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SENATE WORKFORCE DEVELOPMENT
3/20/2025

TESTIMONY OF MARY KAE KELSCH
OFFICE OF ATTORNEY GENERAL HOUSE
BILL NO. 1317

Mr. Chairman, members of the Committee.

I am Mary Kae Kelsch, Assistant Attorney General, and I appear on behalf of the Attorney General. I am the director of the General Counsel Division of the Attorney General's office. My division represents state agencies, boards, and commissions. We do not have a position on this bill but offer a simple amendment.

This bill adds two additional members to the barber board. The bill lists three tasks these members will help with: shop inspections, legal advice, and office duties. The proposed amendment takes out subsection b. Legal advice. The reason for this is that the Board of Barber Examiners has an Assistant Attorney General assigned to them who can provide legal advice. If the Board wanted to hire a different attorney to represent them, they could do so, but that attorney would have to be appointed as a Special Assistant Attorney General. Without the appointment, an attorney is not able to provide legal advice to a state board.

I'm happy to stand for questions.

FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1317

Introduced by

Representative Satrom

Senator Conley

1 A BILL for an Act to create and enact three new sections to chapter 43-04 of the North Dakota
2 Century Code, relating to restricted, temporary, and retired barber licenses; to amend and
3 reenact sections 43-04-01, 43-04-04, 43-04-06, 43-04-30, 43-04-30.1, 43-04-32, and 43-04-42
4 of the North Dakota Century Code, relating to the board of barber examiners, barber licensing,
5 continuing education, and fees; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 43-04-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-04-01. Definitions.**

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

- 11 1. "Board" means the board of barber examiners.
- 12 2. "Licensed barber" means a licensee who has:
 - 13 a. Met the requirements defined in sections 43-04-31 and 43-04-32; and
 - 14 b. Passed the examination required in section 43-04-33.
- 15 3. "Practice of barbering" includes any one or any combination of the following practices
16 when done upon the upper part of the human body for cosmetic purposes and not for
17 the treatment of diseases or physical or mental ailments, and when done for payment
18 either directly or indirectly:
 - 19 a. Shaving or trimming the beard or cutting the hair.
 - 20 b. Giving facial or scalp massages or treatments with oils, creams, lotions, or other
21 preparations either by hand or mechanical appliances.
 - 22 c. Singeing, shampooing, or dyeing the hair or applying hair tonics.

d. Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, neck, or upper part of the body.

4. "Restricted barber" means a licensee, limited in practice to specific areas in which competence has been demonstrated, and allowed to work in a licensed host shop.

5. "Retired barber" means a licensee who meets the requirements of section 9 of this Act.

6. "Temporary barber" means an eligible licensee who is permitted to practice under the supervision of a licensed barber until results are available from the the next scheduled examination.

SECTION 2. AMENDMENT. Section 43-04-04 of the North Dakota Century Code is amended and reenacted as follows:

43-04-04. Board of barber examiners - Appointment - Term of office - Qualifications.

1. The board of barber examiners must consist of at least three members, ~~each of whom must be~~ appointed by the governor for a term of three years.

2. Members are subject to the following requirements:

a. The terms of office of the members must be so arranged that one term expires on the thirty-first day of December of each year;

b. Each appointment must be made from a list of five names submitted to the governor by the state barber association; and each

c. Each member must be a registered barber who has followed the occupation of barber in this state for at least five years ~~prior to~~ before that member's appointment.

3. Two additional members, who shall serve as nonvoting ex officio members and are not required to be licensed barbers, may be appointed by the board for tasks including:

a. New and annual shop inspections; and

b. ~~Legal advice; and~~

~~c.~~ Office duties.

SECTION 3. AMENDMENT. Section 43-04-06 of the North Dakota Century Code is amended and reenacted as follows:

d. Applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to scalp, face, neck, or upper part of the body.

4. "Restricted barber" means a licensee, limited in practice to specific areas in which competence has been demonstrated, and allowed to work in a licensed host shop.

5. "Retired barber" means a licensee who meets the requirements of section 9 of this Act.

6. "Temporary barber" means an eligible licensee who is permitted to practice under the supervision of a licensed barber until results are available from the the next scheduled examination.

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3. Two additional members, who shall serve as nonvoting ex officio members and are not required to be licensed barbers, may be appointed by the board for tasks including:

a. New and annual shop inspections;

b. Legal advice; and

c. Office duties.

SECTION 3. AMENDMENT. Section 43-04-06 of the North Dakota Century Code is amended and reenacted as follows:

43-04-06. Officers of board - Power to administer oath - Bond.

The members of the board shall elect from ~~their number~~those members appointed by the governor under section 43-04-04 a president, vice president, and secretary-treasurer. The secretary-treasurer of the board must be bonded for the faithful discharge of duties in the penal sum of five thousand dollars. The secretary-treasurer and the president of the board may administer oaths.

SECTION 4. AMENDMENT. Section 43-04-30 of the North Dakota Century Code is amended and reenacted as follows:

43-04-30. Barber - Certificate of registration required - Rules.

1. ~~A person~~An individual may not practice barbering within this state unless the ~~person~~individual holds ~~a certificate of registration and is registered as a barber or holds a permit to practice as a journeyman barber~~is licensed and registered as:

- a. A barber;
- b. A restricted barber;
- c. A retired barber; or
- d. A temporary barber.

2. The board shall adopt rules regulating licensing, including procedures, requirements, and fees.

SECTION 5. AMENDMENT. Section 43-04-30.1 of the North Dakota Century Code is amended and reenacted as follows:

43-04-30.1. Continuing education requirements.

1. The board may adopt rules establishing requirements for the continuing education of ~~persons~~individuals licensed under this chapter. ~~Rules for accreditation of continuing education must allow accreditation for a variety of types of continuing education forums, including live presentations and correspondence education. The rules must provide:~~

- a. Individuals holding a barber license or a barber instructor license shall complete a minimum of six hours of continuing education every two years;
- b. Education requirements must be met before the August first deadline; and
- c. Accreditation hours may be completed through a variety of continuing education forums, including seminars, workshops, annual conventions, and video courses.

2. The board may suspend, revoke, place on probationary status, impose a fine on, or refuse to renew any license issued under this chapter if the licensee fails to meet the continuing education requirements established by the board.

3. An applicant for accreditation of continuing education courses, classes, or activities may be charged a reasonable fee determined by the board.

SECTION 6. AMENDMENT. Section 43-04-32 of the North Dakota Century Code is amended and reenacted as follows:

43-04-32. ~~Barber~~Licensed barber - Application for examination.

~~1. Any person who desires to take the examination for a certificate of registration to practice as a registered barber shall make application to the board on blanks prepared and furnished by the board and shall enclose with the application all of the following:~~

~~1. Proof, under oath, of the person's qualifications.~~

~~2. A five-inch by three-inch [12.7-centimeter by 7.62-centimeter] signed photograph of that person. The person also shall present such a photograph to the board when the person appears for examination.~~

~~3. The required fee.~~

~~4. A certificate showing graduation from a public or recognized private high school or an equivalent education as determined by an examination conducted by the board; provided, however, that two years armed service should be termed equivalent education.~~
be licensed as a barber shall apply to the board.

2. An applicant is eligible to take the licensing examination under section 43-04-33 if the applicant:

a. Pays the required application fee; and

b. Has held an active and valid license to practice barbering in another state for at least one year; or

c. Has received a minimum of one thousand one hundred hours of training in sanitation, safety, laws, and rules, including the completion of hours at a licensed barbering school or a barbering program in a public school system, and other procedures as established by the board.

- 1 3. The board shall issue a license to an applicant who meets the qualifications under
2 section 43-04-31, passes the licensing examination under section 43-04-33, and pays
3 the initial licensing fee.
- 4 4. An applicant who fails to pass the examination under section 43-04-33 may take
5 subsequent examinations as necessary, subject to the following:
 - 6 a. The board may specify reasonable time frames for rescheduling the examination;
7 b. The board may require additional training for applicants who fail to pass the
8 examination after the applicant's third attempt; and
9 c. The applicant shall file any additional forms and pay re-examination fees as
10 determined by the board.
- 11 5. The board shall maintain a record relating to the issuance, refusal, and renewal of
12 licenses. The record must contain the name, place of business, and residence of each
13 licensed barber and the date and number of the barber's license.
- 14 6. The board shall adopt rules specifying procedures for licensure by endorsement of
15 barbers desiring to be licensed in this state who hold a current active license in
16 another state or country and have met qualifications substantially similar to the
17 qualifications required for licensed barbers in this state.

18 **SECTION 7.** A new section to chapter 43-04 of the North Dakota Century Code is created
19 and enacted as follows:

20 **Restricted barber license - Requirements.**

- 21 1. An individual may apply for a restricted barber license if the applicant:
 - 22 a. Has not been disciplined relating to the practice of barbering in the previous five
23 years;
 - 24 b. Passes a written examination of the laws and rules governing practice in the
25 state, as established by the board; and
 - 26 c. Has a background in barbering as demonstrated by:
 - 27 (1) Successfully completing a restricted barber course, as established by the
28 board, at a licensed barbering school or a barbering program within the
29 public school system; or
 - 30 (2) Holding, within the previous five years, an active and valid license to
31 practice barbering in another state or country.

- 1 2. A licensed restricted barber shall work in a licensed host shop and may not own or
2 operate a shop.
- 3 3. An individual may practice barbering while awaiting results of the examination under
4 this section, if the individual is under the supervision of a licensed barber in a licensed
5 barbershop, subject to the following:
 - 6 a. An individual who fails the examination on the individual's first attempt may
7 continue practicing under the supervision of a licensed barber in a licensed
8 barbershop, provided the individual applies for the next examination;
 - 9 b. The individual may continue to practice under the licensed barber until the
10 individual receives the results of the second examination; and
 - 11 c. An individual may not continue to practice under this subsection if the individual
12 fails to pass the examination on the second attempt.

13 **SECTION 8.** A new section to chapter 43-04 of the North Dakota Century Code is created
14 and enacted as follows:

15 **Temporary barber license - Requirements.**

- 16 1. An individual who has met the requirements in subsection 2 of section 43-04-32 may
17 apply for and be issued a temporary barber license, upon payment of the required fee.
- 18 2. A license under this section:
 - 19 a. Is valid for a maximum of three months;
 - 20 b. Must begin from the verified date of graduation or completion of training; and
 - 21 c. May be exercised only under the supervision of a licensed barber until results are
22 available from the next scheduled examination.
- 23 3. If the temporary license holder fails the examination, the temporary license holder may
24 apply for an extension of the individual's license under this chapter, pay the fee, and
25 register for the next scheduled examination.

26 **SECTION 9.** A new section to chapter 43-04 of the North Dakota Century Code is created
27 and enacted as follows:

28 **Retired barber license - Requirements.**

- 29 1. An individual may apply for a retired barber license and practice in a limited capacity if
30 the applicant is:

- 1 a. At least sixty-five years of age or has been practicing a minimum of twenty years
- 2 as a licensed barber; and
- 3 b. Works no more than five days per month.
- 4 2. Upon an applicant meeting the qualifications under this section and paying the initial
- 5 licensing fee, the board shall issue a retired barber license.

6 **SECTION 10. AMENDMENT.** Section 43-04-42 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-04-42. Fees.**

- 9 1. The board may charge applicants the following fees:
 - 10 a. For examination and issuance of a certificate to practice master barbering, one
 - 11 hundred dollars.
 - 12 b. For renewal of a master barber's certificate, one hundred dollars.
 - 13 c. For restoration of an expired master barber's certificate, a twenty dollar penalty
 - 14 fee in addition to the regular renewal fee.
 - 15 d. For a permit to operate a barber school or college, an annual fee of one hundred
 - 16 twenty-five dollars.
 - 17 e. For issuance of an annual barbershop license, fifty dollars, to be paid by each
 - 18 shop owner in advance.
 - 19 f. For issuance of a certificate to an applicant who qualifies under section
 - 20 43-04-38.1, one hundred seventy-five dollars.
 - 21 g. For restoration of an expired barbershop license, a twenty dollar penalty fee in
 - 22 addition to the annual license fee.
 - 23 h. For renewal of an instructor's license, ~~twenty-five~~two hundred fifty dollars.
- 24 2. Each application to open or establish a barbershop in this state must be accompanied
- 25 by a fee of one hundred dollars to cover expenses of inspection, which must be
- 26 retained by the board and deposited as other fees.
- 27 3. A duplicate license, certificate, or permit must be issued upon:
 - 28 a. Filing a statement verified by the oath of the applicant which explains the loss;
 - 29 b. Submitting a signed photograph of the applicant; and
 - 30 c. Paying a fee of ten dollars for the issuance of the duplicate.

- 1 4. Anyone who becomes a member of the armed forces of the United States in time of
- 2 war, while holding a license as a barber or apprentice, and while in good standing as
- 3 to payment of fees, may obtain a certificate restoration without payment of the
- 4 restoration fee.