

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

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

<u>Scope of Curriculum</u>	<u>Hours</u>
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
Examination	N/A
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.

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 163.02. 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 163.03. 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 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 163.04. 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 163.05. 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 exceed 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 163.06. Computation of instruction time

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

Section 163.07. 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 163.08. Facilities.

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

Section 163.09. 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.