is an expert in and has at least three years experience in a specific technical subject related to the performance of nail specialist services. Approval by the Department of State shall specify the subject(s) within the nail specialist trainee course or course subject for which approval is given.

Section 163.11. Policies concerning course cancellation and tuition refund.

Approved entities must provide a copy of the course cancellation and tuition refund policy to each prospective student prior to enrollment and acceptance of any fees.

Section 163.12. Revocation, suspension and denial of course approval.

The Department of State may deny, suspend, or revoke the approval or renewal of a nail specialist trainee course or a nail specialist trainee instructor, if it is determined that they are not in compliance with applicable law and rules, or if the course does not adequately reflect and present current nail specialist knowledge for nail trainee practice, or if the approved entity or instructor has obtained, used or attempted to obtain or use the Department of State's examination questions or answers concerning any practice for which a license is required pursuant to Article 27 of the New York General Business Law. Disciplinary

proceedings shall comply with the provisions of Article 27 of the New York General Business Law.

Section 163.13. Advertising.

- (a) Approved entities may not:
 - (1) make or publish any false or misleading statement or material omission regarding employment opportunities which may be available as a result of the successful completion of a course or as a result of acquisition of a nail specialist trainee registration;
 - (2) make or publish any false or misleading statement or material omission regarding enrollment of current or former students as inducement to obtain enrollment of new students;
 - (3) make or publish any other false or misleading statement or material omission as inducement to obtain enrollment of new students.

Section 163.14. Auditing.

A duly authorized representative of the Department of State may audit any course, and may verify attendance and inspect the records of attendance of the course at any time during its presentation or thereafter.

Section 163.15. Discriminatory practices.

Approved entities may not refuse enrollment by reason of a person or persons particular race, color, religion, national origin, age, sex, sexual orientation, disability, gender identity, military status, familial status or any other protected category under any federal, state or local law.

Section 163.16. Certificates of completion and student lists.

- (a) After successful completion of a course of study, each approved entity shall provide a certification of completion as prescribed by the Department of State. Each certificate shall be signed by an authorized representative of the approved entity and shall have affixed thereto the official seal of the approved entity.
- (b) An approved entity shall provide upon request to the Department a list of the names and addresses of students who have successfully completed each course of instruction. Each such list shall be certified by the provider as true and accurate.

Section 163.17. Change in approved course of study.

There shall be no change or alteration in any approved course of study without prior written notice to, and approval by, the Department of State.

Section 163.18. Course approval periods.

Course approvals shall be valid for 12 months or portion thereof, commencing January 1st or a date thereafter and shall continue until December 31st of each year.

Section 163.19. Fees.

- (a) Each approved entity shall pay an annual registration fee of \$25 for each 12-month period or part thereof.
- (b) Each approved entity shall pay an additional registration fee of \$25 for each additional location that a course is provided. Such additional fee shall be for a 12-month period or part thereof and shall run from each January 1st and shall continue until December 31st.
- (c) Each instructor employed to teach the nail specialist trainee course shall pay a one-time registration fee of \$25.
- (d) Fees shall be payable upon submission of the application or applications, and are nonrefundable.
- (e) The registration fees required by subdivisions (a) and (b) to become an approved entity shall not apply to the state, or any county, city, town or village or any subdivision thereof, or to any non-for-profit corporation.

Section 163.20. Distance learning programs.

(a) Distance Education is defined as any educational process based on the geographical separation of instructor and student (for example, CD-ROM, disk, on-line learning). Educational providers who wish to offer distance learning programs must have their programs evaluated and

approved in accordance with the provisions of this Part. Each provision of this Part shall be applicable to distance learning programs, unless specifically otherwise directed or authorized by the Secretary of State.

Section 163.21. Distance learning program requirements.

- (a) the material of a distance learning program must be divided into major units;
- (b) the contents of major units must be divided into modules of instruction;
- (c) the distance learning program must contain a time-default mechanism for inactivity so that a student is not credited when not actively participating in the program;
- (d) the approved entity offering the program must obtain from each student a signed and dated statement that he or she personally completed each module of the learning program;
- (e) the approved entity offering the program must retain a record of each student's participation in and completion of the distance-learning program for a period of five years, and such records must be available for review and inspection by the Department of State;
- (f) the approved entity offering the program must have an instructor approved pursuant to section 163.10 of this Part available to students, during reasonable business hours, to answer questions pertaining to the qualifying course content; and
- (g) the course must include a proctored final examination which must be held at a location within New York State approved by the Department.

Section 163.22. Request for approval of distance learning programs.

Applications for approval to conduct courses of study to satisfy the requirements for nail specialist trainees by distance learning shall be made at least 60 days before the proposed course is to be conducted. The application shall include the following:

- (a) name and business address of the entity which will present the course;
- (b) if the applicant is a partnership, the names and home addresses of the partners in the entity; if a corporation, the names and home addresses of any persons who own five percent or more of the stock of the entity;
- (c) the name, home and business address and telephone number of the education coordinator that will be responsible for implementing the program in accordance with the regulations contained in this Part;
- (d) locations where the final examination will be conducted;
- (e) title of each course to be conducted;
- (f) final examination(s), including make-up examination(s) to be presented for each course, including the answer key and all reference sources used to support each correct answer;
- (g) a course cancellation and tuition refund policy;
- (h) the books that will be used for the outline and the final exams;
- (i) an explanation of the means for monitoring and verifying each student's active participation, on an ongoing basis, during each module of instruction;
- (j) a brief description of the hardware and software to be used by the student;
- (k) a plan for providing technical support to the student;
- (l) a detailed course outline divided into major units; the contents of major units must be divided into modules of instruction; and
- (m) such other information as directed by the Department.

Section 163.23. Course completion for distance learning courses.

- (a) Students must successfully complete a distance learning course within 12 months of starting the program. This includes the passing of the school's final examination.
- (b) After successful completion of a course of study, each approved entity shall provide a certification of completion as prescribed by the Department of State. Each certificate shall be signed by an authorized representative of the approved entity and shall have affixed thereto the official seal of the approved entity.
- (c) An approved entity shall provide upon request to the Department a list of the names and addresses of students who have successfully completed each course of instruction. Each such list shall be certified by the provider as true and accurate.



**Department
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