
OLR Bill Analysis

sHB 6742

AN ACT CONCERNING THE LICENSING OF ESTHETICIANS, NAIL TECHNICIANS AND EYELASH TECHNICIANS.

SUMMARY

This bill establishes licensing requirements for estheticians, nail technicians, and eyelash technicians. It generally requires individuals to obtain a Department of Public Health (DPH) license or temporary permit as (1) an esthetician and eyelash technician on and after July 1, 2020 and for applications on or after January 1, 2020 and (2) a nail technician on and after January 1, 2021 and for applications on and after October 1, 2020. Currently, nail technicians are not credentialed, but the bill allows such individuals who do not have the requisite experience to apply for a nail technician trainee license. The bill subjects these licenses and permits to existing DPH penalties (see BACKGROUND).

Among other things, the bill:

1. allows schools for estheticians and nail and eyelash technicians to be established, subject to DPH-approval;
2. subjects businesses offering esthetician and eyelash technician services to an annual local health inspection that is already required for nail technician services;
3. extends current law's human trafficking notice requirement to establishments that provide services performed by estheticians; and
4. requires spas or salons to be under the management of a DPH-credentialed individual.

EFFECTIVE DATE: January 1, 2020

§§ 2, 3, 4, 10 & 11 — LICENSING AND TEMPORARY PERMIT REQUIREMENTS

Licensing

The bill requires anyone seeking an initial DPH license as an esthetician or eyelash or nail technician to apply on a DPH-prescribed form with a \$100 application fee and provide evidence that he or she has:

1. practiced in the field for which the license is sought continuously in the state for at least five years before the deadline for having to apply for such license and completed a DPH-approved course in disinfection and safe work practices (see below, § 7) or
2. completed the minimum hours of required study in an approved school (see below, § 7) or an out-of-state school with equivalent requirements and passed a written examination to DPH's satisfaction.

The bill requires the minimum hours to be at least (1) 600 hours for estheticians, (2) 25 hours for eyelash technicians, and (3) 100 hours for nail technicians.

Nail technicians may also be licensed if they practiced as a licensed nail technician trainee for at least a year and completed a DPH-prescribed examination. If applicants employed as nail technicians on January 1, 2021, do not have evidence of at least five years of continuous practice as a nail technician, to the commissioner's satisfaction, they may apply to DPH for a nail technician trainee license, which the bill establishes (see below, § 5).

Definitions

Under the bill, an "esthetician" is anyone who performs esthetics for compensation. "Esthetics" means services related to skin care treatments, including cleansing, toning, stimulating, exfoliating or performing any similar procedure on the human body while using cosmetic preparations, hands, devices, apparatuses, or appliances to enhance or improve the skin's appearance; applying makeup;

beautifying lashes and brows; or removing unwanted hair using manual and mechanical means. It does not include using a prescriptive laser device, performing a cosmetic medical procedure, or any practice, activity, or treatment that is considered practicing medicine.

An “eyelash technician” means a person who performs individual eyelash extensions, eyelash lifts, or perms and eyelash color tints for compensation.

A “nail technician” means a person who for compensation cuts, shapes, colors, cleanses, trims, polishes, or enhances the appearance of the nails of the hands or feet, including applying artificial nails; applying lotions and oils in paraffin wax in individual containers; filing without the use of electronics; applying shellac polish and nail art such as gems, jewels, glitter, and acrylic; applying hard gels, gel acrylic, liquid, and powdered acrylic and curing lights; and reflexology. It does not include any practice, activity, or treatment that is considered practicing medicine.

Licensing

Under the bill, licenses must be renewed biennially for a fee of \$100. The bill prohibits individuals from carrying on as licensees after their license has expired until they apply for renewal. DPH may renew any license if the renewal application is received within 90 days of expiration. The renewal must occur during the licensee’s birth month, with the licensee providing his or her full name, residence and business address, and other information DPH requests.

The bill prohibits DPH from (1) issuing a license or temporary permit if the applicant is facing pending professional disciplinary action or is the subject of an unresolved complaint in Connecticut or another state or jurisdiction or (2) requiring applicants to submit any proof of citizenship or legal residency.

The bill prohibits anyone from using the title “esthetician,” “eye lash technician,” “nail technician,” or similar titles unless he or she holds a license or temporary permit. Credentialed individuals must, at

all times, conspicuously display their license or permit within the place where the occupation is being conducted.

Out-of-State Licenses

The bill allows DPH to grant a license to certain people who are licensed when applying or entitled to perform similar services under a different designation in Washington D.C. or another state or U.S. commonwealth or territory. These individuals must provide evidence to the DPH commissioner's satisfaction of (1) a current license in good standing and (2) licensed practice in such jurisdiction for at least two years immediately before applying. (Presumably, individuals who are entitled to perform similar services under a different designation could provide evidence of such to the commissioner's satisfaction rather than a license.)

Practicing Temporarily

Pending license approval, the bill allows the commissioner to issue a temporary permit after he receives a completed application, application fee, a copy of the current license from the other jurisdiction (or, presumably, the other designation), and a notarized affidavit attesting to the license's validity and that it belongs to the person requesting the notary. The temporary permit is only valid for up to 120 calendar days and is not renewable.

The bill also allows certain instructors and participants in field-related events to practice temporarily without a license or temporary permit under certain conditions. They must be (1) instructors on techniques related to the respective field or (2) participants demonstrating the practice of the field or a product related to the practice as part of a professional course, seminar, workshop, trade show, or other event.

These instructors or participants must:

1. be licensed or certified where they primarily practice as an esthetician or eyelash or nail technician, as the case may be, if the jurisdiction requires such credential;

2. practice as an esthetician or eyelash or nail technician, as the case may be, under the direct supervision of a Connecticut licensee in the respective field;
3. not receive compensation for practicing as a licensee in the state, other than for their instruction or participation; and
4. provide instruction or demonstrate techniques or services related to practicing as an esthetician or eyelash or nail technician, as the case may be, only for people enrolled in the course, seminar, or workshop or attending the trade show or event where they are providing instruction or demonstrating a product, or offering such services.

Any person or organization that holds or produces an event with such estheticians without a DPH credential must ensure they comply with the bill's requirements on practicing without a credential.

Esthetics and Nail Technician Exception

Under the bill, the esthetics and nail technician requirements do not apply to (1) physicians; (2) advanced practice registered nurses (APRNs) working in collaboration with a physician; (3) registered nurses working under the direction of a licensed physician, dentist, or APRN; or (4) physicians assistants working under a physician's supervision, control, or responsibility.

Prohibition on Creating a Board

The bill specifically prohibits a regulatory board to be created for these licenses. By law, DPH assumes all powers and duties normally vested with a board in administering regulatory jurisdiction over these professions (CGS § 19a-14).

Regulations

The bill allows the DPH commissioner to adopt regulations to implement the bill's esthetician and eyelash and nail technician provisions.

§ 5 — NAIL TECHNICIAN TRAINEE

Under the bill, anyone employed as a nail technician on January 1, 2021, who does not have evidence of at least five years of continuous practice as a nail technician, to the commissioner's satisfaction, may apply to DPH for a nail technician trainee license. Under current law, nail technicians are not credentialed, but salons employing such services are inspected annually (see below).

The bill requires anyone seeking an initial DPH nail technician trainee license to apply on a DPH-prescribed form with a \$50 application fee. The application must include the name and address of the (1) spa or salon where the person is employed and (2) licensed nail technician who will supervise the trainee. Upon granting the license, the trainee may practice as a nail technician in a full- or part-time capacity under a licensed nail technician at a spa or salon that is operated by a credentialed person, which the bill requires (see below, § 8).

Under the bill, the license is valid for one year and is renewable once for an additional year, for \$50. The bill generally prohibits anyone from holding such a license for more than two years, unless he or she provides written justification to the commissioner's satisfaction as to why the trainee license should be renewed for more than two years. A person who has held a trainee license for at least one year and completed a DPH-prescribed examination may apply for a nail technician license.

The bill requires licensees to notify DPH within seven business days after a change in employer or supervisor. It prohibits DPH from requiring any applicants to submit any proof of citizenship or legal residency.

§ 6 — SALON INSPECTIONS

The bill subjects businesses providing esthetician and eyelash technician services to the annual local health inspection by adding such services to the definition of salon. Under current law, salons already include nail technician services and any commercial establishment with the practice of barbering, hairdressing, and

cosmetology.

As under existing law and the bill, the health director for any town, city, borough, or district health department or his or her authorized representative must annually inspect salons regarding their sanitary conditions and may enter and inspect the salon during usual business hours. If any salon, upon inspection, is found to be in an unsanitary condition, the health director must make a written order that such salon be placed in a sanitary condition.

Under the bill, DPH must establish, by October 1, 2020, a standardized inspection system and guidelines for salon standards and post them on its website. The health director must implement the system and guidelines by January 1, 2021.

The bill increases the maximum inspection fee that a health director may charge from \$100 to \$250.

§§ 6 & 9 — HUMAN TRAFFICKING NOTICE REQUIREMENTS

The bill extends existing law's human trafficking notice requirement to establishments that provide services performed by estheticians by adding such establishments to the list of places that must post a notice developed by the Office of the Chief Court Administrator about services for human trafficking victims. Existing law already requires such notice for establishments that provide services performed by nail technicians, among other establishments.

By law, this notice must state the toll-free state and federal anti-trafficking hotline numbers that someone can call if he or she is forced to engage in an activity and cannot leave.

Under the bill, if any salon, during the inspection, is found to be violating any portion of the human trafficking notice requirement law, the health director may impose a \$100 fine for a first offense and a \$250 fine for subsequent offenses (CGS § 54-234a). (Presumably, this would only be applicable to salons that are required to post such notice. The bill specifies that this money does not have to be used for conducting inspections.) In addition, violators are subject to any license, permit, or

certificate suspension or revocation proceeding that an appropriate authority may initiate.

§ 7 — SCHOOLS

The bill allows schools for estheticians, nail technicians or eyelash technicians to be established in this state. DPH may inspect such schools regarding their sanitary conditions whenever the department deems it necessary. Any DPH authorized representative may enter and inspect the school during usual business hours. If any school, upon inspection, is found to be in an unsanitary condition, the commissioner or a designee must make a written order that such school be placed in a sanitary condition.

The bill requires such schools to obtain DPH approval before beginning operations. Any such school established before January 1, 2020, must apply for such approval before July 1, 2020. The approval becomes void if a school changes ownership or location and the school must apply for a new approval. Applications for such approval must be on a DPH-prescribed form. If a school fails to comply with the approval process, no credit toward the hours of study required for licensure will be granted to any student for instruction received before the school is approved.

Under the bill, the DPH commissioner must prescribe the number of hours, content, and approved providers for a course in disinfection and safe work practices that applicants for estheticians or eyelash or nail technicians licenses must complete (see above, §§ 2, 3 & 4). Such providers may include DPH-approved schools or online providers.

§ 8 — SPA AND SALON MANAGEMENT

The bill requires, on and after July 1, 2020, each spa or salon that employs hairdressers, cosmeticians, estheticians, or eyelash technicians to be under the management of a DPH-credentialed hairdresser, cosmetician, esthetician, or eyelash technician. On and after July 1, 2021, the bill extends the same requirement to spas or salons that employ nail technicians to be under the management of the previously listed DPH-credentialed individuals or a licensed nail technician.

Under the bill, “salon” and “spa” include any shop, store, day spa, or other commercial establishment that offers or provides the practice of barbering, hairdressing, and cosmetology, or the services of an esthetician, nail technician, or eyelash technician, or any combination of these.

The bill requires the managing person to file with the secretary of the state anything required for limited partnerships, partnerships, professional associations, limited liability companies, or statutory trusts. Such person must also maintain payroll records, classify employees according to state law, and provide workers compensation coverage, if required.

BACKGROUND

Disciplinary Actions for Professions Regulated by DPH

By law, upon finding good cause, DPH may take any of the following actions towards professions under its jurisdiction:

1. revoke or suspend a practitioner’s certificate;
2. censure a practitioner or issue a letter of reprimand;
3. restrict or otherwise limit a practitioner’s practice;
4. place a practitioner on probationary status; or
5. assess a civil penalty of up to \$25,000.

The law also allows DPH to (1) resolve disciplinary actions through voluntary surrender of, or agreement not to renew, a certificate, (2) reinstate certificates in certain circumstances, and (3) take action based on similar disciplinary actions taken in other states and jurisdictions (CGS § 19a-17).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 10 Nay 5 (03/29/2019)

