

Section 162.6 of Title 19 NYCRR is added to read as follows:

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

Scope of Curriculum	Hours
Course Overview/Content	1
Workplace Safety and Health	5
Infection Control	6
Bacteria and Infectious Disorders and Diseases	6
Anatomy and Physiology of the Nail, Hand, Arm, Foot and Leg	3
Client Consultation and Service Protocols	5
	Total Hours 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 & 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 & PHYSIOLOGY OF THE NAIL, HAND, ARM, FOOT & 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 & SERVICE PROTOCOLS—5 HOURS

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

A new Part 163 is added to Title 19 NYCRR to read as follows:

Section 163.01. Scope and authority.

Statutory Authority: General Business Law §404 and 406

Section 163.01

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.

Section 163.02. Approved entities

Nail specialist trainee courses and offerings may be given by any college or university accredited by the Commissioner of Education of the State of New York or by a regional accrediting agency accepted by said Commissioner of Education; public and private schools; appearance enhancement related professional societies and organizations; and professional trade worker societies and organizations. No nail specialist trainee course of study seeking approval may be affiliated with or controlled by any licensed nail specialist, registered 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 nail specialist applicant, nail specialist trainee applicant, appearance enhancement business applicant, or affiliated with or controlled by any subsidiary of any appearance enhancement business applicant.

Section 163.03. 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 be prescribed by the department to include the following:

(a) name and business address of the proposed school 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 administering 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 module, together with the time sequence of each segment;
- (h) final examination to be presented for each course, including the answer key;
- (i) all times included on each test form must be consistent with content specifications indicated for each course. Weighing of significant content areas should fall within the weight ranges indicated. All reference sources used to support each correct answer must be included. Linkage to each answer must be indicated with a footnote showing page number, subject matter, etc.;
- (j) description of materials that will be distributed;
- (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 163.04 of Title 19 NYCRR is added to read as follows:

Section 163.04. Scope of Curriculum/Subjects for study.

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 163.05. Equivalency pre-registration education courses.

(a) The criteria for approval of courses offered outside of the State of New York, which course has not been approved by the Department of State, shall be that the course or courses have substantially covered the same subject matter, hours of attendance and completed standards as prescribed by this Part as a prerequisite of registration. Attendance in such a course of study may not be less than 26 hours. Upon issuance of equivalency credit, the applicant must complete remaining training in the practice of nail specialty under the tutelage, supervision and direction of a licensed nail practitioner who has a minimum of three years of full-time experience in the performance of nail specialty services, prior to the issuance of a nail specialty license.

(b) Application for course evaluation must be accompanied by an official transcript or other documentation showing the subjects taken, the hours of instruction devoted to each subject and the hours attended by said applicant together with the date completed. In addition, a course description or outline must be provided by the school along with an applicant's equivalency request.

(c) Individuals who complete a course of study offered outside of the State of New York, which course has not been approved by the Department of State, may file a request to the Department to have such course count as credit toward their New York pre-registration education requirement. All applications for such consideration must be submitted with official documentation of satisfactory completion and the official descriptions of the course of study as prescribed by the Department of State. Upon receipt of such a request, the Department of State will review and evaluate the out-of state course to determine if all or a portion of the course may be credited toward the applicant's New York pre-registration education requirement. Within 30 days of receipt of a request, the Department of State will approve or deny the request for New York continuing education credit.

(d) The department may request additional supportive documentation to determine course equivalency.

Section 163.06. Computation of instruction time

To meet the minimum requirements, attendance shall be computed on the basis of an hour equaling 50 minutes. For every 50 minutes of instruction there shall be an additional 10-minute break. The time of the breaks shall be left to the discretion of the individual education coordinator. Breaks shall not be considered optional, nor are they to be used to release the class earlier than scheduled.

Section 163.07 of Title 19 NYCRR is added to read as follows:

Section 163.07. Attendance and examinations.

(a) No person shall receive credit for any course module presented in a classroom setting if he or she is absent from the classroom, during any instructional period, for a period or periods totaling more than 10 percent of the time prescribed for the course module pursuant to Section 162.6 of Title 19 of the NYCRR, and no person shall be absent from the classroom except for a reasonable and unavoidable cause.

(b) Students who fail to attend the required scheduled class hours may, at the discretion of the approved entity, make up the missed subject matter during subsequent classes presented by the approved entity.

(c) Final examinations may not be taken by any student who has not satisfied the attendance requirement.

(d) A make up examination may be presented to students at the discretion of the approved entity. Make up examinations must be submitted for approval to the department in accordance with guidelines contained in Section 163.03 of this Part.

(e) All examinations required for course work shall be written and given within a reasonable time after the course work has been conducted. The failure of the final exam shall constitute failure of the course module.

Section 163.08. Facilities.

Each course shall be presented in such premises and in such facilities as shall be necessary to properly present the course. No course shall be presented in any appearance enhancement business except as otherwise permitted under this Part.

Section 163.09 of Title 19 NYCRR is added to read as follows:

Section 163.09. Record retention.

(a) All persons or organizations conducting approved courses of study shall retain the attendance records of each enrolled student, the final examinations and a list of students who successfully complete each course module for a period of three years after completion of each course module, and, in addition, shall maintain 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 specialty trainee course of study must be approved by the Department of State. To be approved, an instructor must submit an application along with a resume reflecting 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 specialty services. Approval by the Department of State shall specify the subject(s) within the nail specialty trainee course or course module for which approval is given.

Section 163.11. Policies concerning course cancellation and tuition refund.

Any educational institution or other organization requesting from the Department of State approval for nail specialty courses must have a policy relating to course cancellation and tuition refunds. Such policy must be provided in writing to prospective students prior to the acceptance of any fees.

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

(a) 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 offering does not adequately reflect and present current nail specialty knowledge as a basis for a level of nail trainee practice, or if the course provider 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. If disciplinary action is taken, a written order of suspension, revocation or denial of approval shall be issued.

(b) Within 60 days after the receipt of the application for approval of an offering, the department shall inform the sponsor as to whether the course has been approved, denied, or whether additional information is needed to determine the acceptability of the offering.

(c) Notwithstanding any other provision, prior to the denial of an application, suspension or revocation, the course provider or instructor shall have the opportunity to be heard by the Secretary of State or his designee.

Section 163.13. Advertising.

Any education institution or other organization offering approved courses may not make or publish any false or misleading statement regarding employment opportunities which may be available as a result of the successful completions of a course or as a result of acquisition of a nail specialist trainee registration.

Section 163.14. Auditing.

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

Section 163.15. Open Public.

All courses approved pursuant to this Part shall be open to all members of the public regardless of the membership of the prospective student in any nail specialty related professional society or organization.

Section 163.16 of Title 19 NYCRR is added to read as follows:

Section 163.16. Certificates of completion and student lists.

(a) Evidence of successful completion of a course module must be furnished to students in certificate form. The certificate must indicate the following: name of the student; name of the course provider; title of the nail trainee specialty module; number of hours; code number of the module; a statement that the student, who shall be named, has satisfactorily completed a course of study in nail trainee specialty, and that his or her attendance record was satisfactory and in conformity with the law, and that such module was completed on a stated date. The certificate must be signed and dated with the signature of the owner or course coordinator, and shall have affixed thereto the official seal of the school or entity.

(b) A list of the names and addresses of students who successfully complete each course module must be submitted to the Department of State within 15 days of completion of a course module. 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. Registration Period.

Each registration or renewal period for nail specialty trainee courses for approved educational providers shall be for 12 months or a part thereof; said period shall commence on January 1st or a date thereafter and continue until December 31st of each year.

Section 163.19 of Title 19 NYCRR is added to read as follows:

Section 163.19. Registration fees.

(a) Each school or entity shall pay an annual registration fee of \$300 for each 12 months or part thereof, and an additional registration fee of \$150 for each 12 months or part thereof for each location in excess of one where courses are to be given, said period to run from each September 1 to the subsequent August 31. For each teacher employed to teach the nail specialty course, each school or entity shall pay a one-time registration fee of \$25. Fees shall be payable on submission of the application or applications, and are nonrefundable.

(b) The registration fee required by subdivision (a) for a school or 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 learner (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. Notwithstanding anything to the contrary, each provision of this Part shall be applicable to distance learning programs, unless 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 school or other person 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 school or other person offering the program must retain a record of each student's participation in and completion of the distance-learning program for a period of three years, and such records must be available for review and inspection by the Department of State;

(f) the educational provider 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 of Title 19 NYCRR is added to read as follows:

Section 163.22. Request for approval of distance learning programs.

Applications for approval to conduct distance learning courses of study to satisfy the requirements for nail trainee registration shall be made 60 days before the proposed course is to be conducted. The application shall be prescribed by the Department to include the following:

(a) name, business address and telephone number of the proposed school which will present the course;

(b) if 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 administering 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 to be presented for each course, including the answer key;

(g) all times included on each test form must be consistent with content specifications indicated for each course. Weighing of significant content areas should fall within the weight ranges indicated. All reference sources used to support each correct answer must be included. Linkage to each answer must be indicated with a footnote showing page number, subject matter, etc.;

(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) The student 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) Evidence of successful completion of a course module must be furnished to students in certificate form. The certificate must indicate the following: name of the student; name of the course provider; title of the nail trainee specialty module; number of hours; code number of the module; a statement that the student, who shall be named, has satisfactorily completed a course of study in nail trainee specialty, and that his or her attendance record was satisfactory and in conformity with the law, and that such module was completed on a stated date. The certificate must be signed and dated with the signature of the owner or course coordinator, and shall have affixed thereto the official seal of the school or entity.

(c) A list of the names and addresses of students who successfully complete each course module must be submitted to the Department of State within 15 days of completion of a course module. Each such list shall be certified by the provider as true and accurate.