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 [~~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

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

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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 representatives as may be appropriate in determining minimum training requirements.

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

§ 404-d. Laser hair removal rules and regulations. 1. (a) The secretary shall, in consultation with the appearance enhancement advisory committee provided for in section four hundred three of this article, promulgate rules and regulations which establish standards for the practice and operation of licensed laser hair removal technicians in order to ensure the health, safety and welfare of the public including licensees and trainees when they are working in such establishments. Such rules and regulations shall be promulgated in accordance with section four hundred four of this article and shall include, but not be limited to: the identification of a state approved curriculum for licensees; the implementation of a registration fee for laser hair removal establishments; a minimum age requirement for laser hair removal technicians; the minimum number of hours of training a trainee must receive from a state approved curriculum; training requirements specifying the minimum number of procedures, specific to each part of the body, to be performed on volunteers; and continued certification by a nationally accredited organization acceptable to the department.

(b) The department may, at its discretion, waive training and curriculum requirements for currently employed licensed estheticians performing laser hair removal provided that the licensed esthetician satisfactorily completes the competency examination approved by the department.

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

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

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

§ 6. Paragraph a of subdivision 1 of section 406 of the general business law, as amended by chapter 341 of the laws of 1998, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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