

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2092
(Industry, Business and Labor Committee)
(At the request of the State Board of Cosmetology)

AN ACT to create and enact section 43-11-16.1 and section 43-11-25.1 of the North Dakota Century Code, relating to internships and apprenticeship programs and international applicants for licensure; to amend and reenact sections 43-11-01, 43-11-02, 43-11-11, 43-11-11.1, 43-11-12, 43-11-13, 43-11-14, 43-11-15, 43-11-16, 43-11-17, 43-11-19, 43-11-20.1, 43-11-20.4, 43-11-21, 43-11-22, 43-11-23, 43-11-24, 43-11-25, 43-11-26, 43-11-27, 43-11-27.1, 43-11-28, 43-11-29, 43-11-30, 43-11-31, 43-11-33, 43-11-34, and 43-11-35 of the North Dakota Century Code, relating to the practice and licensure of cosmetologists, estheticians, and manicurists; to repeal sections 43-11-13.1, 43-11-13.2, and 43-11-20 of the North Dakota Century Code, relating to master esthetician and master manicurist licensure, homebound licensure, and student practice; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-11-01 of the North Dakota Century Code is amended and reenacted as follows:

43-11-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the state board of cosmetology.
2. ~~"Booth space" means that part of a licensed salon operated independently by an individual licensed under this chapter.~~
3. "Cosmetologist" means an individual licensed under this chapter to practice cosmetology.
- 4.3. "Cosmetology" means any one or a combination of practices generally and usually performed by and known as the occupation of beauty culturists or cosmeticians or cosmetologists or hairdressers, or of any other person~~individual~~ holding out as practicing cosmetology by whatever designation and within the meaning of under this chapter and in and upon whatever place or premises.
 - a. The term includes the following ~~or any one or a combination of these practices~~:
 - (1) Hair care, including arranging, dressing, curling, waving, permanent waving, cleansing, cutting, shaving, trimming, singeing, bleaching, coloring, straightening, or similar work, upon the hair of any individual by any means or with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, exercising, performing noninvasive hair removal, beautifying, or similar work on the body, manipulation of eyelashes, or manicuring the nails of any individual;
 - (2) Skin care;
 - (3) Manipulation and application of product to eyelashes and eyebrows, including extensions, design, treatment, tinting, and lightening;

(4) Hair extensions using chemical hair joint agents, such as synthetic tape, keratin bonds, or fusion bonds; and

(5) Manicuring.

b. The term does not include natural hair braiding or threading.

~~5. "Cosmetology salon" includes that part of any building in which the occupation of a cosmetologist is practiced.~~

~~6.4. "Esthetician" means an individual who is licensed by the board to engage in the under this chapter to practice of esthetics and skin care.~~

~~7. "Homebound" means an individual who is ill, disabled, or otherwise unable to travel to a salon.~~

~~8.5. "Esthetics" means manipulation and application of product to eyelashes and eyebrows, including extensions, design, treatment, tinting, and lightening and skin care.~~

~~6. "Independent licensee" is a licensed individual who maintains a separate salon license and operates independently from the establishment owner in which the individual's suite or chair is located.~~

~~7. "Instructor" means an individual who is at least eighteen years old, who is a licensed cosmetologist, esthetician, or manicurist who teaches cosmetology, esthetics, manicuring, or any other practices taught within the scope of the individual's license, in a duly registered school of cosmetology, and who has met the requirements of section 43-11-27 and has applied for and received an instructor's license.~~

~~9.8. "Invasive care" means any procedure that invades the live tissue of the dermis, including by any means, including cutting, puncturing, burning, insertion of instruments, and includes:~~

~~a. Laser use; and~~

~~b. Chemical peels using:~~

~~(1) Thirty percent or higher concentration of alpha hydroxy acid;~~

~~(2) Twenty percent or higher concentration of beta hydroxy acid;~~

~~(3) Two percent or higher concentration of resorcinol;~~

~~(4) Fifteen percent or higher concentration of trichloroacetic acid (TCA); or~~

~~(5) Fifteen percent or higher concentration of phenol.~~

~~10.9. "Manicuring" means the cleansing:~~

~~a. Cleansing, cutting, shaping, or beautifying, or massaging of the hands, feet, or nails;~~

~~b. Massaging from the elbow to the fingertips or knee to toes of any individual;~~

~~c. Caring for and treating the cuticles and nails; and~~

~~d. The application and removal of sculptured or otherwise artificial nails by hand or with mechanical or electrical apparatus or appliances.~~

~~11.10. "Manicurist" means an individual who is licensed by the board to engage in the under this chapter to practice of manicuring.~~

- ~~42~~.11. "Master cosmetologist" means an individual who has met the requirements of section 43-11-26 and has applied for and received a ~~managing~~master cosmetologist license.
- ~~43~~.12. "Master esthetician" means an individual who has met the requirements of section 43-11-26 and has applied for and received a master esthetician license.
13. "Master manicurist" means an individual who has met the requirements of section 43-11-26 and has applied for and received a master manicuring license.
14. "Mechanical device" means a clip, comb, crochet hook, curler, curling iron, hairpin, roller, scissors, blunt-tipped needle, thread, and hair binder.
- ~~44~~.15. "Natural hair braiding" means the service of twisting, wrapping, weaving, extending, locking, or braiding hair by hand or with a mechanical device. Natural hair braiding is commonly known as "African-style hair braiding" but is not limited to any particular cultural, ethnic, racial, or religious forms of hairstyles.
- a. The term includes:
- (1) The use of natural or synthetic hair extensions, natural or synthetic hair and fibers, and decorative beads and other hair accessories;
 - (2) Minor trimming of natural hair or hair extensions incidental to twisting, wrapping, weaving, extending, locking, or braiding hair;
 - (3) The making of wigs from natural hair, natural fibers, synthetic fibers, and hair extensions; and
 - (4) The use of topical agents, such as conditioners, gels, moisturizers, oils, pomades, and shampoos, in conjunction with performing services under paragraph 1 or 2.
- b. The term does not include:
- (1) The application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair; or
 - (2) The use of chemical hair joining agents, such as synthetic tape, keratin bonds, or fusion bonds.
- ~~45~~.16. "Noninvasive care" includes treatments confined to the nonliving cells of the stratum corneum of the epidermis. Noninvasive care must be in a superficial mode and not for the treatment of medical disorders, and living cells may not be altered, cut, or damaged.
17. "Salon" means an establishment in a fixed location, not used as sleeping or living quarters, licensed under this chapter where cosmetology services are provided.
18. "School of cosmetology" means an establishment operated for the purpose of teaching cosmetology.
- ~~46~~.19. "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, performing noninvasive hair removal, including waxing and tweezing; beautifying, or similar noninvasive care and work on the body of any personindividual. The term does not include invasive care or threading.
- ~~47~~.20. "Student" means any ~~person~~individual who is engaged in the learning or acquiring of any or all the practices of cosmetology and while so learning, performs or assists in any of the practices of cosmetology in any school registered or licensed and under the immediate supervision of an instructor licensed as such under this chapter.

- ~~18-21.~~ "Student instructor" means a cosmetologist, esthetician, or manicurist who is receiving instruction in teacher's training within the scope of the individual's license in a duly registered school of cosmetology.
- ~~19-22.~~ "Threading" means the method of removing hair from the eyebrows, upper lip, or other body part by using cotton thread to pull hair from follicles.
- a. The term may include the use of an over-the-counter astringent, gel, and powder, tweezers, and scissors, incidental to the removal of hair by threading.
 - b. The term does not include the use of chemicals, heat, or any type of wax.
- ~~20-23.~~ "Tuition" means the total cost of a ~~person's~~ an individual's cosmetology studies, and does not include books or demonstration kits.

SECTION 2. AMENDMENT. Section 43-11-02 of the North Dakota Century Code is amended and reenacted as follows:

43-11-02. Exemptions from provisions of chapter.

This chapter does not apply to:

- ~~1.~~ ~~Services in case of emergency.~~
- ~~2.~~ Services provided by ~~persons~~ individuals practicing cosmetology upon members of ~~their~~ the individual's immediate families.
- ~~3.~~ ~~Services by a person licensed by the state and working within the standards and ethics of that person's profession, if that person does not represent to the public that the person is a cosmetologist or manicurist.~~
- ~~4-2.~~ Services by nurses, undertakers, and morticians lawfully engaged in the performance of the usual and ordinary duties of their vocation.
- ~~5-3.~~ Educational activities conducted in connection with any regularly scheduled meeting or any educational activities of any bona fide association of licensed cosmetologists, estheticians, or manicurists from which the general public is excluded. For purposes of this subsection, a "bona fide association of cosmetologists" means any organization whose constitution, bylaws, or membership rules establish within said organization a class of membership consisting of licensed cosmetologists.
- ~~6-4.~~ Services provided by retailers or their sales personnel trained in the demonstration of cosmetics application if the cosmetics are applied only with disposable applicators that are discarded after each customer demonstration. The board may adopt rules to ensure sanitary conditions for services provided under this exemption.
- ~~7-5.~~ Services provided in a licensed hospital or a nursing home by a ~~person~~ an individual practicing cosmetology on a volunteer basis without compensation or by a nurse's assistant.
- ~~8-6.~~ Skin care provided by a licensed cosmetologist or esthetician outside of a licensed salon if the services are being provided under the supervision, control, and responsibility of a physician or physician assistant practicing within the scope of the physician's or physician assistant's license under chapter 43-17, or nurse practicing within the scope of the nurse's license under chapter 43-12.1.

SECTION 3. AMENDMENT. Section 43-11-11 of the North Dakota Century Code is amended and reenacted as follows:

43-11-11. Sanitary rules~~Rules of cleaning and disinfecting~~ - Practice outside salon.

The board with the approval of the state department of health shall adopt sanitary rules of cleaning and disinfecting necessary to prevent the creating and spreading of infectious and contagious diseases. ~~A cosmetology salon must be at a fixed location and may not be used for living or sleeping quarters. A cosmetologist or, esthetician, or manicurist may practice outside of the establishment under the direction and control of a master cosmetologist or master esthetician thereof~~ a licensed salon under rules adopted by the board. The board shall inspect salons to assure compliance with the rules of cleaning and disinfecting.

SECTION 4. AMENDMENT. Section 43-11-11.1 of the North Dakota Century Code is amended and reenacted as follows:

43-11-11.1. Use of brush rollers authorized.

~~A person~~An individual licensed under this chapter may use brush rollers in the performance of cosmetology and hairdressing or hairsetting services if the rollers are cleaned and ~~sanitized~~disinfected after each use in conformity with rules adopted by the board.

SECTION 5. AMENDMENT. Section 43-11-12 of the North Dakota Century Code is amended and reenacted as follows:

43-11-12. Persons to aid~~Employees~~ Employees of board.

The board may employ ~~a secretary~~, support staff, and other ~~persons~~individuals knowledgeable in cosmetology for conducting examinations, inspections, and investigations of ~~persons~~licensees regulated ~~by~~under this chapter. Any ~~person~~individual employed by the board is entitled to receive expenses in the amounts payable under sections 44-08-04 and 54-06-09.

SECTION 6. AMENDMENT. Section 43-11-13 of the North Dakota Century Code is amended and reenacted as follows:

43-11-13. License required.

~~No person in this state may~~An individual may not:

1. Advertise, engage in, or attempt to engage in the occupation of cosmetology, ~~manicuring, or skin care~~, nor conduct a cosmetology salon ~~or booth~~ or school of cosmetology, unless having first obtained a license.
2. Employ an unlicensed individual to perform cosmetology unless otherwise provided under this chapter.

SECTION 7. AMENDMENT. Section 43-11-14 of the North Dakota Century Code is amended and reenacted as follows:

43-11-14. Licenses - Board to issue - Form - Displayed.

The board may issue all licenses provided for ~~in~~under this chapter. Each license issued must be signed:

1. Signed by the secretary of the board ~~and attested~~;
2. Attested by the seal of the board. ~~A license is evidence that the person is entitled to follow all of the practices or occupations referred to in the license. A license must be displayed conspicuously in the principal office, place of business, or place of employment of the licenseholder; and~~
3. Displayed in clear view to the public where services are being provided.

SECTION 8. AMENDMENT. Section 43-11-15 of the North Dakota Century Code is amended and reenacted as follows:

43-11-15. Salon ownership and operation.

1. A salon may be owned by any person authorized to do business in this state.
 - a. A cosmetology salon must be ~~operated and supervised~~ by a master cosmetologist. A ~~manicuring salon must be operated and supervised by a master cosmetologist or master manicurist.~~
 - b. A salon providing only skin care or esthetics must be ~~operated and supervised~~ by a master cosmetologist or master esthetician.
 - c. A manicuring salon must be supervised by a master cosmetologist or master manicurist.
2. The board shall determine the qualifications by rule for licensure and license fees for a salon license.

SECTION 9. AMENDMENT. Section 43-11-16 of the North Dakota Century Code is amended and reenacted as follows:

43-11-16. Schools of cosmetology - Qualifications for licensure.

1. A license must be granted to a school of cosmetology upon an application to the board and the payment of the ~~annual~~ license fee, if the school:
 1. a. Is operated and maintained in premises separate from any cosmetology salon;
 2. b. Requires a minimum of one thousand eight hundred ~~eight hundred~~ hours of training and instruction in cosmetology, six hundred hours of training and instruction in esthetics, or three hundred fifty hours of training and instruction in ~~manicure~~ manicuring, not to exceed eight hours per day;
 3. c. Employs at least two full-time licensed instructors and maintains a maximum student-to-instructor ratio of twenty-four-to-one based on current enrollment, except a school that provides training and instruction limited to esthetics or ~~manicure~~ manicuring shall maintain a maximum student-to-instructor ratio of twelve-to-one based on current enrollment;
 4. d. Possesses apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum;
 5. e. Maintains a record of the attendance and performance of each student;
 6. f. Maintains regular class and instruction hours to include practical demonstrations and theoretical studies supplemented by audiovisual aids, and studies in sanitation, sterilization, and other safety measures and the use of antiseptics, cosmetics, and electrical appliances consistent with the practical and theoretical requirements as applicable to cosmetology;
 7. g. Agrees not to:
 - a. (1) Permit any student to practice on any ~~person~~ individual who is not an instructor or registered student of the school until the student has completed at least twenty percent of the total hours of instruction required ~~by~~ under this chapter and only if the practice is under the immediate direction and supervision of a licensed instructor; or
 - b. (2) Compensate any of ~~its~~ the school's basic students in any way; and

8. h. At the time of application for licensure and upon the renewal of a license, furnishes to the board, and maintains in force at all times the license is in effect, a bond in the penal sum of ten thousand dollars. The bond must run in favor of the board, as agent of the state, and must be furnished by a surety company authorized to do business in this state. It must be conditioned upon the bonded school's providing its registered students with the full course of instruction required under this chapter and must provide for a refund of a proportionate amount of each student's tuition fee upon default.
2. Any school that enrolls student instructors shall set up an adequate course of training, with the approval of the board, and may not have at any one time more than two student instructors for each licensed instructor actively engaged in the school.

SECTION 10. Section 43-11-16.1 of the North Dakota Century Code is created and enacted as follows:

43-11-16.1. Internships and apprenticeship programs.

The board may establish internships with the schools of cosmetology and may establish apprenticeship programs. The board may adopt rules related to the licensure and discipline of interns and apprentices practicing in programs established under this section.

SECTION 11. AMENDMENT. Section 43-11-17 of the North Dakota Century Code is amended and reenacted as follows:

43-11-17. Licenses issued for schools of cosmetology and cosmetology salons - Fee for annual registration.

The board ~~may~~shall issue ~~an annual, after inspection and approval, a~~ license for a school of cosmetology. The ~~annual~~ registration fee for a school must be determined by the board, as set forth in section 43-11-28. The board shall issue, after inspection and approval, ~~issue~~ a salon license, the ~~annual~~ fee for which must be determined by the board, as set forth in section 43-11-28.

SECTION 12. AMENDMENT. Section 43-11-19 of the North Dakota Century Code is amended and reenacted as follows:

43-11-19. Students - Registration.

1. A student ~~cosmetologist~~ must:
 1. a. Adhere to the laws and rules regarding the practice of cosmetology;
 2. b. Have educational qualifications equivalent to completion of four years of high school; and
 3. c. Have enrolled in a school of cosmetology and complied with the preliminary requirements thereof.
2. The names and qualifications of all students must be certified to the board by each school of cosmetology. The certification must be accompanied by a processing fee for each student in an amount as may be ~~fixed~~determined by the board under section 43-11-28.

SECTION 13. AMENDMENT. Section 43-11-20.1 of the North Dakota Century Code is amended and reenacted as follows:

43-11-20.1. Refund of student tuition fees upon cancellation of course.

Schools of cosmetology shall refund tuition and other charges paid by or on behalf of a student when written notice of cancellation is given by the student. Refunds must be made in accordance with the following schedule:

Hours Enrolled	Tuition Retained By School
0.0% - 4.9%	20%
5% - 9.9%	30%
10% - 14.9%	40%
15% - 24.9%	45%
25% - 49.9%	70%
Over 50%	100%

Notice of this section, and of sections 43-11-20.2 and 43-11-20.3, must be posted in a ~~conspicuous~~ clear view to the public where services are being provided in each school of cosmetology. The notice must be in a form and contain information as prescribed by the board. The board shall take action necessary to enforce this section and sections 43-11-20.2 and 43-11-20.3, including revocation of the license issued pursuant to section 43-11-17. This section does not prejudice the right of any student to commence a civil action against any school of cosmetology for breach of contract or fraud.

SECTION 14. AMENDMENT. Section 43-11-20.4 of the North Dakota Century Code is amended and reenacted as follows:

43-11-20.4. Exemption from postsecondary license requirement - Solicitor's permit required.

Schools of cosmetology are exempt from the license requirement of chapter 15-20.4. All ~~persons~~ individuals who solicit business for a school of cosmetology, or who sell any course of instruction, shall secure a solicitor's permit and bond in an amount and under conditions as established by the board.

SECTION 15. AMENDMENT. Section 43-11-21 of the North Dakota Century Code is amended and reenacted as follows:

43-11-21. Cosmetologist, esthetician, manicurist license - Examination required - Application - Examination - Fees.

Each ~~person~~ individual who desires to secure a cosmetologist, esthetician, or manicurist license shall file with the ~~secretary~~ of the board a written application under oath on a form supplied by the board. The application must be accompanied by all of the following:

1. An examination fee as may be fixed by the board pursuant to section 43-11-28.
2. Satisfactory proof that the applicant has completed the required training in a school of cosmetology.
3. A fee for original licensure as required by section 43-11-28.

SECTION 16. AMENDMENT. Section 43-11-22 of the North Dakota Century Code is amended and reenacted as follows:

43-11-22. Board to determine qualifications of applicants - Delegation of power.

The qualifications of applicants for admission to examination for registration, and for certification or licensure to practice under this chapter must be determined by the board. The board may delegate authority under this section to the ~~secretary~~ support staff.

SECTION 17. AMENDMENT. Section 43-11-23 of the North Dakota Century Code is amended and reenacted as follows:

43-11-23. Examination.

The examination of applicants for license to practice under this chapter must be conducted under rules ~~prescribed~~adopted by the board and must include both practical demonstrations and written or oral tests in reference to the practices for which a license is desired and in reference to related studies or subjects as the board may determine necessary for the proper and efficient performance of a practice. The board may require the practical portion of the examination be conducted by schools of cosmetology as part of graduation requirements. The examination may not be confined to any specific system or method and must be consistent with the practical and theoretical requirements of cosmetology.

SECTION 18. AMENDMENT. Section 43-11-24 of the North Dakota Century Code is amended and reenacted as follows:

43-11-24. Cosmetologist, esthetician, or manicurist license - When issued - Failure to pass examination - Re-examination - Retraining.

1. A cosmetologist, esthetician, or manicurist license must be issued to any ~~person~~individual who has met all the following requirements:
 1. a. Complied with section 43-11-21.
 2. b. Passed to the satisfaction of the board the examination of applicants for a license to practice under this chapter.
2. If the applicant fails to pass the examination, the examination fee may not be returned. If an applicant fails to pass an examination, the applicant may be examined again with the payment of a re-examination fee as set forth in section 43-11-28. ~~An applicant who fails to pass the practical examination twice must complete an additional one hundred sixty hours of training at a school of cosmetology before applying for a second re-examination.~~

SECTION 19. AMENDMENT. Section 43-11-25 of the North Dakota Century Code is amended and reenacted as follows:

43-11-25. License issued without examination - ~~Conditions~~ Licensure by reciprocity.

The board may dispense ~~with the examination of applicants for licenses to practice cosmetology and may grant licenses~~ under this chapter upon the payment of a fee for original licensure and the reciprocity fee if the following requirements are met:

1. The applicant has:
 - a. ~~Complied with the requirements for registration of~~ Provided satisfactory proof of a license in good standing with the District of Columbia, or ~~another~~any other state, territory, foreign country, or province where the requirements are equal ~~substantially~~equally substantial to those in force in this state at the time the application for the license is filed; or
 - b. ~~Provided satisfactory proof of completing the course curriculum hours required by the board and provided proof of successfully passing the theoretical and practical examinations substantially similar to those required in this state; or~~
 - e. Provided satisfactory proof:
 - (1) The applicant is licensed in good standing in any other state, territory, or jurisdiction of the United States to practice cosmetology, ~~manicuring, or esthetics;~~

- (2) The applicant worked in the licensed profession for at least three of the past five years; and
 - (3) ~~The applicant graduated from a school of cosmetology, manicuring, or esthetics approved by the board which may be established by presentation of a diploma, transcript, or verification from the original licensing state, territory, or jurisdiction;~~
 - (4) ~~The applicant passed a theoretical and practical examination acceptable to the board; and~~
 - (5) A license granted to the applicant in any other state, territory, or jurisdiction of the United States is not subject to suspension or revocation, or otherwise restricted in any manner for disciplinary purposes.
2. The applicant passes to the satisfaction of the board an examination on ~~sanitary practices and cosmetology law in this state~~North Dakota laws, rules, and regulations.

SECTION 20. Section 43-11-25.1 of the North Dakota Century Code is created and enacted as follows:

43-11-25.1. International applicants.

1. An applicant with training and credentials outside of the United States shall submit, at the applicant's own expense, qualifications, credentials, and work experience for review to a credentialing agency approved by the board.
2. Failure to have a review completed by the above credentialing agency may result in the board denying the application. The board may accept or refuse any recommendations made by the credentialing agency.

SECTION 21. AMENDMENT. Section 43-11-26 of the North Dakota Century Code is amended and reenacted as follows:

43-11-26. Master cosmetologist, master esthetician, and master manicurist - License - Qualifications.

An individual may obtain a master ~~cosmetologist's~~cosmetologist, master esthetician, or master manicurist license upon meeting all the following requirements:

1. Furnishing to the board evidence of having practiced as a cosmetologist, esthetician, or manicurist for at least one thousand hours. Cosmetologists may obtain hours under the direction and control of a master cosmetologist. Estheticians may obtain hours under the direction and control of a master cosmetologist or master esthetician. Manicurists may obtain hours under the direction and control of a master cosmetologist or master manicurist. Cosmetologists and estheticians may obtain a master license under the direction, control, and responsibility of a physician or physician assistant practicing within the scope of licensure under chapter 43-17 or a nurse practicing within the scope of the nurse's license under chapter 43-12.1.
2. Paying an original licensure fee as set forth in section 43-11-28.
3. Complying with the other requirements ~~of~~under this chapter applicable to a master ~~cosmetologist~~license.

SECTION 22. AMENDMENT. Section 43-11-27 of the North Dakota Century Code is amended and reenacted as follows:

43-11-27. Instructor's license - Student instructor's license - Registration - Qualifications.

1. ~~No person~~individual may be licensed as an instructor of cosmetology unless the ~~person~~individual passes a theory and a practical examination required by the board after paying the examination fee set forth in section 43-11-28 and provides evidence of having a general education equivalent to the completion of four years in high school. An applicant:
 - a. ~~Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and must have at least nine hundred sixty hours instructor's training in cosmetology in a school of cosmetology. Under this subdivision the practical portion of the examination may be waived if the written examination is supplemented with videotapes of the applicant's teaching procedures;~~
 - b. ~~Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and must have been actively engaged in the practice of cosmetology under the scope of the applicant's license for at least one year before application for an instructor's license, supplemented by not less than four hundred eighty hours instructor's training in a school of cosmetology or course of training approved by the board; or~~
 - c. ~~Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and shall have been actively engaged in the practice of cosmetology for at least three years prior to application for an instructor's license supplemented by not less than one hundred sixty hours instructor's training in a school of cosmetology or course of training approved by the board. No instructor or student instructor may be permitted to practice cosmetology on a patron other than that part of practical work which pertains directly to the teaching of practical operations to students.~~
2. ~~Student instructors in cosmetology must be registered upon enrollment in a school of cosmetology and upon certification by the school to~~with the board of. The board must record the name, age, and qualifications of the student instructor which must be recorded in a register kept for that purpose. A student instructor shall possess, at the time of enrollment, possess a general education equivalent to the completion of four years in high school and hold a license as a cosmetologist. Upon completion of the course prescribed for student instructors, the student instructor shall make application on a form provided by the board and pay a fee as provided in section 43-11-28. The board then shall thereupon cause the applicant to be examined for an instructor's license. The examination must be given by a special examining committee comprised of the board, assisted by one person designated by the board possessing the minimum qualifications entitling the person to instruct in an institution of higher learning and who shall examine the applicant in teaching procedures only. Upon successfully passing the examination, the board shall issue an instructor's license to the applicant.
3. ~~No person~~individual is entitled to renew an instructor's license unless the instructor has furnished to the board evidence of completion of the continuing education established by the board by rule.
4. Licensed estheticians and manicurists may only provide instruction within the scope of practice of the respective licenses determined under this chapter.

SECTION 23. AMENDMENT. Section 43-11-27.1 of the North Dakota Century Code is amended and reenacted as follows:

43-11-27.1. Esthetician and manicurist licenses - Qualifications - Fees.

The board may issue ~~annual~~ licenses for estheticians and manicurists. The board shall determine the qualifications for licensure and ~~annual~~ license fees for estheticians and manicurists.

SECTION 24. AMENDMENT. Section 43-11-28 of the North Dakota Century Code is amended and reenacted as follows:

43-11-28. Fees.

1. Fees to be paid by applicants for original registrations, original licenses, ~~annual~~ renewals, licenses issued upon reciprocity, and examinations as required under this chapter may not exceed the following amounts:

a. Original registrations, licenses, and annual renewals:	MAXIMUM FEE:
(1) Salons, original registration	\$80.00 <u>per year</u>
(2) Salons, annual renewal	\$30.00 <u>per year</u>
(3) School of cosmetology, original registration	\$505.00 <u>per year</u>
(4) School of cosmetology, annual renewal	\$205.00 <u>per year</u>
(5) Cosmetologist, original license	\$15.00 <u>per year</u>
(6) Cosmetologist, annual renewal	\$15.00 <u>per year</u>
(7) Master cosmetologist, original license	\$25.00 <u>per year</u>
(8) Master cosmetologist, annual renewal	\$20.00 <u>per year</u>
(9) Instructor, original license	\$35.00 <u>per year</u>
(10) Instructor, annual renewal	\$20.00 <u>per year</u>
(11) Reciprocity license fee	\$105.00 <u>per year</u>
(12) Registration fee for student instructor	\$15.00 <u>per year</u>
(13) Duplicate license	\$10.00 <u>per year</u>
(14) Certification fee	\$20.00 <u>per year</u>

b. <u>Late fees:</u>	
(1) <u>Late renewal within one year</u>	<u>\$50.00</u>
(2) <u>Late renewal after one year but before five years</u>	<u>\$150.00</u>

c. Examinations:	
(1) Cosmetology practical examination	\$25.00
(2) Instructors practical examination	\$55.00
(3) Written examination fees are set and collected by the administrator of the examination and payment is the responsibility of the applicant.	

2. Fees are not prorated or returnable. ~~The board may charge a fifty dollar penalty for each license renewal application received after December thirty first.~~

3. The board shall sponsor an educational program for licenseholders to carry out the purposes of protecting the public health and safety and maintaining capable and skilled cosmetologists, ~~manicurists~~, estheticians, manicurists, and instructors. The board shall use such portion of the

renewal fees as the board may determine for the purpose of providing the educational program.

SECTION 25. AMENDMENT. Section 43-11-29 of the North Dakota Century Code is amended and reenacted as follows:

43-11-29. License renewal - Failure to renew license at end of year - ~~When it may be renewed.~~

~~A license issued by the board under this chapter, which has not been renewed prior to the thirty-first day of December in any year, expires on the thirty-first day of December in that year. The holder of an expired license, within one year from and after the date of its expiration, may obtain a license upon the payment of the required fee in addition to the current renewal fee and upon furnishing to the board satisfactory proof of the person's qualifications to resume practice. If a license is not renewed within one year from the date it expired, the applicant for reinstatement shall take and pass the examination that is required of new applicants.~~

1. A license issued by the board expires on December thirty-first. If the application for renewal is not received on or before the expiration date, the license expires.
2. The board may renew a license if:
 - a. An application for renewal is submitted as provided by the board;
 - b. The renewal fee is paid; and
 - c. Grounds for denial do not exist under section 43-11-31.
3. The holder of an expired license, within one year from and after the date of the license's expiration, may obtain a reinstatement of the license upon:
 - a. Payment of the required late fee; and
 - b. Payment of the current renewal fee.
4. The holder of an expired license, one year after the date of expiration but before five years, may obtain a reinstatement of the license upon:
 - a. Payment of the required late fee; and
 - b. Furnishing to the board satisfactory proof of passing the North Dakota law, rules, and regulations examination.
5. The board may not reinstate a license if more than five years has lapsed since the license expired. If a license has not been renewed within five years, the individual may reapply for licensure under the requirements of initial licensure as set forth under this chapter.

SECTION 26. AMENDMENT. Section 43-11-30 of the North Dakota Century Code is amended and reenacted as follows:

43-11-30. Revocation or suspension of license.

The board may place on probation, revoke ~~and~~, or suspend a license upon proof of ~~the~~ a violation ~~of~~ under this chapter or ~~rules~~ a rule adopted by the board.

SECTION 27. AMENDMENT. Section 43-11-31 of the North Dakota Century Code is amended and reenacted as follows:

43-11-31. License - Refusal to grant - Grounds.

The board may deny an application or discipline a licensee on any of the following grounds:

1. Fraud in passing the examination.
2. Conviction of an offense determined by the board to have a direct bearing upon a ~~person's~~ individual's ability to serve the public in a profession licensed by the board, or, following conviction of any offense, the board determines the ~~person~~ individual is not sufficiently rehabilitated under section 12.1-33-02.1.
3. Grossly unprofessional or dishonest conduct.
4. Addiction to the use of intoxicating liquor or drugs to such an extent as to render the ~~person~~ individual unfit to practice ~~cosmetology~~.
5. Advertising by means of knowingly false or deceptive statements.
6. Failure to display the license as provided ~~in~~ under this chapter.
7. Violation of the provisions ~~of~~ under this chapter or the rules adopted by the board.
8. Permitting an unlicensed ~~person~~ individual to practice cosmetology, ~~manicuring, skin care,~~ or teaching in a cosmetology salon or school of cosmetology.
9. Advertising or providing services outside of the licensee's scope of practice as defined under this chapter.

SECTION 28. AMENDMENT. Section 43-11-33 of the North Dakota Century Code is amended and reenacted as follows:

43-11-33. Board may subpoena witnesses - Fees - How paid.

The board may require the attendance of witnesses and the production of books, records, and papers at any hearing or with reference to any matter which ~~it~~ the board has authority to investigate, and, for that purpose, may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers. The fees and mileage of witnesses must be the same as may be allowed in the court in criminal cases. Fees and mileage must be paid in the same manner as expenses of the board.

SECTION 29. AMENDMENT. Section 43-11-34 of the North Dakota Century Code is amended and reenacted as follows:

43-11-34. Appeal from actions of the board.

An appeal may be taken from an action of the board under this chapter in refusing to grant, or in suspending or revoking a license, to the district court of the county of residence of the ~~person~~ individual who has been refused a license or whose license has been suspended or revoked. The appeal must be taken in accordance with the provisions ~~of~~ under chapter 28-32.

SECTION 30. AMENDMENT. Section 43-11-35 of the North Dakota Century Code is amended and reenacted as follows:

43-11-35. Penalty.

Any ~~person~~ individual who, without a license, ~~as required under this chapter~~ willfully practices any of the occupations, maintains a school, or acts or advertises in any capacity, ~~wherein a license is required by~~ violates this chapter or rule adopted by the board, is guilty of a class B misdemeanor.

SECTION 31. REPEAL. Sections 43-11-13.1, 43-11-13.2, and 43-11-20 of the North Dakota Century Code are repealed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2092.

Senate Vote: Yeas 46 Nays 1 Absent 0

House Vote: Yeas 56 Nays 36 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State