

# STATE OF NEW YORK

821--A

2019-2020 Regular Sessions

## IN ASSEMBLY

January 11, 2019

Introduced by M. of A. PAULIN, SCHIMMINGER -- read once and referred to the Committee on Economic Development -- recommitted to the Committee on Economic Development in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 ~~[ex]~~, 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 ~~[ex]~~, cosmetology or laser hair removal shall be allowed to practice in New York state for

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

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1 three months or less within any calendar year for the purpose of giving  
2 to, or receiving from, persons who are licensed under this article  
3 training in current styles, techniques or materials, provided however,  
4 that no such unlicensed person may provide services to the public for  
5 any fee, or other compensation, whether direct or indirect.

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

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

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

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

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

3 § 404-d. Laser hair removal rules and regulations. 1. (a) The secre-  
4 tary shall, in consultation with the appearance enhancement advisory  
5 committee provided for in section four hundred three of this article,  
6 promulgate rules and regulations which establish standards for the prac-  
7 tice and operation of licensed laser hair removal technicians in order  
8 to ensure the health, safety and welfare of the public including licen-  
9 sees and trainees when they are working in such establishments. Such  
10 rules and regulations shall be promulgated in accordance with section  
11 four hundred four of this article and shall include, but not be limited  
12 to: the identification of a state approved curriculum for licensees;  
13 the implementation of a registration fee for laser hair removal estab-  
14 lishments; a minimum age requirement for laser hair removal technicians;  
15 the minimum number of hours of training a trainee must receive from a  
16 state approved curriculum; training requirements specifying the minimum  
17 number of procedures, specific to each part of the body, to be performed  
18 on volunteers; and continued certification by a nationally accredited  
19 organization acceptable to the department.

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

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

27 2. The practice of laser hair removal shall only be performed by a  
28 person licensed to practice medicine or by a licensed laser hair removal  
29 technician under the direction and supervision of a person licensed to  
30 practice medicine.

31 3. Every facility that is not a medical practice shall be required to  
32 have a consulting physician who is familiar with the use of lasers for  
33 hair removal. The consulting physician shall conduct an annual audit of  
34 policies and procedures and shall be available throughout the year to  
35 see a laser hair removal client in case of injury.

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

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

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

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

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

1 ics [~~or~~], cosmetology or laser hair removal in a school duly licensed  
2 pursuant to the education law.

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

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

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

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

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

1 levels of skill to competently engage in the activities authorized by  
2 the license.

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

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

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

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

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

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

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