

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Cosmetology)

1 A BILL for an Act to amend and reenact sections 43-11-01, 43-11-02, 43-11-04, 43-11-11,
2 43-11-13, 43-11-15, 43-11-25, 43-11-26, subsection 1 of section 43-11-27, and section 43-11-28
3 of the North Dakota Century Code, relating to the practice and licensing of cosmetology,
4 manicuring, and esthetics.

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

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

8 **43-11-01. Definitions.**

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

- 10 1. "Board" means the state board of cosmetology.
- 11 2. "Cosmetologist" means an individual licensed under this chapter to practice
12 cosmetology.
- 13 3. "Cosmetology" means any one or combination of practices generally and usually
14 performed by and known as the occupation of beauty culturists or cosmeticians or
15 cosmetologists or hairdressers, or of any other person holding out as practicing
16 cosmetology by whatever designation and within the meaning of this chapter and in
17 and upon whatever place or premises; and in particular cosmetology includes the
18 following or any one or a combination of practices: arranging, dressing, curling,
19 waving, cleansing, cutting, singeing, bleaching, coloring, braiding, or similar work,
20 upon the hair of any person by any means or with hands or mechanical or electrical
21 apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics,
22 lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating,
23 exercising, ~~waxing to remove~~ performing hair removal, beautifying, or similar work on
24 the body, manipulation of eyelashes, or manicuring the nails of any person.

- 1 4. "Cosmetology salon" includes that part of any building in which the occupation of a
2 cosmetologist is practiced.
- 3 5. "Esthetician" means a person who is licensed by the board to engage in the practice of
4 skin care. ~~An esthetician does not include a professional make-up artist trained in-~~
5 ~~facial make-up application by a cosmetics company.~~
- 6 6. "Homebound" means any person who is ill, disabled, or otherwise unable to travel to a
7 salon.
- 8 7. "Instructor" means any person of the age of eighteen years or more, who is a licensed
9 cosmetologist, who teaches cosmetology or any practices taught in a duly registered
10 school of cosmetology, and who has met the requirements of section 43-11-27 and
11 has applied for and received an instructor's license.
- 12 8. "Invasive care" means any procedure that invades the live tissue of the dermis,-
13 including:
- 14 a. ~~Laser use, except the use of cold laser technology using nonlinear, pulsed light-~~
15 ~~application for the purpose of biostimulation without the generation of heat; and~~
- 16 b. ~~Chemical peels, except for chemical peels using:~~
- 17 (1) ~~Thirty percent alpha hydroxy acid, which includes glycolic acid with a pH of~~
18 ~~3.0 or higher;~~
- 19 (2) ~~Twenty percent beta hydroxy acid, which includes salicylic acid with a pH of~~
20 ~~3.0 or higher; or~~
- 21 (3) ~~Two percent resorcinol with a pH of 3.0 or higher.~~
- 22 9. ~~"Manager operator" means any person who has met the requirements of section-~~
23 ~~43-11-26 and has applied for and received a managing cosmetologist license.~~
- 24 ~~10.~~ "Manicuring" means the cleansing, cutting, shaping, beautifying, or massaging of the
25 hands, feet, or nails of any person.
- 26 ~~11.~~ "Manicurist" means a person who is licensed by the board to engage in the practice of
27 manicuring.
- 28 11. "Master cosmetologist" means any person who has met the requirements of section
29 43-11-26 and has applied for and received a managing cosmetologist license.
- 30 12. "School of cosmetology" means an establishment operated for the purpose of teaching
31 cosmetology.

- 1 13. "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions,
2 creams, or otherwise, massaging, cleansing, stimulating, manipulating, ~~waxing to~~
3 ~~remove~~ performing hair removal, beautifying, or similar work on the body of any
4 person. The term does not include invasive care.
- 5 14. "Student" means any person who is engaged in the learning or acquiring of any or all
6 the practices of cosmetology and while so learning, performs or assists in any of the
7 practices of cosmetology in any school registered or licensed and under the immediate
8 supervision of an instructor licensed as such under this chapter.
- 9 15. "Student instructor" means a cosmetologist who is receiving instruction in teacher's
10 training in a duly registered school of cosmetology.
- 11 16. "Tuition" means the total cost of a person's cosmetology studies, and does not include
12 books or demonstration kits.

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

15 **43-11-02. Exemptions from provisions of chapter.**

16 This chapter does not apply to:

- 17 1. Services in case of emergency.
- 18 2. Services provided by persons practicing cosmetology upon members of their
19 immediate families.
- 20 3. Services by a person licensed by the state and working within the standards and
21 ethics of that person's profession, if that person does not represent to the public that
22 the person is a cosmetologist or manicurist.
- 23 4. Services by nurses, undertakers, and morticians lawfully engaged in the performance
24 of the usual and ordinary duties of their vocation.
- 25 5. Educational activities conducted in connection with any regularly scheduled meeting or
26 any educational activities of any bona fide association of licensed cosmetologists, from
27 which the general public is excluded. For purposes of this subsection a "bona fide
28 association of cosmetologists" means any organization whose constitution, bylaws, or
29 membership rules establish within said organization a class of membership consisting
30 of licensed cosmetologists.

- 1 6. Services provided by retailers or their sales personnel trained in the demonstration of
2 cosmetics application if the cosmetics are applied only with disposable applicators that
3 are discarded after each customer demonstration. The board may adopt rules to
4 ensure sanitary conditions for services provided under this exemption.
- 5 7. Services provided in a licensed hospital or a nursing home by a person practicing
6 cosmetology on a volunteer basis without compensation or by a nurse's assistant.
- 7 8. Skin care provided under the supervision, control, and responsibility of a ~~physician in-~~
8 ~~the hospital, clinic, or physician's office~~ medical director.

9 **SECTION 3. AMENDMENT.** Section 43-11-04 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-11-04. Members of board - Qualifications.**

12 Each member of the board must be a citizen of this state. Three of the members of the
13 board must each be a licensed cosmetologist who has had at least three years' practical
14 experience in the occupation. ~~The other two members~~ One member of the board must be ~~citizen-~~
15 ~~members, at least one of whom has~~ have professional experience as a secondary teacher or as
16 a postsecondary educator. One member of the board must have a medical or nursing license.

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

19 **43-11-11. Sanitary rules - Practice outside salon.**

20 The board with the approval of the state department of health shall adopt sanitary rules
21 necessary to prevent the creating and spreading of infectious and contagious diseases. A
22 cosmetology salon must be at a fixed location and may not be used for living or sleeping
23 quarters. ~~An operator~~ A cosmetologist or esthetician may practice outside of the establishment
24 under the direction and control of ~~an owner or manager~~ a master cosmetologist or master
25 esthetician thereof under rules adopted by the board.

26 **SECTION 5. AMENDMENT.** Section 43-11-13 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **43-11-13. License required.**

29 No person in this state may engage in or attempt to engage in the occupation of
30 cosmetology, manicuring, or skin care, nor conduct a cosmetology salon or booth or school of
31 cosmetology, unless having first obtained a license.

1 **SECTION 6. AMENDMENT.** Section 43-11-15 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-11-15. ~~Cosmetology salon~~Salon ownership and operation.**

4 A ~~cosmetology~~ salon may be owned by any person authorized to do business in this state. A
5 cosmetology salon must be operated and supervised by a ~~manager-operator~~master
6 cosmetologist. A manicuring salon must be operated and supervised by a master cosmetologist
7 or master manicurist. A salon providing only skin care must be operated and supervised by a
8 master cosmetologist or master esthetician.

9 **SECTION 7. AMENDMENT.** Section 43-11-25 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-11-25. License issued without examination - Conditions.**

12 The board may dispense with the examination of applicants for licenses to practice
13 cosmetology and may grant licenses upon the payment of a fee for original licensure and the
14 reciprocity fee if all the following requirements are met:

- 15 1. The applicant has ~~complied~~:
 - 16 a. Compiled with the requirements for registration of the District of Columbia, or
 - 17 another state, territory, foreign country, or province where the requirements are
 - 18 equal substantially to those in force in this state at the time the application for the
 - 19 license is filed; or
 - 20 b. Provided satisfactory proof of completing the course curriculum hours required by
 - 21 the board and provide proof of successfully passing the theoretical and practical
 - 22 examinations substantially similar to those required in this state.
- 23 2. The applicant passes to the satisfaction of the board an examination on sanitary
24 practices and cosmetology law in this state.

25 **SECTION 8. AMENDMENT.** Section 43-11-26 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **43-11-26. ~~Manager-operator~~Master cosmetologist - License - Qualifications.**

28 An individual may obtain a ~~manager-operator's~~master cosmetologist's license upon meeting
29 all the following requirements:

- 30 1. Furnishing to the board evidence of having practiced as a cosmetologist for at least
31 one thousand hours.

- 1 2. Paying an original licensure fee as set forth in section 43-11-28.
- 2 3. Complying with the other requirements of this chapter applicable to a
- 3 ~~manager-operator~~master cosmologist.

4 **SECTION 9. AMENDMENT.** Subsection 1 of section 43-11-27 of the North Dakota Century
5 Code is amended and reenacted as follows:

- 6 1. No person may be licensed as an instructor of cosmetology unless the person
7 furnishes the board the examination fee set forth in section 43-11-28 and evidence of
8 having a general education equivalent to the completion of four years in high school.

9 An applicant:

- 10 a. Shall have at least nine hundred sixty hours instructor's training in cosmetology in
11 a school of cosmetology. ~~In no event may more than two thousand sixty hours~~
12 ~~instructor's training be required for admission to examination.~~ Under this
13 subdivision the practical portion of the examination may be waived if the written
14 examination is supplemented with videotapes of the applicant's teaching
15 procedures;
- 16 b. Shall possess a current North Dakota license as a cosmetologist and must have
17 been actively engaged in the practice of cosmetology for at least one year before
18 application for an instructor's license, supplemented by not less than four
19 hundred eighty hours instructor's training in a school of cosmetology or course of
20 training approved by the board; or
- 21 c. Shall possess a current North Dakota license as a cosmetologist and shall have
22 been actively engaged in the practice of cosmetology for at least three years prior
23 to application for an instructor's license supplemented by not less than one
24 hundred sixty hours instructor's training in a school of cosmetology or course of
25 training approved by the board. No instructor or student instructor may be
26 permitted to practice cosmetology on a patron other than that part of practical
27 work which pertains directly to the teaching of practical operations to students.

28 **SECTION 10. AMENDMENT.** Section 43-11-28 of the North Dakota Century Code is
29 amended and reenacted as follows:

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1 ~~board applies an equal percentage of reduction to all renewal fees.~~ The board shall
2 sponsor an educational program for licenseholders to carry out the purposes of
3 protecting the public health and safety and maintaining capable and skilled ~~operators,~~
4 ~~manager operators~~cosmetologists, manicurists, estheticians, and instructors. The
5 board shall use such portion of the renewal fees as the board may determine for the
6 purpose of providing the educational program.