

Testimony Relating to Salon and School Inspections
Senate Workforce Development Committee
March 6, 2025
House Bill 1126

Chairman Wobbema and members of the committee, thank you for the opportunity to provide testimony. My name is Nikki Wegner, and I am the President of the North Dakota Long Term Care Association. We represent 182 nursing facilities, basic care facilities, and assisted living facilities. I am testifying in support of House Bill 1126, which was introduced by the State Board of Cosmetology. Additionally, I will be presenting a proposed amendment to the bill.

Current Language and Proposed Amendment

House Bill No. 1126 seeks to update various aspects of the cosmetology practice act, including definitions and licensure requirements. Under the current exceptions to the act, "nurse assistants" are listed as exempt from certain cosmetology licensure requirements. However, this term does not encompass all the facility staff who are required to provide hair care under our regulations.

In addition, the bill currently applies only to nursing homes. It does not include basic care facilities, which are a vital component of our continuum of care. These facilities provide infection prevention, control, and essential care services for residents who are less dependent on daily activities but still require support.

To address these gaps, I recommend two amendments:

1. Explicitly include **basic care facilities** wherever nursing homes are mentioned in the bill.
2. Replace "nurse assistants" with "**facility staff**" in the list of exemptions. This change would ensure that all facility staff—such as nursing assistants, certified nursing assistants (CNAs), activity professionals, and others—can continue to provide essential

grooming services to residents without needing additional cosmetology licensure.

Rationale for the Amendment

1. **Clarification of Roles:** The term "nurse assistant" is not universally understood and may exclude CNAs and other essential facility staff. By using "facility staff," we ensure clarity and inclusivity for all personnel providing grooming services.
2. **Consistency Across Care Settings:** Residents in nursing homes and basic care facilities alike rely on facility staff for essential grooming services like haircuts. Expanding the bill to include basic care facilities and explicitly exempt "facility staff" recognizes the integral role of these caregivers in maintaining residents' dignity and quality of life.
3. **Avoiding Unnecessary Licensure Requirements:** Requiring facility staff to obtain cosmetology licenses for basic grooming tasks would impose undue regulatory burdens, disrupt care delivery, and reduce the availability of these services.

Proposed Amendment Language

To effectuate these changes, I propose the following amendments to House Bill No. 1126:

In every reference to "nursing homes," add "**and basic care facilities.**"

In the list of exemptions, replace "nurse assistants" with "**facility staff.**"

Conclusion

House Bill No. 1126 provides an important opportunity to update the cosmetology practice act and address long-standing needs in healthcare settings. By adopting these amendments, we can ensure that facility staff across nursing homes and basic care facilities can continue providing critical grooming services to residents without unnecessary licensure requirements.

Thank you for your attention to these recommendations. I'm happy to answer any questions you may have.

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FIRST ENGROSSMENT

ENGROSSED HOUSE BILL NO. 1126

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Cosmetology)

1 A BILL for an Act to create and enact eleven new sections to chapter 43-11 of the North Dakota
2 Century Code, relating to salon and school inspections, nursing home, basic care and assisted
3 salons, military and military spouse reciprocity licensure, advanced esthetician licensing and
4 late renewals for establishments and schools; to amend and reenact sections 43-11-01,
5 43-11-02, 43-11-03, 43-11-04, 43-11-05, 43-11-06, 43-11-08, 43-11-10, 43-11-11, 43-11-13,
6 43-11-14, 43-11-15, 43-11-16, 43-11-16.1, 43-11-19, 43-11-20.3, 43-11-21, 43-11-23, 43-11-24,
7 43-11-25, 43-11-26, 43-11-27, 43-11-28, and 43-11-29, of the North Dakota Century Code,
8 relating to the practice and licensure of cosmetologists, estheticians, advanced estheticians,
9 manicurists and instructors; to repeal sections 43-11-11.1, 43-11-17, and 43-11-27.1 of the
10 North Dakota Century Code, relating to the use of brush rollers, licenses issued for schools and
11 salons, and esthetician and manicurist licensing qualifications and fees; to provide a penalty;
12 and to provide an effective date.

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

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

16 **43-11-01. Definitions.**

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

- 18 1. "Ablative esthetic procedure" means an esthetic procedure to excise, vaporize,
19 disintegrate, or remove living tissue. Ablative procedures may not be performed by
20 cosmetologists, estheticians, advanced estheticians, or manicurists.
21 2. "Advanced esthetician" means an individual who practices advanced esthetics and
22 esthetics.

- 1 are discarded after each customer demonstration. The board may adopt rules to
2 ensure sanitary conditions for services provided under this exemption.
- 3 5. Services provided in a licensed hospital, basic care or a nursing home by an individual
practicing
4 cosmetology on a volunteer basis without compensation or by a ~~nurse's assistant~~ facility
~~staff~~.
- 5 6. ~~Skin care~~ Advanced esthetic procedures provided by a licensed ~~cosmetologist or~~
~~esthetician outside of a licensed salon if the services are being provided under the~~
6 ~~supervision, control, and responsibility of a physician:~~
7
- 8 a. Physician or physician assistant practicing ~~within the scope of the physician's or~~
9 ~~physician assistant's license under chapter 43-17, or nurse;~~
10 b. Nurse practicing ~~within the scope of the nurse's license under chapter 43-12.1;~~
11 c. Dentist or dental surgeon practicing under chapter 43-28;
12 d. Optometrist practicing under chapter 43-13; or
13 e. Chiropractor practicing under chapter 43-06.

14 **SECTION 3. AMENDMENT.** Section 43-11-03 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-11-03. State board of cosmetology - Appointment - Term - Removal.**

17 The state board of cosmetology consists of ~~five~~ seven members appointed by the governor
18 for three years each, with their terms of office so arranged that no more than ~~two~~ three terms
19 expire on June thirtieth of each year. Each member shall qualify by taking the oath required of
20 civil officers and shall hold office until a successor is appointed and qualified. The governor may
21 remove from office a member for misconduct, malfeasance, neglect of duty in office, crime in
22 office, gross incompetency, or habitual drunkenness. A vacancy on the board must be filled by
23 appointment by the governor for the unexpired term.

24 **SECTION 4. AMENDMENT.** Section 43-11-04 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **43-11-04. Members of board - Qualifications.**

27 Each member of the board must be a ~~citizen~~ an eligible voting resident of this state and
28 have at least three years of practical experience in the occupation. ~~Three of the members of the~~
29 ~~board must each be a licensed cosmetologist who has had at least three years' practical~~
30 ~~experience in the occupation. One member of the board must have professional experience as~~
31 ~~a secondary teacher or as a postsecondary educator. One member of the board must be a~~

1 section or rules adopted under this section, the revised information must be submitted
2 to the board before implementing the changes.

3 5. The board or the board's designee shall audit and inspect approved apprenticeship
4 establishments for compliance with this chapter at least annually.

5 a. If the board determines that an approved apprenticeship establishment is not
6 maintaining the standards required by this chapter, written notice must be given.

7 b. An approved apprenticeship establishment that fails to correct the conditions
8 listed in the notice to the satisfaction of the board within a reasonable time may
9 be subject to penalty.

10 6. An approved apprenticeship establishment shall post a notice to consumers in the
11 reception area of the establishment stating that services may be provided by an
12 apprentice. The notice must state: "This establishment is a participant in a state-
13 approved apprenticeship program. Apprentices in this program are in training and
14 have not yet received a license."

15 **SECTION 20.** A new section to chapter 43-11 of the North Dakota Century Code is created
16 and enacted as follows:

17 **Licensed nursing facilities, basic care and assisted living centers.**

18 Any licensed nursing facility, basic care or licensed assisted living center that permits licensed
19 cosmetologists to perform services to residents only, and does not advertise as an
20 establishment, is not required to have an establishment license. A licensed cosmetologist
21 located within a nursing home, basic care or assisted living center who performs cosmetology
22 services on
23 nonresidents of the facility must obtain an establishment license.

24 **SECTION 21. AMENDMENT.** Section 43-11-19 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **43-11-19. Students - Registration.**

27 1. A student must:

28 a. Adhere to the laws and rules regarding the practice of cosmetology;

29 b. ~~Have educational qualifications equivalent to completion of four years of high~~
30 ~~school~~ Be at least sixteen years old;

c. Complete at least a tenth grade education or equivalent; and