

STATE OF NEW YORK

6156

2021-2022 Regular Sessions

IN ASSEMBLY

March 10, 2021

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Economic Development

AN ACT to amend the general business law, in relation to licensing of laser hair removal technicians

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 400 of the general business law is amended by adding two new subdivisions 12 and 13 to read as follows:

12. The practice of "laser hair removal" means the use of a laser or pulsed light device in a hair removal procedure that does not remove the epidermis.

13. "Laser hair removal technician" means a person licensed by the secretary who practices laser hair removal as defined in subdivision twelve of this section.

§ 2. Subdivisions 1 and 3 of section 401 of the general business law, subdivision 1 as amended by chapter 80 of the laws of 2015 and subdivision 3 as amended by chapter 341 of the laws of 1998, are amended to read as follows:

1. No person shall engage in the practice of nail specialty, waxing, natural hair styling, esthetics ~~[or]~~, cosmetology or laser hair removal, as defined in section four hundred 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 certificate of registration pursuant to this article.

3. A person licensed by any other state or country to practice nail specialty, waxing, natural hair styling, esthetics ~~[or]~~, cosmetology or laser hair removal 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,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets ~~[-]~~ is old law to be omitted.

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1 that no such unlicensed person may provide services to the public for
2 any fee, or other compensation, whether direct or indirect.

3 § 3. Subdivision 1 of section 403 of the general business law, as
4 amended by chapter 339 of the laws of 2017, is amended to read as
5 follows:

6 1. There shall be established within the department an advisory
7 committee which shall consist of ~~[nine]~~ ten members broadly represen-
8 tative of the appearance enhancement industry; including one person
9 engaged in the practice of either nail specialty or waxing; two persons
10 engaged in natural hair styling; one of whom shall be knowledgeable in
11 the practice of styling techniques which place tension on the hair
12 roots, and one of whom shall ensure strict adherence to quality services
13 for all clients of all hair types, including, but not limited to, curl
14 pattern, hair strand thickness, and volume of hair; one person engaged
15 in esthetics; one person engaged in laser hair removal; two persons
16 engaged in cosmetology; two persons engaged in training of persons for
17 such practices and one person licensed as a dermatologist. The secretary
18 shall appoint such persons to serve on the advisory committee, provided,
19 that two shall be appointed by the secretary on the recommendation of
20 the temporary president of the senate and two shall be appointed by the
21 secretary on the recommendation of the speaker of the assembly. Each
22 member of the committee shall be appointed for terms of two years. Any
23 member may be reappointed for additional terms. The secretary shall
24 designate from among the members of the committee a chairperson who
25 shall serve at the pleasure of the secretary.

26 § 4. Section 404 of the general business law, as amended by chapter 80
27 of the laws of 2015, is amended to read as follows:

28 § 404. Rules and regulations. The secretary shall promulgate rules and
29 regulations which establish standards for practice and operation by
30 licensees and trainees under this article in order to ensure the health,
31 safety and welfare of the public including licensees and trainees when
32 they are working within such establishments. Such rules and regulations
33 shall include, but not be limited to, the sanitary conditions and proce-
34 dures required to be maintained, a minimum standard of training appro-
35 priate to the duties of nail specialists, trainees, waxers, natural hair
36 stylists, estheticians, ~~[and]~~ cosmetologists, and laser hair removal
37 technicians and the provision of service by nail specialists, trainees,
38 waxers, natural hair stylists, estheticians ~~[or]~~ cosmetologists or
39 laser hair removal technicians at remote locations other than the
40 licensee's home provided that such practitioner holds an appearance
41 enhancement business license to operate at a fixed location or is
42 employed by the holder of an appearance enhancement business license.
43 Regulations setting forth the educational requirements for nail special-
44 ists and trainees shall include education in the area of causes of
45 infection and bacteriology. Regulations related to the practice and
46 operation of licensed laser hair removal technicians shall include the
47 standards set forth in section four hundred four-d of this article. In
48 promulgating such rules and regulations the secretary shall consult with
49 the state education department, the advisory committee established
50 pursuant to this article, any other state agencies and private industry
51 representatives as may be appropriate in determining minimum training
52 requirements.

53 § 5. The general business law is amended by adding a new section 404-d
54 to read as follows:

55 § 404-d. Laser hair removal rules and regulations. 1. (a) The secre-
56 tary shall, in consultation with the appearance enhancement advisory

1 committee provided for in section four hundred three of this article,
2 promulgate rules and regulations which establish standards for the prac-
3 tice and operation of licensed laser hair removal technicians in order
4 to ensure the health, safety and welfare of the public including licen-
5 sees and trainees when they are working in such establishments. Such
6 rules and regulations shall be promulgated in accordance with section
7 four hundred four of this article and shall include, but not be limited
8 to: the identification of a state approved curriculum for licensees;
9 the implementation of a registration fee for laser hair removal estab-
10 lishments; a minimum age requirement for laser hair removal technicians;
11 the minimum number of hours of training a trainee must receive from a
12 state approved curriculum; training requirements specifying the minimum
13 number of procedures, specific to each part of the body, to be performed
14 on volunteers; and continued certification by a nationally accredited
15 organization acceptable to the department.

16 (b) The department may, at its discretion, waive training and curric-
17 ulum requirements for currently employed licensed estheticians perform-
18 ing laser hair removal provided that the licensed esthetician satisfac-
19 torily completes the competency examination approved by the department.

20 (c) The secretary shall require establishments providing laser hair
21 removal to maintain a maintenance of a minimum of one million dollars in
22 liability insurance.

23 2. The practice of laser hair removal shall only be performed by a
24 physician licensed and registered to practice in this state or by a
25 person licensed pursuant to article one hundred thirty-one-b or article
26 one hundred thirty-nine of the education law under the direction and
27 supervision of a physician licensed and registered to practice in this
28 state or by a licensed laser hair removal technician under the direction
29 and supervision of a physician licensed and registered to practice in
30 this state. For purposes of this section, "direction and supervision"
31 shall mean continuous direction and supervision, but shall not be
32 construed as necessarily requiring the physical presence of the super-
33 vising physician at the time and place where such services are
34 performed.

35 § 6. Paragraph a of subdivision 1 of section 406 of the general busi-
36 ness law, as amended by chapter 341 of the laws of 1998, is amended to
37 read as follows:

38 a. Any person intending to practice nail specialty, waxing, natural
39 hair styling, esthetics ~~or~~, cosmetology or laser hair removal as
40 defined in this article, or to own or operate an appearance enhancement
41 business, shall first make application to the secretary for a license
42 therefor.

43 § 7. Subdivision 2 of section 406 of the general business law, as
44 amended by chapter 341 of the laws of 1998 and paragraph c as amended by
45 section 3 of part D of chapter 328 of the laws of 2014, is amended to
46 read as follows:

47 2. a. Any person seventeen years of age or older may apply to the
48 secretary for a license to practice nail specialty, waxing, natural hair
49 styling, esthetics or cosmetology.

50 b. Each such application shall also be accompanied by satisfactory
51 evidence of having taken and passed the appropriate examination or exam-
52 inations offered by the secretary pursuant to this article for the
53 license sought and evidence of the successful completion of an approved
54 course of study in nail specialty, waxing, natural hair styling, esthet-
55 ics ~~or~~, cosmetology or laser hair removal in a school duly licensed
56 pursuant to the education law.

1 c. Any applicant for a license to practice nail specialty, waxing,
2 natural hair styling, esthetics [~~or~~], cosmetology or laser hair removal
3 may submit satisfactory evidence of licensure to practice an equivalent
4 occupation issued by any other state, territory, protectorate or depend-
5 ency of the United States or any other country in lieu of the evidence
6 of schooling and examination required by this subdivision, provided that
7 such license was granted in compliance with standards which were, in the
8 judgment of the secretary, not lower than those of this state and
9 provided that such state, territory, protectorate, dependency, or coun-
10 try extends similar reciprocity to the licensees of this state, or the
11 applicant practiced an equivalent occupation in such state, territory,
12 protectorate, dependency or country for a minimum of five years, or the
13 applicant is a member of the household of a member of the armed forces
14 of the United States, national guard or reserves and was a member of
15 such household before such member relocated to the state.

16 d. Notwithstanding the educational requirements of this section and
17 the testing requirements of this section, an applicant who otherwise has
18 met the licensing requirements of this article for a nail specialist,
19 waxer, natural hair stylist, esthetician [~~or~~], cosmetologist or laser
20 hair removal technician who shall provide satisfactory evidence he or
21 she has been actively and continuously engaged in the practice of nail
22 specialty, waxing, natural hair styling, esthetics [~~or~~], cosmetology or
23 laser hair removal for at least one year prior to the effective date of
24 this article, may be issued a license for nail specialty, waxing,
25 natural hair styling, esthetics [~~or~~], cosmetology or laser hair removal
26 pursuant to this article. Notwithstanding the educational and testing
27 requirements of this section, a person licensed to practice barbering
28 under article twenty-eight of this chapter who otherwise has met the
29 licensing requirements of this article may be issued a license to prac-
30 tice natural hairstyling. Other than applicants licensed under article
31 twenty-eight of this chapter, those persons who apply after a twelve
32 month period from the effective date of this article will be required to
33 provide evidence of training and to take the examination or examinations
34 as required for other licenses pursuant to this article.

35 e. Upon acceptance by the secretary of a proper application for an
36 operator's license to practice nail [~~specialty~~] specialty, waxing,
37 natural hair styling, esthetics [~~or~~], cosmetology or laser hair removal,
38 the secretary may issue a temporary operator's license which shall
39 expire six months from issuance. Upon good cause shown, the secretary
40 may renew a temporary operator's license for one additional six-month
41 period upon filing the appropriate application and fee.

42 § 8. Subdivision 1 of section 407 of the general business law, as
43 amended by chapter 255 of the laws of 1999, is amended to read as
44 follows:

45 1. The examinations for the license to practice natural hair styling,
46 esthetics, nail specialty [~~and~~], cosmetology and laser hair removal
47 shall be practical and written. The examinations for the license to
48 practice waxing shall be limited to a written examination only. The
49 secretary shall determine reasonable standards of performance for each
50 license and shall evaluate the prospective applicants and applicants on
51 the basis of such standards. The objectives of the examinations shall be
52 to insure that prospective applicants and applicants have sufficient
53 basic skills to safeguard the health and safety of the public and to
54 insure that prospective applicants and applicants have attained adequate
55 levels of skill to competently engage in the activities authorized by
56 the license.

1 § 9. Subdivision 1 of section 409 of the general business law, as
2 amended by section 2 of part Y of chapter 60 of the laws of 2011, is
3 amended to read as follows:

4 1. The non-refundable fee for an application for a license to engage
5 in the practice of nail specialty, waxing, natural hair styling, esthet-
6 ics ~~[or]~~, cosmetology or laser hair removal, shall be forty dollars
7 initially and for each renewal thereof the fee shall be forty dollars;
8 the fee for a temporary license and each renewal shall be ten dollars.

9 § 10. Paragraph a of subdivision 2 of section 410 of the general busi-
10 ness law, as amended by chapter 80 of the laws of 2015, is amended to
11 read as follows:

12 a. The secretary may issue an order directing the cessation of any
13 activity related to nail specialty, waxing, natural hair styling,
14 esthetics ~~[or]~~, cosmetology or laser hair removal for which a license is
15 required by this article upon a determination that a person, partner-
16 ship, limited liability company or business corporation, engaging in the
17 business or occupation of, or holding himself, herself or itself out as
18 or acted, temporarily or otherwise, as a nail specialist, natural hair
19 stylist, esthetician ~~[or]~~, cosmetologist or laser hair removal techni-
20 cian within this state without a valid license being in effect. The
21 secretary shall, before making such determination and order, afford such
22 person, partnership, limited liability company or business corporation
23 an opportunity to be heard in person or by counsel in reference thereto
24 in an adjudicatory proceeding held pursuant to section four hundred
25 eleven of this article as applicable.

26 § 11. Subdivision 1 of section 412 of the general business law, as
27 amended by chapter 80 of the laws of 2015, is amended to read as
28 follows:

29 1. The practice of nail specialty, waxing, natural hair styling,
30 esthetics ~~[or]~~, cosmetology or laser hair removal without a license or
31 while under suspension or revocation, or in violation of an order
32 directing the cessation of unlicensed activity issued by the secretary
33 pursuant to section four hundred ten or four hundred eleven of this
34 article, is a violation and is subject to a civil penalty of up to five
35 hundred dollars for the first violation; one thousand dollars for a
36 second such violation; and two thousand five hundred dollars for a third
37 violation and any subsequent violation.

38 § 12. This act shall take effect one year after it shall have become a
39 law. Effective immediately, the addition, amendment and/or repeal of any
40 rule or regulation necessary for the implementation of this act on its
41 effective date are authorized to be made on or before such effective
42 date.