

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. "Booth space" means that part of a licensed salon that is operated independently by a  
12 licensed booth renter.
- 13 3. "Cosmetologist" means an individual licensed under this chapter to practice  
14 cosmetology.

15 ~~3.4.~~ "Cosmetology" means any one or combination of practices generally and usually  
16 performed by and known as the occupation of beauty culturists or cosmeticians or  
17 cosmetologists or hairdressers, or of any other person holding out as practicing  
18 cosmetology by whatever designation and within the meaning of this chapter and in  
19 and upon whatever place or premises; and in particular cosmetology includes the  
20 following or any one or a combination of practices: arranging, dressing, curling,  
21 waving, cleansing, cutting, singeing, bleaching, coloring, braiding, or similar work,  
22 upon the hair of any person by any means or with hands or mechanical or electrical  
23 apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics,  
24 lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating,

1 | exercising, ~~waxing to remove~~ performing non-invasive hair removal, beautifying, or  
2 | similar work on the body, manipulation of eyelashes, or manicuring the nails of any  
3 | person.

4 | ~~4.5.~~ "Cosmetology salon" includes that part of any building in which the occupation of a  
5 | cosmetologist is practiced.

6 | ~~5.6.~~ "Esthetician" means a person who is licensed by the board to engage in the practice of  
7 | skin care. ~~An esthetician does not include a professional make-up artist trained in~~  
8 | ~~facial make-up application by a cosmetics company.~~

9 | ~~6.7.~~ "Homebound" means any person who is ill, disabled, or otherwise unable to travel to a  
10 | salon.

11 | ~~7.8.~~ "Instructor" means any person of the age of eighteen years or more, who is a licensed  
12 | cosmetologist, who teaches cosmetology or any practices taught in a duly registered  
13 | school of cosmetology, and who has met the requirements of section 43-11-27 and  
14 | has applied for and received an instructor's license.

15 | ~~8.9.~~ "Invasive care" means any procedure that invades the live tissue of the dermis,  
16 | including:

17 | a. ~~Laser use, except the use of cold laser technology using nonlinear, pulsed light~~  
18 | ~~application for the purpose of biostimulation without the generation of heat; and~~

19 | b. ~~Chemical peels, except for chemical peels using:~~

20 | (1) ~~Thirty percent alpha hydroxy acid, which includes glycolic acid with a pH of~~  
21 | ~~3.0 or higher;~~

22 | (2) ~~Twenty percent beta hydroxy acid, which includes salicylic acid with a pH of~~  
23 | ~~3.0 or higher; or~~

24 | (3) ~~Two percent resorcinol with a pH of 3.0 or higher.~~

25 | ~~9.~~ "Manager-operator" means any person who has met the requirements of section  
26 | ~~43-11-26 and has applied for and received a managing cosmetologist license.~~

27 | ~~10.~~ "Manicuring" means the cleansing, cutting, shaping, beautifying, or massaging of the  
28 | hands, feet, or nails of any person.

29 | ~~11.10.~~ "Manicurist" means a person who is licensed by the board to engage in the practice of  
30 | manicuring.

- 1 | ~~11.12.~~ 11.12. "Master cosmetologist" means any person who has met the requirements of section  
2 | 43-11-26 and has applied for and received a managing cosmetologist license.
- 3 | ~~12.13.~~ 12.13. "School of cosmetology" means an establishment operated for the purpose of teaching  
4 | cosmetology.
- 5 | ~~13.14.~~ 13.14. "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions,  
6 | creams, or otherwise, massaging, cleansing, stimulating, manipulating, ~~waxing to~~  
7 | ~~remove~~ performing non-invasive hair removal, beautifying, or similar work on the body  
8 | of any person. The term does not include invasive care.
- 9 | ~~14.15.~~ 14.15. "Student" means any person who is engaged in the learning or acquiring of any or all  
10 | the practices of cosmetology and while so learning, performs or assists in any of the  
11 | practices of cosmetology in any school registered or licensed and under the immediate  
12 | supervision of an instructor licensed as such under this chapter.
- 13 | ~~15.16.~~ 15.16. "Student instructor" means a cosmetologist who is receiving instruction in teacher's  
14 | training in a duly registered school of cosmetology.
- 15 | ~~16.17.~~ 16.17. "Tuition" means the total cost of a person's cosmetology studies, and does not include  
16 | books or demonstration kits.

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

19 | **43-11-02. Exemptions from provisions of chapter.**

20 | This chapter does not apply to:

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

1 association of cosmetologists" means any organization whose constitution, bylaws, or  
2 membership rules establish within said organization a class of membership consisting  
3 of licensed cosmetologists.

4 6. Services provided by retailers or their sales personnel trained in the demonstration of  
5 cosmetics application if the cosmetics are applied only with disposable applicators that  
6 are discarded after each customer demonstration. The board may adopt rules to  
7 ensure sanitary conditions for services provided under this exemption.

8 7. Services provided in a licensed hospital or a nursing home by a person practicing  
9 cosmetology on a volunteer basis without compensation or by a nurse's assistant.

10 8. Skin care provided under the supervision, control, and responsibility of a physician in-  
11 the hospital, clinic, or physician's office ~~medical director~~ physician practicing within the  
12 scope of the physician's license under chapter 43-17 or nurse practicing within the  
13 scope of the nurse's license under chapter 43-12.1.

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

16 **43-11-04. Members of board - Qualifications.**

17 Each member of the board must be a citizen of this state. Three of the members of the  
18 board must each be a licensed cosmetologist who has had at least three years' practical  
19 experience in the occupation. ~~The other two members~~ One member of the board must be citizen  
20 ~~members, at least one of whom has~~ have professional experience as a secondary teacher or as  
21 a postsecondary educator. ~~One member of the board must~~ have a medical or nursing license be  
22 a physician licensed to practice medicine in this state under chapter 43-17 or nurse licensed to  
23 practice nursing in this state under chapter 43-12.1.

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

26 **43-11-11. Sanitary rules - Practice outside salon.**

27 The board with the approval of the state department of health shall adopt sanitary rules  
28 necessary to prevent the creating and spreading of infectious and contagious diseases. A  
29 cosmetology salon must be at a fixed location and may not be used for living or sleeping  
30 quarters. ~~An operator~~ A cosmetologist or esthetician may practice outside of the establishment

1 under the direction and control of ~~an owner or manager~~ master cosmetologist or master  
2 esthetician thereof under rules adopted by the board.

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

5 **43-11-13. License required.**

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

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

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

12 A ~~cosmetology~~ salon may be owned by any person authorized to do business in this state. A  
13 cosmetology salon must be operated and supervised by a ~~manager-operator~~master  
14 cosmetologist. A manicuring salon must be operated and supervised by a master cosmetologist  
15 or master manicurist. A salon providing only skin care must be operated and supervised by a  
16 master cosmetologist or master esthetician.

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

19 **43-11-25. License issued without examination - Conditions.**

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

- 23 1. The applicant has ~~complied~~:
- 24 a. Compiled with the requirements for registration of the District of Columbia, or  
25 another state, territory, foreign country, or province where the requirements are  
26 equal substantially to those in force in this state at the time the application for the  
27 license is filed; or
- 28 b. Provided satisfactory proof of completing the course curriculum hours required by  
29 the board and provide proof of successfully passing the theoretical and practical  
30 examinations substantially similar to those required in this state.

- 1           2.    The applicant passes to the satisfaction of the board an examination on sanitary  
2                   practices and cosmetology law in this state.

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

5           **43-11-26. ~~Manager-operator~~Master cosmetologist - License - Qualifications.**

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

- 8           1.    Furnishing to the board evidence of having practiced as a cosmetologist for at least  
9                   one thousand hours.  
10          2.    Paying an original licensure fee as set forth in section 43-11-28.  
11          3.    Complying with the other requirements of this chapter applicable to a  
12                 ~~manager-operator~~master cosmetologist.

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

- 15          1.    No person may be licensed as an instructor of cosmetology unless the person  
16                 furnishes the board the examination fee set forth in section 43-11-28 and evidence of  
17                 having a general education equivalent to the completion of four years in high school.  
18                 An applicant:  
19                 a.    Shall have at least nine hundred sixty hours instructor's training in cosmetology in  
20                       a school of cosmetology. ~~In no event may more than two thousand sixty hours~~  
21                       ~~instructor's training be required for admission to examination.~~ Under this  
22                       subdivision the practical portion of the examination may be waived if the written  
23                       examination is supplemented with videotapes of the applicant's teaching  
24                       procedures;  
25                 b.    Shall possess a current North Dakota license as a cosmetologist and must have  
26                       been actively engaged in the practice of cosmetology for at least one year before  
27                       application for an instructor's license, supplemented by not less than four  
28                       hundred eighty hours instructor's training in a school of cosmetology or course of  
29                       training approved by the board; or  
30                 c.    Shall possess a current North Dakota license as a cosmetologist and shall have  
31                       been actively engaged in the practice of cosmetology for at least three years prior

1 to application for an instructor's license supplemented by not less than one  
2 hundred sixty hours instructor's training in a school of cosmetology or course of  
3 training approved by the board. No instructor or student instructor may be  
4 permitted to practice cosmetology on a patron other than that part of practical  
5 work which pertains directly to the teaching of practical operations to students.

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

8 **43-11-28. Fees.**

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

12	a. Original registrations, licenses, and annual	MAXIMUM
13	renewals:	FEE:
14	(1) Salons, original registration	\$80.00
15	(2) Salons, annual renewal	\$30.00
16	(3) School of cosmetology, original registration	\$505.00
17	(4) School of cosmetology, annual renewal	\$205.00
18	(5) <del>Operator</del> Cosmetologist, original license	\$15.00
19	(6) <del>Operator</del> Cosmetologist, annual renewal	\$15.00
20	(7) <del>Manager-operator</del> Master cosmetologist, original license	\$25.00
21	(8) <del>Manager-operator</del> Master cosmetologist, annual renewal	\$20.00
22	(9) Instructor, original license	\$35.00
23	(10) Instructor, annual renewal	\$20.00
24	(11) <del>Demonstrators</del> , original license	<del>\$30.00</del>
25	(12) <del>Demonstrators</del> , annual renewal	<del>\$20.00</del>
26	(13) Reciprocity license fee	\$105.00
27	(14)(12) Registration fee for student instructor	\$15.00
28	(15)(13) Duplicate license	\$10.00
29	(16) Penalty fee for late renewal	<del>\$15.00</del>
30	(17)(14) Certification fee	\$20.00

31 b. Examinations:

- 1                   (1) ~~Operator~~Cosmetology practical examination                   \$25.00
- 2                   (2) Instructors practical examination                   \$55.00
- 3                   (3) Written examination fees are set and collected by the administrator of the
- 4                               examination and payment is the responsibility of the applicant.
- 5           2. Fees are not prorated or returnable. The board may charge a ~~ten~~one hundred dollar
- 6                   penalty for each license renewal ~~applications~~application received after December
- 7                   thirty-first. ~~The board may reduce a renewal fee from the maximum amount only if the~~
- 8                   ~~board applies an equal percentage of reduction to all renewal fees.~~ The board shall
- 9                   sponsor an educational program for licenseholders to carry out the purposes of
- 10                   protecting the public health and safety and maintaining capable and skilled ~~operators,~~
- 11                   ~~manager-operators~~cosmetologists, manicurists, estheticians, and instructors. The
- 12                   board shall use such portion of the renewal fees as the board may determine for the
- 13                   purpose of providing the educational program.