

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 and assisted living facility
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.

3. "Advanced esthetics" means the practice of advanced cosmetic preparations or procedures using the hands or a mechanical or electronic apparatus for esthetic purposes.
 - a. The term includes:
 - (1) Advanced chemical peels;
 - (2) Microneedling; and
 - (3) Extractions using lancets.
 - b. The term does not include:
 - (1) Procedures to treat a medical, physical, or mental ailment; or
 - (2) Ablative esthetic procedures.
4. "Apprentice" means an individual who is:
 - a. At least sixteen years of age;
 - b. Employed in an apprenticeable occupation; and
 - c. Registered in North Dakota by the office of apprenticeship of the United States department of labor.
5. "Apprentice program" means a program registered with the office of apprenticeship of the United States department of labor, meeting the terms and conditions for qualifications, recruitment, selection, employment, and training of apprentices, including the requirement for a written apprenticeship agreement between an apprentice and an active licensee in an active licensed establishment in accordance with the rules adopted by the board.
6. "Apprentice trainer" means an individual who trains an apprentice in an approved apprenticeship program and who is approved by rule of the board.
7. "Approved apprenticeship establishment" means an establishment approved by rule of the board.
8. "Board" means the state board of cosmetology.
- ~~2-9.~~ "Cosmetologist" means an individual licensed under this chapter to practice cosmetology.
- ~~3-10.~~ "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 individual holding out as practicing

cosmetology by whatever designation and within the meaning under this chapter and in and upon whatever place or premises.

a. The term includes:

- (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;
- (2) ~~Skin care~~Esthetics;
- (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.

4.11. "Esthetician" means an individual licensed under this chapter to practice esthetics ~~and skin care.~~

5.12. "Esthetics" means ~~manipulation and application of product to eyelashes and eyebrows, including extensions, design, treatment, tinting, and lightening and skin care.~~the practice of a variety of services to beautify or improve the appearance of the skin.

a. The term includes:

- (1) Beautifying, massaging, cleansing, or stimulating the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams;
- (2) Use of a device to care for the skin, including microdermabrasion, dermaplanning, or high frequency;
- (3) Cosmetic peels using a concentration of less than:
 - (a) Thirty percent alpha hydroxy acid;
 - (b) Twenty percent beta hydroxy acid;
 - (c) Fifteen percent resorcinol; or
 - (d) Fifteen percent trichloroacetic acid;

2

- (4) Application of cosmetics, eyelashes, or eyelash extensions;
 - (5) Perming, laminating, tinting, or lightening eyebrows, eyelashes, or other hair on the body; or
 - (6) Depilating, tweezing, shaving, sugaring, or waxing hair from the body.
- b. The term does not include:
- (1) Any procedure invading living tissue below the stratum corneum layer of the epidermis by any means;
 - (2) Threading hair removal; or
 - (3) Advanced esthetic procedures.

~~6-13.~~ "Independent licensee" ~~is means~~ 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 practices cosmetology, manicuring, esthetics, or advanced esthetics at a location within, but separate, from a cosmetology establishment. The licensee must abide by the same provisions of this chapter as an establishment.

~~7-14.~~ "Instructor" means an individual who is a licensed cosmetologist, esthetician, advanced esthetician, or manicurist who teaches cosmetology, esthetics, manicuring, or other practices 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.

- ~~8.~~ "Invasive care" ~~means any procedure that invades the live tissue of the dermis 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.~~

~~9-15.~~ "Manicuring" means:

- a. ~~Cleansing, cutting, shaping, or beautifying 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.
- ~~10-16.~~ "Manicurist" means an individual licensed under this chapter to practice manicuring.
- ~~11-17.~~ "Master cosmetologist" means an individual who has met the requirements of section 43-11-26 and has applied for and received a master cosmetologist license.
- ~~12-18.~~ "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.
- ~~13-19.~~ "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.
- ~~15-20.~~ "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 hair manipulation that results in tension on hair strands by beading, braiding, cornrowing, extending, lacing, locking, sewing, twisting, weaving, or wrapping human hair, natural fibers, synthetic fibers, and hair extensions into a variety of shapes, patterns, and textures by hand or by using simple hair braiding devices.
- a. The term includes:
 - ~~(1)~~ (1) The use of natural or synthetic hair extensions, natural or synthetic hair and fibers, and decorative beads and other hair accessories;
 - ~~(2)~~ (2) Minor trimming of natural hair or hair extensions incidental to twisting, wrapping, weaving, extending, locking, or braiding hair;
 - ~~(3)~~(1) The making of wigs from natural hair, natural fibers, synthetic fibers, and hair extensions; and
 - ~~(4)~~(2) The use of topical agents, such as conditioners, gels, moisturizers, oils, pomades, and shampoos, ~~in conjunction with performing services under paragraph 1 or 2; and~~

- (3) The maintenance of natural hair braids.
- b. The term does not include: the use of penetrating chemical hair treatments, chemical hair coloring agents, chemical hair straightening agents, chemical hair joining agents, permanent wave styles, or chemical hair bleaching agents applied to growing human hair.
- (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.~~
- c. For purposes of this section, "simple hair braiding devices" means clips, combs, curlers, curling irons, hairpins, rollers, scissors, needles, thread, and hair binders, including adhesives, required for hair braiding.
21. "Nonablative esthetic procedure" means the use of a laser, light, or energy device for the purpose of skin rejuvenation, body contouring, dyschromia reduction, cellulite reduction, hair removal, hair reduction, or tattoo removal, and is not intended to excise, vaporize, disintegrate, or remove living tissue.
- ~~16-22.~~ "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 means procedures or services limited to nonliving cells in the stratum corneum layer of the epidermis.
- ~~17-23.~~ "Salon" means an establishment in a fixed location, not used as sleeping or living quarters, licensed under this chapter where cosmetology services are provided.
- ~~18-24.~~ "School of cosmetology" means an establishment operated for the purpose of teaching cosmetology, esthetics, advanced esthetics, or manicuring.
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 individual. The term does not include invasive care or threading.

- ~~20-25.~~ "Student" means any 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.
- ~~24-26.~~ "Student instructor" means a cosmetologist, esthetician, advanced 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.
- ~~22-27.~~ "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.
- ~~23-28.~~ "Tuition" means the total cost of 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 provided by individuals practicing cosmetology upon members of the individual's immediate families.
2. Services by nurses, undertakers, and morticians lawfully engaged in the performance of the usual and ordinary duties of their vocation.
3. Educational activities conducted in connection with any regularly scheduled meeting or any educational activities of any bona fide association of licensed cosmetologists, estheticians, advanced esthetician, 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, estheticians, advanced estheticians, or manicurists.
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

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 or a nursing home by an individual practicing
4 cosmetology on a volunteer basis without compensation or by a nurse's assistant.

5 6. ~~Skin-care~~Advanced esthetic procedures provided by a licensed ~~cosmetologist or~~
6 ~~esthetician outside of a licensed salon if the services are being provided under the~~
7 ~~supervision, control, and responsibility of a physician;~~

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 ~~licensed health care provider~~The board must consist of at least three licensed cosmetologists,
2 one licensed cosmetology instructor, and a secondary teacher or a postsecondary educator.

3 The remaining three members may be any of the following:

- 4 1. A licensed cosmetologist;
- 5 2. A licensed esthetician;
- 6 3. A licensed advanced esthetician; or
- 7 4. A licensed manicurist.

8 **SECTION 5.** A new section to chapter 43-11 of the North Dakota Century Code is created
9 and enacted as follows:

10 **Material changes.**

11 Material changes to the practice act must be brought to the board before enactment.

12 **SECTION 6. AMENDMENT.** Section 43-11-05 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-11-05. Officers of board - Powers - Rulemaking.**

- 15 1. The members of the board annually shall elect a president and a secretary from the
16 members of the board.
- 17 2. The president and the secretary may administer oaths.
- 18 3. ~~The board may adopt rules necessary to implement this chapter~~shall:
 - 19 a. Adopt and enforce rules to administer this chapter after collaborating with
20 affected parties;
 - 21 b. Employ administrative staff and additional staff positions as needed;
 - 22 c. Set fees, manage funds, and authorize expenditures necessary for board
23 operations;
 - 24 d. Collect and analyze data;
 - 25 e. Maintain a registry of licensees and registered individuals;
 - 26 f. Issue licenses for cosmetologists, estheticians, advanced estheticians,
27 manicurists, instructors, establishments, independent licensees, and schools;
 - 28 g. Adopt and enforce rules for continuing competence of licensees and registrants;
 - 29 h. Regulate cosmetology practices; and
 - 30 i. Issue practice statements regarding the interpretation and application of this
31 chapter.

1 **SECTION 7. AMENDMENT.** Section 43-11-06 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-11-06. Compensation of members of board - How paid.**

4 Each appointed member of the board is entitled to receive compensation in ~~the an~~ amount
5 ~~provided for members of the legislative management under section 54-35-10 for each day~~
6 ~~employed in the actual discharge of official duties, as determined by the board by rule, for~~
7 services rendered in the performance of the member's duties under this chapter. Expenses
8 incurred by a board member in the performance of an official function are payable by the board
9 pursuant to sections 44-08-04 and 54-06-09. The compensation and expenses of all members
10 of the board must be paid from the license fees and other sources of income of the board.

11 **SECTION 8. AMENDMENT.** Section 43-11-08 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **43-11-08. Meetings of the board.**

14 The board shall meet at least ~~twice each year~~ every other month at times determined by the
15 board. The board shall publish annually the time and place of its regularly scheduled meetings.
16 A majority of the members constitutes a quorum.

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

19 **43-11-10. Records of board - Fees - Expenses - How paid.**

20 The secretary of the board shall keep a record of the board's proceedings and a register of
21 applicants for licensure showing the name of the applicant, the name and location of the
22 applicant's place of occupation or business, and whether the applicant was granted or refused a
23 license. The books and records of the board are prima facie evidence of matters therein
24 contained and constitute public records. All fees and payments required to be paid by applicants
25 for examinations or licenses must be deposited with the secretary of the board. The secretary
26 shall pay all expenses incurred in the operation of maintaining an office for the purpose of
27 carrying out this chapter from fees and other income. The secretary may delegate authority
28 under this section to administrative support staff.

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

1 **43-11-11. Rules of cleaning and disinfecting - Practice outside salon.**

2 The board with the approval of the department of health and human services shall adopt
3 rules of cleaning and disinfecting necessary to prevent the creating and spreading of infectious
4 and contagious diseases. A cosmetologist, esthetician, advanced esthetician, or manicurist may
5 practice outside of a licensed ~~salon~~establishment under rules adopted by the board. The board
6 shall inspect ~~salon~~establishments and schools to assure compliance with rules of cleaning and
7 disinfecting.

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

10 **43-11-13. License required.**

11 An individual may not:

- 12 1. Advertise, engage in, or attempt to engage in the ~~occupation of cosmetology, nor~~
13 ~~conduct a cosmetology salon or school of cosmetology unless having first obtained a~~
14 ~~license~~the practice of cosmetology, esthetics, advanced esthetics, or manicuring, or
15 ~~conduct an establishment or school of cosmetology unless having first obtained the~~
16 proper license.
- 17 2. Employ an unlicensed individual to perform cosmetology unless otherwise provided
18 under this chapter.

19 **SECTION 12.** A new section to chapter 43-11 of the North Dakota Century Code is created
20 and enacted as follows:

21 The practice of cosmetology, manicuring, or esthetics is limited to noninvasive care. A
22 cosmetologist, manicurist, or esthetician may not alter, cut, puncture, or damage any living cells
23 whether superficially or through the use of laser, light, or energy.

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

26 **43-11-14. Licenses - Board to issue - Form - Displayed.**

27 The board may issue all licenses provided for under this chapter. Each license issued must
28 be:

- 29 1. Signed by the secretary of the board;
30 2. Attested by the seal of the board; and
31 3. Displayed in clear view to the public ~~where services are being provided.~~

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

3 **43-11-15. Salon establishment ownership and operation.**

- 4 1. ~~A salon~~An establishment may be owned by any person authorized to do business in
5 this state.
- 6 a. ~~A cosmetology salon must be supervised by a master cosmetologist.~~
- 7 b. ~~A salon providing only skin care or esthetics must be supervised by a master-~~
8 ~~cosmetologist or master esthetician.~~
- 9 c. ~~A manicuring salon must be supervised by a master cosmetologist or master-~~
10 ~~manicurist.~~
- 11 2. The board shall determine the qualifications by rule for licensure and license fees for a
12 ~~salon license~~an establishment.

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

15 **Inspections of establishments, independent licensees, and schools.**

- 16 1. Each new establishment, independent licensee, and school must be inspected by the
17 board or the board's designee to determine compliance with the laws, rules, and
18 regulations of this chapter as determined by the board.
- 19 2. Each establishment, independent licensee, and school must be subject to routine
20 inspections as determined by the board.
- 21 3. An establishment, independent licensee, or school may be subject to additional
22 inspections if the establishment, independent licensee, or school:
- 23 a. Had a violation in a previous inspection;
- 24 b. Changed ownership;
- 25 c. Did not timely renew the license; or
- 26 d. Is on probation because of disciplinary action from the board.
- 27 4. A reinspection fee, determined by the board, may be charged for additional
28 inspections under subsection 3.
- 29 5. Inspections must be made during the establishment's regular hours of operation, or
30 anytime the instruction or practice of cosmetology, esthetics, advanced esthetics, or
31 manicuring is conducted, unless otherwise agreed by all interested persons.

1 6. Inspections may be authorized by the board or its executive director and the
2 authorized inspection may be conducted with or without notice to the licensee.

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

5 **Inspection generated by a complaint.**

6 1. Each establishment, independent licensee, and school may be subject to inspection
7 by the board or its designee, in response to a specific complaint filed with the board for
8 a violation of a law, rule, or regulation under this chapter.

9 2. Any inspection generated by a complaint may be authorized by the board or the
10 board's executive director at any time.

11 **SECTION 17.** A new section to chapter 43-11 of the North Dakota Century Code is created
12 and enacted as follows:

13 **Refusal to allow inspection.**

14 Refusal to allow or interference with any inspection by the board or the board's designees is
15 cause for disciplinary action.

16 **SECTION 18. AMENDMENT.** Section 43-11-16 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **43-11-16. Schools of cosmetology - Qualifications for licensure.**

19 1. A license must be granted to a school of cosmetology upon an application to the board
20 and the payment of the license fee if the school:

21 a. Is operated and maintained in premises separate from ~~any cosmetology salon~~ an
22 establishment;

23 b. Requires training and instruction to be a minimum of ~~one~~:

24 (1) One thousand five hundred hours ~~of training and instruction~~ in cosmetology,
25 ~~six~~;

26 (2) Six hundred hours ~~of training and instruction~~ in esthetics, ~~or three~~;

27 (3) Three hundred fifty hours ~~of training and instruction~~ in manicuring, ~~not to~~
28 ~~exceed eight hours per day; or~~

29 (4) Eleven hundred hours for advanced esthetics;

30 c. Employs at least two full-time equivalent licensed instructors and maintains a
31 maximum student-to-instructor ratio of twenty-four-to-one based on current

- 1 enrollment, except a school that provides training and instruction limited to
2 esthetics, advanced esthetics, or manicuring shall maintain a maximum
3 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
5 all subjects of its curriculum;
- 6 e. Maintains a record of the attendance and performance of each student;
- 7 f. Maintains regular class and instruction hours to include practical demonstrations
8 and theoretical studies supplemented by audiovisual aids, and studies in
9 ~~sanitation~~disinfection, sterilization, infection control, and other safety measures
10 ~~and the use of antiseptics, cosmetics, and electrical appliances~~ consistent with
11 the practical and theoretical requirements as applicable to ~~cosmetology~~all
12 curriculums;
- 13 g. Agrees not to:
- 14 (1) Permit any student to practice on any individual who is not an instructor or
15 registered student of the school until the student has completed at least
16 twenty percent of the total hours of instruction required under this chapter
17 and only if the practice is under the immediate direction and supervision of a
18 licensed instructor; or
- 19 (2) Compensate any of the school's basic students in any way; and
- 20 h. At the time of application for licensure and upon the renewal of a license,
21 furnishes to the board, and maintains in force at all times the license is in effect, a
22 bond in the penal sum of ten thousand dollars. The bond must run in favor of the
23 board, as agent of the state, and must be furnished by a surety company
24 authorized to do business in this state. It must be conditioned upon the bonded
25 school's providing its registered students with the full course of instruction
26 required under this chapter and must provide for a refund of a proportionate
27 amount of each student's tuition fee upon default.
- 28 2. A student enrolled in the training or who has completed the training of the esthetician
29 or cosmetologist curriculum in part or as a whole at a board-licensed school or who is
30 a holder of an active North Dakota license as a cosmetologist or esthetician license

1 will receive up to six hundred hours credit toward advanced esthetics requirement as
2 allowed by rule.

3 ~~2.3.~~ Any school that enrolls student instructors shall set up an ~~adequate~~a course of training
4 with the approval of the board and consisting of:

5 a. A minimum of two hundred forty hours for student instructors who have held a
6 cosmetology, esthetician, advanced esthetician, or manicure license for two or
7 more years; or

8 b. Four hundred eighty hours for student instructors who have held a cosmetology,
9 esthetician, advanced esthetician, or manicure license less than two years.

10 4. A school may not have at any one time more than two student instructors for each full-
11 time equivalent licensed instructor actively engaged in the school.

12 **SECTION 19. AMENDMENT.** Section 43-11-16.1 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-11-16.1. Internships and apprenticeship programs.**

15 1. ~~The board may establish internships with the schools of cosmetology and may~~
16 ~~establish, apprenticeship programs. The board may adopt, and~~ rules related to the
17 licensure and discipline of interns and apprentices practicing in programs established
18 under this section. Apprenticeship programs allow for direct entry of individuals into an
19 approved training program under this chapter.

20 2. An apprenticeship establishment participating in the apprenticeship program must:

21 a. Be an approved apprenticeship program conducted in an approved
22 establishment by the state office of apprenticeship; and

23 b. Provide the board with the names of all individuals acting as apprentice trainers.

24 3. To act as an apprentice trainer, an individual must be approved by the board. To be
25 approved, the trainer must:

26 a. Hold a current license in the practice of which the individual is providing training
27 for a minimum of three consecutive years; and

28 b. Complete board-approved educator training.

29 4. If an approved apprenticeship program or apprenticeship establishment implements
30 changes affecting the information required to be provided to the board under this

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 and assisted living centers.**

18 Any licensed nursing facility 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 or assisted living center who performs cosmetology services on
22 nonresidents of the facility must obtain an establishment license.

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

25 **43-11-19. Students - Registration.**

26 1. A student must:

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

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

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

1 proper and efficient performance of a practice. The board may require the practical portion of
2 the examination be conducted by schools of cosmetology as part of graduation requirements.
3 The examination may not be confined to any specific system or method and must be consistent
4 with the practical and theoretical requirements of cosmetology.

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

7 **43-11-24. Cosmetologist, esthetician, advanced esthetician, or manicurist license -**
8 **When issued - Failure to pass examination - Re-examination.**

- 9 1. A cosmetologist, esthetician, advanced esthetician, or manicurist license must be
10 issued to any individual who has met all the following requirements:
- 11 a. Complied with section 43-11-21.
 - 12 b. Passed to the satisfaction of the board the examination of applicants for a license
13 to practice under this chapter.
- 14 2. If the applicant fails to pass the examination, the examination fee may not be returned.
15 If an applicant fails to pass an examination, the applicant may be examined again with
16 the payment of a re-examination fee as set forth in section 43-11-28.

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

19 **43-11-25. Licensure by reciprocity endorsement.**

20 ~~The board may grant licenses under this chapter upon the payment of a fee for original~~
21 ~~licensure and the reciprocity fee if the following requirements are met:~~

- 22 1. ~~The applicant has:~~
- 23 a. ~~Provided satisfactory proof of a license in good standing with the District of~~
24 ~~Columbia, or any other state, territory, foreign country, or province where the~~
25 ~~requirements are equally substantial to those in force in this state at the time the~~
26 ~~application for the license is filed; or~~
 - 27 b. ~~Provided satisfactory proof:~~
 - 28 (1) ~~The applicant is licensed in good standing in any other state, territory, or~~
29 ~~jurisdiction of the United States to practice cosmetology;~~
 - 30 (2) ~~The applicant worked in the licensed profession for at least three of the past~~
31 ~~five years; and~~

1 ~~(3) A license granted to the applicant in any other state, territory, or jurisdiction~~
2 ~~of the United States is not subject to suspension or revocation, or otherwise~~
3 ~~restricted in any manner for disciplinary purposes.~~

4 2. ~~The applicant passes to the satisfaction of the board an examination on North Dakota~~
5 ~~laws, rules, and regulations.~~

6 1. As used in this section, "issuing jurisdiction" means the duly constituted authority in
7 another state, territory, foreign country or province that issued a license to an
8 individual.

9 2. The board shall issue a license to a cosmetologist, esthetician, advanced esthetician,
10 or manicurist applicant:

11 a. Without an examination if the out-of-state applicant:

12 (1) Is licensed by another jurisdiction with similar scope of work through
13 substantially similar or equivalent licensure standards of examination; the
14 other jurisdiction verifies the out-of-state applicant met minimum education
15 requirements to be licensed in that jurisdiction; the out-of-state applicant has
16 maintained good standing in all jurisdictions in which the person holds a
17 license for at least one year before making application to the North Dakota
18 state board of cosmetology;

19 (2) Has not had a license revoked and has not voluntarily surrendered a license
20 in any other issuing jurisdiction or country while under investigation;

21 (3) Pays all applicable fees; and

22 (4) Has not had discipline imposed by any other regulating entity in this state or
23 another issuing jurisdiction or country. If another jurisdiction has taken
24 disciplinary action against the applicant, the board shall determine if the
25 cause for the action was corrected and the matter resolved. If the board
26 determines the matter has not been resolved by the jurisdiction imposing
27 discipline, the board shall not issue or deny a license to the person until the
28 matter is resolved.

29 b. If the following conditions are met:

- 1 (1) The out-of-state applicant is currently licensed by another jurisdiction and
2 the jurisdiction verifies the applicant met the requirements of that
3 jurisdiction;
- 4 (2) Any out-of-state license held by the applicant, is and has been maintained in
5 good standing;
- 6 (3) The applicant provides satisfactory proof of completing the course
7 curriculum by:
 - 8 (a) Completion of the hours required by the board; or
 - 9 (b) Substantially equal work experience, determined at a rate of one
10 thousand hours as equivalent to one hundred course curriculum
11 hours, capped at five hundred hours if gained in the three years
12 immediately preceding the application;
- 13 (4) The applicant's license has not been revoked or voluntarily surrendered in
14 any other issuing jurisdiction while under investigation;
- 15 (5) The applicant has not been disciplined by any other regulating entity in this
16 state or another issuing jurisdiction, or the board determined the cause for
17 the action was corrected and the matter resolved; and
- 18 (6) The applicant pays all applicable fees.

19 **SECTION 27.** A new section to chapter 43-11 of the North Dakota Century Code is created
20 and enacted as follows:

21 **Applications to practice cosmetology - Active-duty military members - Veterans -**
22 **Spouses.**

- 23 1. Active-duty military members, spouses of active-duty military members, veterans and
24 spouses of veterans, are eligible for provisional licensure under this chapter.
- 25 2. Active-duty military members and spouses of active-duty military members are exempt
26 from having to take an examination to practice under this chapter while on active-duty
27 status, upon filing the following:
 - 28 a. A board-approved application;
 - 29 b. Proof the applicant holds an active license in good standing, or an equivalent, to
30 practice cosmetology in another state, or territory of the United States, for the two

1 years immediately preceding the application, and the applicant's license remains
2 active and in good standing in the original jurisdiction; and

3 c. In the case of:

4 (1) An application from an active-duty military member, a copy of the member's
5 current military orders or current military identification card; or

6 (2) An application from a spouse of an active-duty military member, provide the
7 following:

8 (a) Proof the applicant is married to an active-duty military member by
9 providing a copy of a marriage certificate; and

10 (b) Proof the spouse is assigned to a duty station in this state by
11 providing a copy of the official active-duty military orders or proof the
12 spouse has been assigned to active duty in a foreign country and the
13 applicant is relocating to the state during the spouse's deployment.

14 3. A provisional license issued under subsection 2 must be:

15 a. Valid for three years from the date of original issuance;

16 b. Renewable with proof military orders continue to be active in the state; and

17 c. Issued without a fee.

18 4. For six months following honorable discharge from active duty, veterans and spouses
19 of veterans are exempt from having to take an examination to practice under this
20 chapter and may be issued a provisional license upon filing the following:

21 a. A board approved application;

22 b. Proof the applicant holds an active license in good standing, or an equivalent to
23 practice cosmetology in another state or territory of the United States, for the two
24 years immediately preceding the application, and the applicant's license remains
25 active and in good standing in the original jurisdiction; and

26 c. In the case of:

27 (1) An application from a veteran, a copy of the members discharge papers.

28 (2) An application from a spouse of a veteran, provide the following:

29 (a) Proof the applicant is married to the veteran by providing a copy of a
30 marriage certificate; and

31 (b) A copy of the spouse's discharge papers.

- 1 5. A provisional license issued under subsection 4 must be:
- 2 a. Valid for three years from the date of original issuance;
- 3 b. Nonrenewable; and
- 4 c. Issued without a fee.
- 5 6. If discharge of the veteran occurred more than six months prior, veterans and spouses
- 6 of veterans may be eligible to obtain a license to practice cosmetology in the state
- 7 under section 43-11-25.
- 8 7. The board shall prioritize and expedite an application received under this section from
- 9 an active-duty military member, the spouse of an active-duty military member, a
- 10 veteran, spouse of a veteran, or the surviving spouse of a veteran. The board shall
- 11 record, track, and monitor applications under this section.

12 **SECTION 28. AMENDMENT.** Section 43-11-26 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-11-26. Master cosmetologist, master esthetician, and master manicurist - License -**
15 **Qualifications.**

16 An individual may obtain a master cosmetologist, master esthetician, or master manicurist
17 license upon meeting all the following requirements:

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

1 **SECTION 29. AMENDMENT.** Section 43-11-27 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-11-27. Instructor's license - Student instructor's license - Registration -**
4 **Qualifications.**

5 1. No individual may be licensed as an instructor of cosmetology unless the individual
6 passes a theory and a practical examination required by the board after paying the
7 examination fee set forth in section 43-11-28 and ~~provides evidence of having a~~
8 ~~general education equivalent to the completion of four years in high school.~~ An
9 applicant:

- 10 a. Shall possess a current North Dakota license as a cosmetologist, esthetician,
11 advanced esthetician, or manicurist; and ~~must~~
- 12 b. ~~Must~~ have at least nine hundred sixty hours instructor's training in cosmetology in
13 a school of cosmetology;
- 14 ~~b.~~ ~~Shall possess a current North Dakota license as a cosmetologist, esthetician, or~~
15 ~~manicurist and must have been actively engaged in the practice under the scope~~
16 ~~of the applicant's license for at least one year before application for an~~
17 ~~instructor's license, supplemented by not less than four hundred eighty hours~~
18 ~~instructor's training in a school of cosmetology or course of training approved by~~
19 ~~the board; or~~
- 20 ~~c.~~ ~~Shall possess a current North Dakota license as a cosmetologist, esthetician, or~~
21 ~~manicurist and shall have been actively engaged in the practice of cosmetology~~
22 ~~for at least three years prior to application for an instructor's license~~
23 ~~supplemented by not less than one hundred sixty hours instructor's training in a~~
24 ~~school of cosmetology or course of training approved by the board. No instructor~~
25 ~~or student instructor may be permitted to practice cosmetology on a patron other~~
26 ~~than that part of practical work which pertains directly to the teaching of practical~~
27 ~~operations to students~~ completed the required hours of instructor's training in a
28 school of cosmetology or course approved by the board.
- 29 2. An instructor or student instructor may not practice cosmetology on a patron at a
30 school other than as part of practical work pertaining directly to the teaching of
31 students.

1 ~~2.3.~~ Student instructors must be registered with the board. The board must record the
2 name, age, and qualifications of the student instructor in a register. Each school of
3 enrollment shall submit to the board a student instructor registration form for each
4 student instructor. The registration form must be accompanied by a fee for a student
5 instructor in an amount determined by the board under section 43-11-28. A student
6 instructor shall possess, at the time of enrollment, a general education equivalent to
7 the completion of four years in high school and hold a license as a cosmetologist,
8 esthetician, advanced esthetician, or manicurist. Upon completion of the course
9 prescribed for student instructors, the student instructor shall make application ~~on a~~
10 ~~form provided by~~ the board and pay a fee as provided in section 43-11-28. The
11 board then shall cause the applicant to be examined for an instructor's license. ~~The~~
12 ~~examination must be given by a special examining committee comprised of the board,~~
13 ~~assisted by one person designated by the board.~~ Upon successfully passing the
14 examination theoretical and practical examinations, the board shall issue an
15 instructor's license to the applicant.

16 ~~3.4.~~ No individual is entitled to renew an instructor's license unless the instructor has
17 furnished to the board evidence of completion of the continuing education established
18 by the board by rule.

19 ~~4.5.~~ Licensed estheticians and manicurists may only provide instruction within the scope of
20 practice of the respective licenses determined under this chapter.

21 **SECTION 30.** A new section to chapter 43-11 of the North Dakota Century Code is created
22 and enacted as follows:

23 **License requirements - Additional certifications for advanced estheticians.**

24 In addition to the license requirements for an advanced esthetician, a written application
25 and proof of board-approved additional training and certifications must be made to the board
26 before the use of:

- 27 1. Microneedling pens, rollers, or devices;
- 28 2. Nonablative devices; or
- 29 3. Advanced chemical peels.

30 **SECTION 31.** A new section to chapter 43-11 of the North Dakota Century Code is created
31 and enacted as follows:

Sixty-ninth
Legislative Assembly

1	(1) Salons, original registration	\$80.00 per year
2	(2) Salons, renewal	\$30.00 per year
3	(3) School of cosmetology, original registration	\$505.00 per year
4	(4) School of cosmetology, annual renewal	\$205.00 per year
5	(5) Cosmetologist, original license	\$15.00 per year
6	(6) Cosmetologist, annual renewal	\$15.00 per year
7	(7) Master cosmetologist, original license	\$25.00 per year
8	(8) Master cosmetologist, annual renewal	\$20.00 per year
9	(9) Instructor, original license	\$35.00 per year
10	(10) Instructor, renewal	\$20.00 per year
11	(11) Reciprocity license fee	\$105.00 per year
12	(12) Registration fee for student	\$15.00 per year
13	(13) Duplicate license	\$10.00 per year
14	(14) Certification fee	\$20.00 per year
15	b. Late fees:	
16	(1) Late renewal within one year	\$50.00
17	(2) Late renewal after one year but before five years	\$150.00
18	e. Examinations:	
19	(1) Cosmetology practical examination	\$25.00
20	(2) Instructors practical examination	\$55.00
21	(3) Written examination fees are set and collected by the administrator of the	
22	examination and payment is the responsibility of the applicant.	
23	a. <u>Fees:</u>	<u>MAXIMUM FEE:</u>
24	(1) <u>Establishment, original license</u>	<u>\$150.00</u>
25	(2) <u>Establishment, annual renewal</u>	<u>\$100.00 per year</u>
26	(3) <u>Independent licensee, original license</u>	<u>\$150.00</u>
27	(4) <u>Independent licensee, annual renewal</u>	<u>\$100.00 per year</u>
28	(5) <u>School, original license</u>	<u>\$550.00</u>
29	(6) <u>School, annual renewal</u>	<u>\$250.00 per year</u>
30	(7) <u>Advanced esthetician, original license</u>	<u>\$50.00</u>
31	(8) <u>Advanced esthetician, annual renewal</u>	<u>\$50.00 per year</u>

Sixty-ninth
Legislative Assembly

1	(9) <u>Cosmetologist, original license</u>	<u>\$50.00</u>
2	(10) <u>Cosmetologist, annual renewal</u>	<u>\$50.00 per year</u>
3	(11) <u>Master cosmetologist, original license</u>	<u>\$50.00</u>
4	(12) <u>Master cosmetologist, annual renewal</u>	<u>\$50.00 per year</u>
5	(13) <u>Esthetician, original license</u>	<u>\$50.00</u>
6	(14) <u>Esthetician, annual renewal</u>	<u>\$50.00 per year</u>
7	(15) <u>Master esthetician, original license</u>	<u>\$50.00</u>
8	(16) <u>Master esthetician, annual renewal</u>	<u>\$50.00 per year</u>
9	(17) <u>Instructor, original license</u>	<u>\$50.00</u>
10	(18) <u>Instructor, renewal</u>	<u>\$50.00 per year</u>
11	(19) <u>Manicurist, original license</u>	<u>\$50.00</u>
12	(20) <u>Manicurist, annual renewal</u>	<u>\$50.00 per year</u>
13	(21) <u>Master manicurist, original license</u>	<u>\$50.00</u>
14	(22) <u>Master manicurist, annual renewal</u>	<u>\$50.00 per year</u>
15	(23) <u>Duplicate license</u>	<u>\$20.00</u>
16	(24) <u>Individual or business name change</u>	<u>\$20.00</u>
17	(25) <u>Reciprocity license fee</u>	<u>\$105.00</u>
18	(26) <u>Registration fee for apprentice</u>	<u>\$15.00</u>
19	(27) <u>Registration fee for apprentice trainer</u>	<u>\$25.00</u>
20	(28) <u>Registration fee for student</u>	<u>\$15.00</u>
21	(29) <u>Re-inspection fee</u>	<u>\$75.00</u>
22	(30) <u>Transcript fee</u>	<u>\$20.00</u>
23	(31) <u>Verification fee</u>	<u>\$20.00</u>
24	b. <u>Late fees</u>	
25	(1) <u>Individual late renewal within one year</u>	<u>\$50.00</u>
26	(2) <u>Individual late renewal after</u>	<u>\$150.00</u>
27	<u>one year but before five years</u>	
28	(3) <u>Establishment late renewal within one year</u>	<u>\$50.00</u>
29	(4) <u>Independent licensee late renewal within one year</u>	<u>\$50.00</u>
30	(5) <u>Establishment late renewal after one year</u>	<u>\$100.00 per year expired</u>
31	<u>after one year</u>	

1 (6) Independent licensee late renewal \$100.00 per year expired
2 after one year

3 (7) School late renewal within thirty days \$50.00

4 2-3. The examination administrator shall set and collect examination fees and the applicant
5 shall pay the fee.

6 4. Fees are not prorated or returnable.

7 3-5. The board may establish continuing education requirements for cosmetologists,
8 estheticians, advanced estheticians, manicurists and instructors. The board may adopt
9 rules related to continuing education hours for each license type under this section.

10 6. The board shall sponsor an educational program for licenseholders to carry out the
11 purposes of protecting the public health and safety and maintaining capable and
12 skilled cosmetologists, estheticians, advanced estheticians, manicurists, and
13 instructors. The board shall use such portion of the renewal fees as the board may
14 determine for the purpose of providing the educational program.

15 **SECTION 33. AMENDMENT.** Section 43-11-29 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **43-11-29. License renewal - Failure to renew.**

18 1. A license issued by the board expires on December thirty-first. If the application for
19 renewal is not received on or before the expiration date, the license expires.

20 2. The board may renew a license if:

21 a. An application for renewal is submitted as provided by the board;

22 b. The renewal fee is paid; and

23 c. Grounds for denial do not exist under section 43-11-31.

24 3. The holder of an expired license, within one year from and after the date of the
25 license's expiration, may obtain a reinstatement of the license upon:

26 a. Payment of the required late fee; and

27 b. Payment of the current renewal fee.

28 4. The holder of an expired license, one year after the date of expiration but before five
29 years, may obtain a reinstatement of the license upon:

30 a. Payment of the required late fee; and

31 b. Payment of the current renewal fee; and

- 1 2. The board may renew a license if:
- 2 a. An application for renewal is submitted as provided by the board;
- 3 b. The renewal fee is paid; and
- 4 c. Grounds for denial do not exist under section 43-11-31.
- 5 3. A school license not renewed within thirty days of expiration may be cause for
- 6 disciplinary action.

7 **SECTION 36. REPEAL.** Sections 43-11-11.1, 43-11-17, and 43-11-27.1 of the North Dakota
8 Century Code are repealed.

9 **SECTION 37. EFFECTIVE DATE.** This Act becomes effective on January 1, 2026.