

STATE OF NEW YORK

2834--A

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2019-2020 Regular Sessions

IN SENATE

January 29, 2019

Introduced by Sens. SAVINO, PERSAUD -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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.

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

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

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

1. There shall be established within the department an advisory committee which shall consist of ~~[nine]~~ ten 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, and one of whom shall ensure strict adherence to quality services for all clients of all hair types, including, but not limited to, curl pattern, hair strand thickness, and volume of hair; one person engaged in esthetics; one person engaged in laser hair removal; 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.

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

§ 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 laser hair removal technicians and the provision of service by nail specialists, trainees, waxers, natural hair stylists, estheticians ~~[or]~~, cosmetologists or laser hair removal technicians 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. Regulations related to the practice and operation of licensed laser hair removal technicians shall include the standards set forth in section four hundred four-d of this article. 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

1 representatives as may be appropriate in determining minimum training
2 requirements.

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

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

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

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

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

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

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

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

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

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

53 b. Each such application shall also be accompanied by satisfactory
54 evidence of having taken and passed the appropriate examination or exam-
55 inations offered by the secretary pursuant to this article for the
56 license sought and evidence of the successful completion of an approved

1 course of study in nail specialty, waxing, natural hair styling, esthet-
2 ics [~~or~~], cosmetology or laser hair removal in a school duly licensed
3 pursuant to the education law.

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

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

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

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

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

1 insure that prospective applicants and applicants have attained adequate
2 levels of skill to competently engage in the activities authorized by
3 the license.

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

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

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

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

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

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

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