

2025 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1126

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1126
1/13/2025

A BILL for an Act to create and enact eleven new sections to chapter 43-11 of the North Dakota Century Code, relating to salon and school inspections, nursing home and assisted living facility salons, military and military spouse reciprocity licensure, advanced esthetician licensing and late renewals for establishments and schools; to amend and reenact sections 43-11-01, 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, 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, 43-11-25, 43-11-26, 43-11-27, 43-11-28, and 43-11-29, of the North Dakota Century Code, relating to the practice and licensure of cosmetologists, estheticians, advanced estheticians, manicurists and instructors; to repeal sections 43-11-11.1, 43-11-17, and 43-11-27.1 of the North Dakota Century Code, relating to the use of brush rollers, licenses issued for schools and salons, and esthetician and manicurist licensing qualifications and fees; to provide a penalty; and to provide an effective date

10:36 a.m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Christy, Finley-DeVille, Grindberg, Kasper, Koppelman, Ruby, Schatz, Schauer, Vollmer

Discussion Topics:

- Enhancing clarifying descriptions and definitions
- Apprentice program
- New license type
- Additional or advanced services
- Inspections
- Licensing transfers
- Increase board members
- Training house
- Change licensing fees
- Continuing education
- Remote exams
- Exempt professionals
- Military members or spouses' free licenses.

10:36 a.m. Maureen Wanner, Board Member, ND State Board of Cosmetology, submitted and testified in favor #28507.

10:58 a.m. Holly Blomquist, Executive Director, ND State Board of Cosmetology testified in favor and submitted testimony #29809.

11:19 a.m. D'Arlyn Bauer, Board President, ND State Board of Cosmetology testified in favor.

11:26 a.m. Miranda Nichols, Licensed Aesthetician and Tattoo Artist, Nickel & Dodge, testified and submitted testimony as neutral #28607 and #28608

Additional Written Testimony:

Nikki Wegner, President, ND Long Term Care Association, submitted testimony in favor #28636.

11:38 a.m. Chairman Warrey closed the hearing.

Diane Lillis, Committee Clerk



North Dakota STATE BOARD OF COSMETOLOGY

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Madame/Mr. Chairman, and Committee Members,

I am Maureen Wanner, a member of the State Board of Cosmetology. We, as a board, serve approximately:

- 1816 Establishments & Independent Licensees
- 6630 Cosmetologist,
- 789 Estheticians,
- 925 Manicurist,
- 69 Instructors,
- 5 schools (2 in Fargo, 1 in Grand Forks, 1 in Bismarck, 1 in Williston),
- along with approximately 200 students.

In 2024 the board issued 393 new individual licenses and 318 new establishment/independent licensee licenses.

Our mission is to ensure the health and safety of North Dakota consumers by promoting ethical standards and by enforcing the laws of the beauty industry. It is the duty of the board to protect the public health, welfare, and safety through the prevention of the creating and the spreading of infectious and contagious diseases.

Today I am introducing HB 1126.

But before I get started, the Long-Term Care Association contacted the Board and requested the following amendment, which the Board agrees with: (adding basic care facilities since they are their own type of facility and changing nursing assistant to facility staff)

Section 2, Page 8, lines 3-4

- 1 5. Services provided in a licensed hospital, basic care facility or a nursing home by an individual practicing cosmetology on a volunteer basis without compensation or by ~~a nurse's assistant~~ facility staff.

Page 16, lines 15-22

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

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

Now let's begin,

The State Board of Cosmetology conducted a thorough review of our existing laws to modernize and enhance their clarity. Our primary objectives are:

- To reduce barriers to entry in the cosmetology profession,
- To remove outdated language,

- Add necessary definitions,
- And ensure consistency in repeated terminology.

Our goal is to make these laws more accessible and understandable for licensed professionals, aspiring professionals, and individuals relocating to our state.

This bill is rather lengthy and before I get to line by line explanations, let me summarize the main points. We will:

- Define language for apprenticeship programs for cosmetology, esthetics & manicuring.
- Create a new license type, advanced esthetician, to allow our licensed estheticians and cosmetologist the opportunity to expand their businesses by offering services that are not currently allowed in their scope of practice.
 - We felt rather than require all future estheticians, some who may not want to perform these advanced services, obtain additional curriculum hours, to offer as a separate enhanced license type.
- Add clarity around inspections that are currently being conducted.
- Expedite licensure for those transferring to our state.
- Adopt licensing provisions for our active military and veterans who transfer to our state to make the move easier.
- Increase the number of board members from 5 to 7 to allow inclusion of all our license types.
- Further define the powers of the Board.
- Simplify training hours needed to obtain an instructor's license and establish a required curriculum.
- Increase licensing fees.

I apologize for bouncing around a bit but please be patient with me.

Let's begin with updating terminology and consistency in repeated terminology.

Page 3, line 8, 15, and 16.

"Esthetics." We are updating this definition, and we will get more into esthetics shortly.

Page 4, lines 10-15 and 17.

Here we are updating and clarifying terminology and creating consistency.

Page 5, lines 12-13.

"Mechanical device." Updating terminology that is no longer needed.

Page 5, lines 14-31, page 6, lines 1-12.

"Natural hair braiding." We are updating terminology and removing "African style hair braiding" terminology to better clarify this service with modern terminology.

The following are updating and clarifying terminology and creating consistency.

Page 6, lines 24-25.

Page 7, lines 5, 25, and 28-29.

Page 8, lines 5-7.

Page 10, lines 14, 27, and 28.

Page 11, lines 4-6, 12-16, and 31.

Page 12, lines 3, 4, and 12.

Page 13, lines 19-28, and 30.

Page 14, lines 2, and 9-12.

Page 15, lines 3-4, 15-16, and 10-11.

Page 17, lines 3-6, 12, 16-23, and 29-31.

Page 18, lines 1-9.

Page 22, lines 24-25.

Page 23, line 11.

Page 24, line 8.

Page 28, 12 and 31.

Page 29, line 1.

Moving back to esthetics. A very hot topic. We are adding and redefining necessary terminology to align with our new advanced esthetician license type.

Page 1, lines 18-20.

“Ablative esthetic procedure” is a definition we feel needs to be added so our licensed professionals understand what is not in their scope of practice. This term refers to services that are beyond the scope of our licensees and should only be performed by licensed medical professionals. We wanted to make this very clear in law.

Staying on page 1, line 21-22, and moving to page 2, lines 1-10.

The introduction of the “Advanced Esthetician” license and its associated terms, such as “advanced esthetics” and “advanced esthetic procedures,” represents a forward-thinking approach for our licensed professions. This new license will provide an opportunity for professionals to explore and offer advanced services that are in high demand. We recognize the growing market for these services and want to ensure our licensed professionals are not restricted from pursuing these opportunities. At the same time, we are committed to establishing clear guidelines and oversight to protect the health and safety of North Dakota consumers.

Additionally, the creation of an Advanced Esthetician license will enhance reciprocity agreements, making it easier for licensed professionals to move between states while maintaining high standards.

Page 3, lines 17-31 and page 4, lines 1-9.

We have already outlined Advanced Esthetics and now we are clarifying Esthetics.

Page 4, lines 21-29.

We have taken out the term “Invasive care.” This definition is not applicable with the creation of the Advanced Esthetician license. We redefined this section and included it under “esthetics” for better clarification on what is allowed under that license type while not eliminating these from an Advanced Esthetician’s scope of practice.

Page 6, lines 13-21.

“Nonablative esthetic procedure and Noninvasive care.” These are other definitions that need to be clarified for advanced estheticians and esthetician scopes of practice.

Also on page 6, lines 26-30.

“Skin care” was eliminated because this outdated terminology no longer aligns with modern terminology as things are more defined in “esthetics” and “advanced esthetic procedures.”

Page 8, lines 5-13.

We further defined other licensed professions that may also be offering “advanced esthetics procedures” within their practices under this exemption as to not limit their practices.

Page 11, line 21-23.

It is again, a clarification on the scope of the practice for our licensed professionals.

Page 13, line 29, page 14, lines 28-30, and page 15, lines 1-9.

We are defining the hours for advanced esthetics license and how many hours will go towards advanced esthetics if one is already licensed as a cosmetologist or esthetician.

Starting on page 23 going to 25. 43-11-27.

To ensure the health and safety of the public, it is essential that licensed Advanced Estheticians receive comprehensive training. The services outlined require a high level of skill, and those performing these procedures must have the specialized training necessary to do so safely and effectively. Our goal is to provide the public with confidence that these licensed professionals are well-qualified and prepared to deliver these advanced services. We have outlined an opportunity for our licensed professionals who currently hold a license as an esthetician or cosmetologist to become a licensed advanced esthetician.

Now let's address apprenticeship. Another big topic.

Page 2, lines 11-25.

"Apprentice, Apprentice Program, and Apprentice Trainer." In 2021, 43-11-16.1 was established and states: "The board may establish internships with the schools of cosmetology and may establish apprenticeship programs. The board may adopt rules related to the licensure and discipline of interns and apprentices practicing in programs established under this section." We are now defining these terms.

Page 15, lines 18-30, and page 16, lines 1-14.

In 43-11-16.1, we are outlining the apprenticeship program. We want to make as clear as possible for those who want to take part in this program.

Also on page 16, lines 28-30, and page 23, lines 7-8, we are reducing the barrier to entry by removing the need to have general education equivalent to the completion of four years in high school.

Let's cover the State Board of Cosmetology.

Page 8, lines 27-31, page 9, lines 1-7.

As our industry continues to grow and evolve, we believe a seven-member board that includes not only cosmetologists, but also forward-thinking manicurists, estheticians, and advanced estheticians will best represent the voices of our licensed professionals. While we recognize the challenges of maintaining a licensed healthcare provider on the board, we believe that including an advanced esthetician will bring valuable expertise and perspective on skincare, ensuring well-rounded and informed decision-making.

Continuing on page 9, lines 15-31.

We want things to be clearer for our board in rulemaking and their compensation.

Page 10, lines 4-7.

This is clarification on the compensation of the board.

Moving onto salon and inspections.

Page 12, lines 6-10, 15-31, and page 13, lines 1-15.

We are eliminating the requirement of needing a master licensee to supervise licensees and establishments as we do not want to get in the way of an individual licensee pursuing their own business or dictating how owners manage their businesses.

The Board's current practice is to conduct inspections, and we want to provide clarity for establishments, owners and independent licensees and schools as to when and why they are being inspected. We feel it is very important for the board to do inspections in a timely manner for the health and safety of the public.

Nursing home facilities.

Page 16, lines 17-22.

I regularly provide services at one care center and two assisted living homes while also managing my own salon. Our goal is to ease the burden on these facilities and support the licensed professionals who serve the older generation in these settings, as the residents are already protected under the facility's medical standards. Many facilities have family members and/or volunteers that perform services to residents and we don't want to limit their ability to work in the space the facilities already have established. These volunteers are already exempt under 43-11-02. Of course, there are some facilities that allow our licensed professionals to bring non-resident clientele in to receive services. We feel for these non-resident consumers' safety, establishments that allow this need to be licensed and regulated by our board.

43-11-25. Page 18, lines 20-31, page 19, lines 1-29 and page 20, lines 1-18.

This is another way we are reducing barriers to licensure in our state. We are making it easier for those who are licensed in another jurisdiction to get licensed more quickly in our state, while ensuring they have the required training and/or experience to safely provide services for the public. We reduced requirement to hold license for 3 years to 1 year if the applicant's licensing requirements were not substantially equivalent to ND requirements. They also will not have to take exams if they hold a license for 1 year or more. This also allows those licensed under 1 year to obtain an ND license while taking their work experience into consideration if their state doesn't have substantially equivalent requirements in training hours.

Section 27. Page 20, lines 21-30, page 21, lines 1-31, and page 22, lines 1-11.

Again, another item close to my heart. My husband is a retired Master Sergeant who spent 26.5 years in the North Dakota Army National Guards. I want Section 26 to be outlined to the best of our abilities. I want us to do what we can for those serving our nation. I want them to be working as quickly as possible. We are allowing immediate provisional licenses at no cost for active military/spouses who are relocated to ND for as long as they are active duty stationed in ND. We also added 3-year provisional licenses for no fee to veterans/spouses who are returning to ND.

Sections 34 and 35. Page 29, lines 9-31, and page 30, lines 1-6.

We are clarifying license renewal and failure to renew for our schools, establishments, owners and independent licensees. We believe our licensed professionals will better understand what is expected of them.

Before we talk about the money, let's cover practical examination and continuing education.

Page 28, lines 4,5, and 7-9.

Currently our practical examinations must be administered by the Board at the board office, with candidates (students) paying the fee established in law. We would like to be able to offer additional options for this exam such as the ability to take it remotely. This could reduce the time and travel expense incurred by candidates who may choose to or otherwise not be able to travel to Bismarck to take the exam. To do this, we would need to utilize a third-party test administrator who the student would need to pay directly, similar to our current written exams.

If we learned anything from 2020, it was the importance of educating ourselves about infection control practices and utilizing responsible behaviors to keep the public safe. This is why we feel it is important to

have the option to adopt rules for all our licensee to complete continuing education in the future. The instructors need to complete 8 hours of continuing education per year. Currently, there is no continuing education required for our other licensed professionals.

Now, let's address the financial aspects outlined in 43-11-28

Page 25, lines 24-31, page 26, lines 1-31, page 27, lines 1-31, page 28, lines 1-3.

We are familiar with rising costs and the prevalence of fraud and scams, and our board is not immune to these challenges. It's worth noting, the board has not requested a fee increase since 2003. While we've managed to keep fees remarkably low for over 20 years, this decision has likely come at the expense of operational efficiencies.

To put this in perspective, according to the U.S. Bureau of Labor Statistics, a \$20 license fee in 2003 would equate to approximately \$35 today, simply to account for inflation. To maintain the same operational standards as in 2003, the board would need to raise fees just to cover employee wages, benefits, office leases, postage, and printing costs. However, the needs of 2025 extend well beyond those of 2003.

Today, we must address modern expenses such as data security, identity verification, licensing software, and meeting licensee expectations for online applications and payments. Unfortunately, the board's current income from licensee fees has not kept pace with these growing demands of managing 8,413 individual licensee and 1,816 establishments.

To mitigate expenses over the past few years, the board has implemented several cost-saving measures:

- We transitioned to email communication whenever possible, reducing the costs of paper, printing, and postage.
- Establishment inspections are now conducted using an online platform and iPads, eliminating the need for costly triplicate inspection forms and reducing mailing costs.
- Utilization of virtual meetings to reduce expenses paid for Board Members time and travel.
- The board adopted state fleet vehicles to lower mileage reimbursement expenses.
- We renegotiated vendor contracts, reduced underused services, and streamlined processes.

Additionally, we restructured our inspection team from nine part-time regional inspectors to two full-time benefited positions. While this change has not increased hourly wages or mileage reimbursements, it has significantly reduced administrative overhead, provided more consistent and timely inspections, and improved service for establishment owners. However, the inclusion of employee benefits does come with additional costs.

We are committed to ensuring that any fee increases are both necessary and minimal, carefully balancing the board's operational needs with the financial impact on our licensed professionals. Further details are outlined in the fiscal note.

In closing I would again like to highlight some of the ways this bill would reduce some barriers for licensure and entry into the cosmetology profession in North Dakota.

- Lowering age to 16 or 10th grade education to become licensed and allowing high schools to offer program.
- Simplifying the endorsement requirements for those transferring from other jurisdictions.
- Special provisions for our military members relocating to our state.
- Creating apprenticeships for cosmetology, esthetics and manicuring licensure to allow individuals to 'earn while they learn.'
- Allowing the use of remote or alternate examinations can reduce the need for candidates to travel for exams.

- Removing the requirement of obtaining a master license to become an independent licensee

Madame/Mr. Chairman, and Committee Members, today I present to you HB 1126.

Again, I am Maureen Wanner, member of the State Board of Cosmetology. I will entertain questions at this time.

Supplemental Information:

2025 ND Occupation License Fees: (Individuals)

BARBER:

Master Barber: Original License Fee: \$175
Annual Renewal: \$100

MASSAGE THERAPIST:

Massage Therapist: Original License: \$150
Renewal: Every 2 years \$200 (\$100/year)

PLUMBER:

Journeyman: Annual Renewal: \$100
Master Plumber: Annual Renewal: \$200

ATHLETIC TRAINER:

Athletic Trainer: Original License: \$100
Annual Renewal: \$50

NURSE:

LPN: Every 2 years: \$130 (\$65/year)
RN: Every 2 years: \$140 (\$70/year)

CURRENT COSMETOLOGY: (Since 2003)

Cosmetologist: Original License: \$15
Annual Renewal: \$15
Instructor: Original License: \$35
Annual Renewal: \$20
All Other Licenses: Original License: \$25
Annual Renewal: \$20

Other states that offer Advanced Esthetician License= 7

MN, NV, OR, UT, WA, VA, DC

Why Establishment instead of Salon:

With the creation of advanced esthetician which will now require the licensing of medi spas that employ our licensees, we felt the term 'salon' did not adequately represent what we call our 'business' licenses going forward. This also helps further distinguish the difference between an independent licensee and 'salon'

Why eliminate requirement of master license and not eliminate the master license type:

We do not want to get in the way of an individual licensee pursuing their own business. We also do not want to eliminate the license type at this time as commission salon owners still may prefer to require this in their personal businesses management practices.

Why change Instructor requirements:

We felt our current requirements were very confusing and a bit unclear. We simplified the hours required and created required curriculum elements to ensure student instructors were trained in teaching methodology, presentation styles and learner styles. Currently schools are allowed to create their own curriculum with no required elements.

House Bill No. 1126

House Industry, Business and Labor Public Hearing
January 13, 2025 9:00am
327C Room – ND State Capital

Good morning Committee Members,

I am Miranda Nichols, a licensed Master Esthetician and business owner. I have been an actively practicing esthetician since 2014. In relation to HB 1126 I would like to offer perspective and facts to better able the committee to decide what would benefit the citizens and workforce of North Dakota. I both support and oppose various aspects of the bill. The esthetics side of the beauty industry has been rapidly evolving over the past two decades and the regulatory side has been consistently interfering with the success of small businesses by making prohibitory changes to the statutes that are too relevant to the now and allow little to no room for the ever-evolving industry changes. The core purpose of the regulatory board is to ensure the safety of the consumer. In my opinion prioritizing blood borne pathogen, first aid and cpr requirements while allowing more freedom in the practice of cosmetology and esthetics would be a fair way to allow less prohibitory regulations that interfere with the economic liberty of small businesses. This would allow for the industry to evolve as it does without being held back by statutes that are no longer relevant.

43-11-01. Definitions

I support the changes in the percentages of acids to better align with the standard and accepted formulas of the industry. Specifically, I support Resorcinol being permitted up to 15% as this allows for the use of one of the staples of facial peels, the Jessners peel. This almost century old peel formula has been a mainstay in esthetics since its introduction. This peel is proven to be safe and reliable time and time again.

43-11-04. Members of board - Qualifications

I support the addition of additional members and the broadening of qualifications. The esthetic industry is a quickly evolving industry and it is vital that the board commits a seat to a person who is actively working and keeping an eye on the future of esthetics to allow our state to remain a desirable place for licensees to work while still prioritizing consumer safety.

43-11-16.1. Internships and apprenticeship programs

I support apprenticeships in rural areas where access to a state licensed school is unattainable. Any person residing within 60 miles of a state licensed school should be ineligible for an apprenticeship. This is a reasonable commute and an education in a traditional regulated educational setting should be prioritized. This ensures a more consistent education to those

entering the field to help increase their chances of success and maintains that consumer safety is a priority.

SECTION 30. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows: License requirements - Additional certifications for advanced estheticians

I support the introduction of an advanced practice license. Allowing different levels of licensing lowers the barriers to entry in the field while still supporting the full scope of the field. This not only supports the economic success of all licensees but also protects the consumer.

I don't support allowing the board of cosmetology to require Red Cross sponsored certifications. There are many programs that meet the appropriate health standards and are organizationally neutral. I also do not support requiring only advanced practice license holders to maintain these certifications. I would suggest requiring this to be mandatory for all active licensees.

I do support the addition of microneedling. I would like to point out though that there may be a better way to allow individuals who are sole proprietors and hold their master licenses but are not interested in truly advanced practice to perform this procedure. Requiring all licensees to maintain blood borne pathogen, first aid and cpr certifications and then requiring a master cosmetology or master esthetician license to perform microneedling at depth equal to or less than .30mm with a fixed needle device would sufficiently meet the FDA classification that .30mm or less is a cosmetic procedure. Any microneedling permitted above this threshold would fall into the purposed advanced practice license. This would allow those who are solo entrepreneurs to thrive and succeed without the requirement of contracting a medical director. Contracting a medical director can be difficult and costly. The economic liberty of the solo entrepreneur is at stake. The main goal of the board of cosmetology is to ensure the safety of the consumer.

I support the addition of permitting advanced practice licensees to perform nonablative procedures under the appropriate medical direction.

Advanced esthetician license - Grandfather provision

I support allowing those with the proper experience and documentation to forgo obtaining additional hours to be eligible for an advanced practice license.

This concludes my testimony. Thank you for your time.

Contains Nonbinding Recommendations

Regulatory Considerations for Microneedling Products

Guidance for Industry and Food and Drug Administration Staff

Document issued on November 10, 2020.

The draft of this document was issued on September 15, 2017.

For questions about this document, contact the OPEQ: Office of Product Evaluation and Quality, OHT4: Office of Surgical and Infection Control Devices, DHT4B: Division of Infection Control and Plastic and Reconstructive Surgery Devices, at (301) 796-6970.



**U.S. Department of Health and Human Services
Food and Drug Administration
Center for Devices and Radiological Health**

Preface

Public Comment

You may submit electronic comments and suggestions at any time for Agency consideration to <https://www.regulations.gov> . Submit written comments to the Dockets Management Staff, Food and Drug Administration, 5630 Fishers Lane, Room 1061, (HFA-305), Rockville, MD 20852. Identify all comments with the docket number FDA-2017-D-4792. Comments may not be acted upon by the Agency until the document is next revised or updated.

Additional Copies

Additional copies are available from the Internet. You may also send an e-mail request to CDRH-Guidance@fda.hhs.gov to receive a copy of the guidance. Please use the document number 1500036 to identify the guidance you are requesting.

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Regulatory Considerations for Microneedling Products

Guidance for Industry and Food and Drug Administration Staff

This guidance represents the current thinking of the Food and Drug Administration (FDA or Agency) on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. To discuss an alternative approach, contact the FDA staff or Office responsible for this guidance as listed on the title page.

I. Introduction

This guidance is being issued to assist industry in understanding when a microneedling product is a device as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (FD&C Act), 21 U.S.C. § 321(h), and is, therefore, subject to the device requirements under the FD&C Act and its implementing regulations. This document also provides information on the regulatory pathway to market for microneedling devices for aesthetic use.

Throughout this guidance document, the term “we” refers to FDA staff from CDRH. “You” and “your” refers to the sponsor.

FDA’s guidance documents, including this guidance, do not establish legally enforceable responsibilities. Instead, guidances describe the Agency’s current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited. The use of the word *should* in Agency guidance means that something is suggested or recommended, but not required.

II. Scope

This guidance addresses certain “microneedling products,” which is a generic term that encompasses instruments with common technological features that include an array of needles, “micro-protrusion” tips, or pins, which can be blunt or sharp, and of varying lengths. The needles¹ are incorporated into the body of an instrument that facilitates rolling or stamping of

¹ For the purposes of this guidance document, the term “needles” refers to any configuration of needles, “micro-protrusion” tips, or pins.

Contains Nonbinding Recommendations

these needles across or into the skin. For example, the needles may be attached to a cylinder that is rolled across the skin, attached perpendicular to a flat surface that is applied to the skin in a “stamping” fashion, or arranged in an array on the tip of a pen-shaped instrument. The application of needles to skin may be done manually, or motorized where the depth and speed of penetration of needles into the skin can be controlled. Other generic terms used to describe microneedling products include: microneedling or needling instruments, needlers, dermal rollers, microneedle rollers, microneedle stamps, dermal stamps, and variations thereof.

Microneedling products have a wide range of uses from facilitating skin exfoliation and improvement of the appearance of skin, to treatment of scars, wrinkles, and other skin conditions (e.g., acne). In addition, these products may be for single use or multiple use for a single or multiple users, and include, or have available separately, cleaning solutions, additional needle cartridges, and/or additional tips.

Microneedling products have also been promoted with topically applied substances such as creams, ointments, gels, vitamin solutions, drugs, or blood products (e.g., platelet-rich plasma), which may be packaged together with the microneedling product or available separately where the microneedling product provides instructions for use with such topical products. Such microneedling products may be combination products under 21 CFR 3.2(e), which would be regulated by the Center for Drug Evaluation and Research (CDER), the Center for Biologics Evaluation and Research (CBER), and/or the Center for Devices and Radiological Health (CDRH). Microneedling combination products are outside the scope of this guidance; manufacturers of such combination products should contact the Office of Combination Products (OCP) for additional information regarding the regulation of these products.²

Acupuncture needles, hypodermic needles or other needles for injection, tattoo machine needles, needle probes that emit any type of energy (e.g., radio-frequency needles) or deliver any type of energy to a patient (e.g., LASER, ultrasound), and dermabrasion devices are also outside the scope of this guidance.

Certain microneedling products are devices, whereas others are not. See sections IV and V for more information. Sections VII.1 and VII.2 of this guidance provide examples of microneedling products that would be devices and that would not be devices, respectively.

The guidance also covers the regulation of certain microneedling devices. Specifically, microneedling devices for aesthetic use are classified as class II devices under 21 CFR 878.4430. In addition, note that microneedling devices are different than dermabrasion devices, which are not within the scope of this guidance. Dermabrasion devices are classified as class I devices under 21 CFR 878.4800 (manual) and 21 CFR 878.4820 (motorized) and are exempt from the premarket notification (510(k)) process under section 510(k) of the FD&C Act, 21 U.S.C. §

² For information on combination products, please refer to the Office of Combination Products webpage at <https://www.fda.gov/about-fda/office-clinical-policy-and-programs/office-combination-products>

360(k), and 21 CFR part 807, subpart E, subject to the limitations in 21 CFR 878.9. According to CDRH's 1999 guidance document "[Guidance for Dermabrasion Devices](#),"³ dermabrasion devices are defined as "devices with indications for general dermabrasion, scar revision, acne scar revision, and tattoo removal." Dermabrasion devices utilize abrasion substrates such as brushes, rasps, and burrs that are intended to abrade or remove layers of the skin via shear forces. In contrast, microneedling devices utilize a substrate of needles. Although some dermabrasion devices and microneedling devices may have the same or similar intended uses, as identified above, microneedling devices have different technological characteristics and operate via different modes of action compared to dermabrasion devices which raise different questions of safety and effectiveness. In addition, microneedling devices may have intended uses that are different from those of dermabrasion devices.

III. Definitions

The following definitions are intended to be used within the context of this guidance and are not necessarily applicable to any context beyond this document.

Stratum corneum: The stratum corneum is the superficial or outer layer of the epidermis, consisting of several layers of flat, keratinized, non-viable, peeling cells. The stratum corneum is a dead cell layer of skin, as opposed to living layers of skin.

Exfoliation: Exfoliation is the detachment and shedding of superficial dead cells of the epidermis, i.e., the stratum corneum.

Living layers of skin: Living layers of skin are layers of live cells and surrounding tissues (e.g., connective tissue) within the epidermis, dermis, and subcutis, including hair follicles and glandular structures. Living layers of skin exclude the stratum corneum.

Dermabrasion: Dermabrasion is the abrading or eroding of skin via shear forces with abrasive substrates such as brushes, rasps, corundum, and burrs.

IV. Microneedling Products That Are Devices

A. Statutory Definition of a Device

Under section 201(h) of the FD&C Act, a device is an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory which is:

(1) recognized in the official National Formulary, or the United States Pharmacopeia, or any supplement to them,

³ Available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-dermabrasion-devices-guidance-industry>.

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(2) intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animal, or

(3) intended to affect the structure or any function of the body of man or other animal, and

which does not achieve its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of its primary intended purposes.

Whether a microneedling product is a device depends, in part, on whether it is intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, or intended to affect the structure or any function of the body. A product's intended use refers to the "objective intent" of those legally responsible for the labeling of a product,⁴ which is determined by their expressions or may be determined by considering the circumstances surrounding the distribution of a product.⁵ This objective intent may be shown, for example, by the claims made by a firm of a microneedling product, and from other relevant sources.

B. Determining Whether a Microneedling Product Is a Device

FDA may consider the following, among other relevant sources, in determining whether a microneedling product is a device under the FD&C Act:

1. Firm's Claims and Statements

FDA may consider, among other things, any written or oral claims or statements in any label, labeling, advertising, and/or promotion of a microneedling product by or on behalf of a firm in determining whether a microneedling product is intended to cure, mitigate, treat or prevent disease or affect the structure or function of the body. Further, FDA considers claims or statements that indicate penetration or some effect beyond the stratum corneum into living layers of skin by such products to be evidence of a firm's intent to affect the structure or function of the body. The stratum corneum is a dead layer of skin that is naturally shed through the desquamation process. Therefore, claims or statements regarding the removal of the stratum corneum are not considered an intent to affect the structure or function of the body. In contrast, explicitly or implicitly claiming or stating that a microneedling product penetrates living layers of skin (e.g., epidermis and dermis) would be considered an intent to affect the structure or function of the body. The following are examples of claims or statements associated with microneedling products that FDA believes would generally cause the product to meet the device definition:

- Treats scars (e.g., acne scars, atrophic scars, hypertrophic scars, burn scars)
- Treats wrinkles and deep facial lines

⁴ For the purposes of this guidance document, the term "firm" is used to refer to "persons legally responsible for the labeling of devices" under 21 CFR 801.4 as a convenience throughout the guidance.

⁵ See 21 CFR 801.4.

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- Treats cellulite and stretch marks
- Treats dermatoses
- Treats acne
- Treats alopecia (hair loss)
- Stimulates collagen production
- Stimulates angiogenesis
- Promotes wound healing

2. Product Design and Technological Characteristics/Features

In addition to examining a firm's claims and statements, FDA may consider the design and technological characteristics/features of a microneedling product in determining whether a microneedling product is a device under the FD&C Act. Specifically, FDA considers needle penetration beyond the stratum corneum as a result of the design or technology of a microneedling product as evidence that it may be "intended to affect the structure or any function of the body" under section 201(h) of FD&C Act. In considering the design and technological characteristics of these products, FDA may evaluate the following:

- Needle length and arrangement and whether the specifications facilitate penetration into living layers of skin
- Needle sharpness and whether that facilitates penetration into living layers of skin
- Degree of control of manual or motorized microneedling products over the movement of needles and depth of penetration into living layers of skin

Information regarding design and technological characteristics may be found in various places, including the product's specifications, directions for use, or other materials.

V. Microneedling Products That Are Not Devices

Microneedling products that are not intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment or prevention of disease, and that are not intended to affect the structure or any function of the body, are not devices under section 201(h) of the FD&C Act. For example, generally, microneedling products that do not penetrate living skin (e.g., epidermal and dermal layers of the skin) and claim only to do the following would not be devices:

- facilitate exfoliation of the skin (i.e., disruption or removal of the stratum corneum)
- improve the appearance of skin
- give skin a smoother look and feel
- give skin a luminous look

In general, such microneedling products would not be devices; however, the products may still be subject to other requirements of the FD&C Act or other Federal statutes or regulations administered by other Federal agencies.

VI. Classification of Certain Microneedling Devices

Microneedling devices for aesthetic use are classified as class II devices under 21 CFR 878.4430, subject to premarket notification (510(k)) and special controls outlined in the classification regulation (see 21 CFR 878.4430(b)(1)-(10)). Under 21 CFR 878.4430, a microneedling device for aesthetic use is identified as a device using one or more needles to mechanically puncture and injure skin tissue for aesthetic use. This classification does not include devices intended for transdermal delivery of topical products such as cosmetics, drugs, or biologics. FDA classified microneedling devices for aesthetic use into class II under section 513(f)(2) of the FD&C Act, also referred to as the De Novo classification process. This process provides a pathway to class I or class II classification for devices for which general controls or general and special controls provide a reasonable assurance of safety and effectiveness, but for which there is no legally marketed predicate device. Additional recommendations on information to include in a 510(k) submission for a microneedling device for aesthetic use is provided in response to Question 3 below.

VII. Questions and Answers

1. What are examples of microneedling products that would be devices?

As discussed above, microneedling products are regulated as devices if they are intended to diagnose disease or other conditions, or cure, mitigate, treat, or prevent disease, or to affect the structure or function of the body, as defined under section 201(h) of the FD&C Act. The following are examples of microneedling products that FDA believes generally would be regulated as devices:

- a) A manual microneedling product with short, blunt needles where the firm makes claims that the product is intended to exfoliate, give skin a luminous look, stimulate collagen production, and treat wrinkles

In spite of the exfoliation and “give skin a luminous look” claims in this first example, the firm also makes claims that the microneedling product is intended to stimulate collagen production and treat wrinkles (i.e., affect the structure or function of skin); therefore, the product would be subject to FDA regulation as a device.

- b) A motorized microneedling product with sharp needles that penetrate living layers of the skin, where the firm makes claims that the product is intended to make skin smoother by penetrating the skin to stimulate healing response and formation of new tissue

This second example illustrates how FDA considers the design and technological characteristics of a microneedling product, in conjunction with claims by the firm, to determine whether the product is a device. Here, the microneedling product is intended to affect the structure and function of the body. Although making skin smoother may not necessarily require an effect on the structure or function of the body, such as through the

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removal or disruption of the stratum corneum, the firm makes claims that the product here is intended to penetrate living layers of the skin and designed the product to achieve this effect. Therefore, it would be subject to FDA regulation as a device.

2. What are examples of microneedling products that would not be devices?

As discussed above, microneedling products that are not intended to diagnose disease or other conditions, or cure, mitigate, treat or prevent disease and that are not intended to affect the structure or any function of the body are not devices, as defined under section 201(h) of FD&C Act. The following are examples of microneedling products that FDA believes generally would not be devices:

- a) A microneedling product with short, blunt needles or “micro-protrusion” tips that do not penetrate living layers of skin and for which the firm claims that the product is intended to facilitate skin exfoliation
- b) A microneedling product with short, densely packed needles that are not designed to penetrate living layers of skin and for which the firm claims that the product is intended to give skin a smoother look and feel

In both examples, the products would not be devices. In these examples, the microneedling products are intended to be used to facilitate skin exfoliation and to give skin a smoother look and feel. Furthermore, the products are designed such that they would not penetrate living layers of skin due to the needle length, blunt needle tips, and/or densely packed needles.

3. I have determined my microneedling product is a device regulated by CDRH. What are my next steps?

Microneedling devices for aesthetic use were classified as class II devices under 21 CFR 878.4430⁶ as part of a De Novo classification request (DEN160029).⁷

Manufacturers wishing to market their microneedling device for aesthetic use should submit a premarket notification (510(k))⁸ submission demonstrating substantial equivalence of their device to a legally marketed predicate microneedling device and compliance with the special controls as codified in 21 CFR 878.4430.

⁶ Granting order available at https://www.accessdata.fda.gov/cdrh_docs/pdf16/DEN160029.pdf and announced in the Federal Register on June 8, 2018 (83 FR 26575).

⁷ DEN160029 Decision Summary is available at https://www.accessdata.fda.gov/cdrh_docs/reviews/DEN160029.pdf.

⁸ More information on the 510(k) review process is available in the FDA guidance document “The 510(k) Program: Evaluating Substantial Equivalence in Premarket Notifications [510(k)]” (“the 510(k) program guidance”), accessible at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/510k-program-evaluating-substantial-equivalence-premarket-notifications-510k>.

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The special controls described in 21 CFR 878.4430(b)(1)-(10) mitigate the identified risks to health associated with microneedling devices for aesthetic use including adverse tissue reaction; cross-contamination and infection; electrical shock or electromagnetic interference with other devices; and damage to underlying tissue including nerves and blood vessels, scarring, and hyper/hypopigmentation due to exceeding safe penetration depth, mechanical failure, or software malfunction.

The 510(k) submission should identify the predicate device to which the new microneedling device is compared. For a microneedling device that has new or modified indications for use and/or different technological characteristics when compared to the predicate device, FDA may request clinical performance data in addition to non-clinical testing if needed to make a substantial equivalence determination.⁹ For those submissions where clinical data is necessary to demonstrate substantial equivalence, we recommend considering the following when designing a clinical study:

- i) The clinical study protocol should generally ensure that enrolled subjects are representative of the clinical population that the device is intended to treat. This should be reflected in the inclusion and exclusion criteria developed for the study.
- ii) Safety data should generally be collected to support the safe use of the device. Such data should characterize the risks of infection, nerve and blood vessel damage, scar formation, hyper-/hypo-pigmentation, skin inflammation, allergic reactions, skin irritation, and other adverse events related to the use of the device.
- iii) The proposed primary effectiveness endpoint should generally be developed to align with the proposed indications for use for your device. Effectiveness should be measured using a method that minimizes subjectivity or bias. FDA recommends use of validated measurement tools to assess device effectiveness.
- iv) The follow-up period should ensure a reasonable assessment of the short-term and long-term performance of the device, as it relates to the safety and effectiveness endpoints as outlined above.

As a resource for designing clinical studies, FDA recommends reviewing the guidance document “[Design Considerations for Pivotal Clinical Investigations for Medical Devices](#).”¹⁰

If you have further questions regarding a proposed premarket submission, you may contact FDA via the Pre-Submission process. For more information regarding the Pre-Submission program, refer to the guidance document “[Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program](#).”¹¹

⁹ Please refer to the 510(k) program guidance discussed above for more information on the 510(k) review process.

¹⁰ Available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/design-considerations-pivotal-clinical-investigations-medical-devices>.

¹¹ Available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/requests-feedback-and-meetings-medical-device-submissions-q-submission-program>.

Testimony Relating to Salon and School Inspections

House Industry, Business and Labor Committee

January 13, 2025

House Bill 1126

Chair Warrey 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 writing to you today regarding House Bill 1126, introduced by the State Board of Cosmetology, and to support the 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. Please reach out with any questions you may have.

Nikki Wegner MS, OTR/L, President
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North Dakota

STATE BOARD OF COSMETOLOGY

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Sixty-ninth
Legislative Assembly

HB1126

Page 8, Line 11 correction.

c. Dentist or dental surgeon practicing under chapter 43—2343 - 28;

Holly Blomquist,
Executive Director

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1126
1/29/2025

Relating to the use of brush rollers, licenses issued for schools and salons, and esthetician and manicurist licensing qualifications and fees; to provide a penalty; and to provide an effective date

3:08 p.m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, Brown, Christy, Finley-DeVille, Grindberg, Kasper, Koppelman, Ruby, Schatz, Schauer, Vollmer

Discussion Topics:

- Committee Work

3:09 p.m. Representative D. Ruby moved to Adopt Amendment LC #25.8014.01001, #38341.

3:09 p.m. Representative Schauer seconded the motion.

3:09 p.m. Voice vote.

3:09 p.m. Vote passed.

3:09 p.m. Representative Schauer moved Do Pass as Amended.

3:09 p.m. Representative Bahl seconded the motion

Representatives	Vote
Representative Jonathan Warrey	Y
Representative Mitch Ostlie	Y
Representative Landon Bahl	Y
Representative Collette Brown	Y
Representative Josh Christy	Y
Representative Lisa Finley-DeVille	Y
Representative Karen Grindberg	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Mike Schatz	Y
Representative Austin Schauer	Y
Representative Daniel R. Vollmer	Y

3:10 p.m. Motion passed 14-0-0.

3:11 p.m. Representative Grindberg will carry the bill.

3:11 p.m. Chairman Warrey closed the meeting.

Diane Lillis, Committee Clerk

January 29, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1126

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Cosmetology)

1-29-25
JB
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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.

JB 2 of 30

- 1 2. "Advanced esthetician" means an individual who practices advanced esthetics and
2 esthetics.
- 3 3. "Advanced esthetics" means the practice of advanced cosmetic preparations or
4 procedures using the hands or a mechanical or electronic apparatus for esthetic
5 purposes.
- 6 a. The term includes:
7 (1) Advanced chemical peels;
8 (2) Microneedling; and
9 (3) Extractions using lancets.
- 10 b. The term does not include:
11 (1) Procedures to treat a medical, physical, or mental ailment; or
12 (2) Ablative esthetic procedures.
- 13 4. "Apprentice" means an individual who is:
14 a. At least sixteen years of age;
15 b. Employed in an apprenticeable occupation; and
16 c. Registered in North Dakota by the office of apprenticeship of the United States
17 department of labor.
- 18 5. "Apprentice program" means a program registered with the office of apprenticeship of
19 the United States department of labor, meeting the terms and conditions for
20 qualifications, recruitment, selection, employment, and training of apprentices,
21 including the requirement for a written apprenticeship agreement between an
22 apprentice and an active licensee in an active licensed establishment in accordance
23 with the rules adopted by the board.
- 24 6. "Apprentice trainer" means an individual who trains an apprentice in an approved
25 apprenticeship program and who is approved by rule of the board.
- 26 7. "Approved apprenticeship establishment" means an establishment approved by rule of
27 the board.
- 28 8. "Board" means the state board of cosmetology.
- 29 2-9. "Cosmetologist" means an individual licensed under this chapter to practice
30 cosmetology.

1 3.10. "Cosmetology" means any one or a combination of practices generally and usually
2 performed by and known as the occupation of beauty culturists or cosmeticians or
3 cosmetologists or hairdressers, or of any other individual holding out as practicing
4 cosmetology by whatever designation and within the meaning under this chapter and
5 in and upon whatever place or premises.

6 a. The term includes:

- 7 (1) Hair care, including arranging, dressing, curling, waving, permanent waving,
8 cleansing, cutting, shaving, trimming, singeing, bleaching, coloring,
9 straightening, or similar work, upon the hair of any individual by any means
10 or with hands or mechanical or electrical apparatus or appliances;
11 (2) ~~Skin care~~ Esthetics;
12 (3) Manipulation and application of product to eyelashes and eyebrows,
13 including extensions, design, treatment, tinting, and lightening;
14 (4) Hair extensions using chemical hair joint agents, such as synthetic tape,
15 keratin bonds, or fusion bonds; and
16 (5) Manicuring.

17 b. The term does not include natural hair braiding or threading.

18 4.11. "Esthetician" means an individual licensed under this chapter to practice esthetics and
19 ~~skin care~~.

20 5.12. "Esthetics" means ~~manipulation and application of product to eyelashes and~~
21 ~~eyebrows, including extensions, design, treatment, tinting, and lightening and skin~~
22 ~~care; the practice of a variety of services to beautify or improve the appearance of the~~
23 ~~skin.~~

24 a. The term includes:

- 25 (1) Beautifying, massaging, cleansing, or stimulating the skin of the human
26 body by the use of cosmetic preparations, antiseptics, tonics, lotions, or
27 creams;
28 (2) Use of a device to care for the skin, including microdermabrasion,
29 dermaplaning, or high frequency;
30 (3) Cosmetic peels using a concentration of less than:
31 (a) Thirty percent alpha hydroxy acid;

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- 1 (b) Twenty percent beta hydroxy acid;
- 2 (c) Fifteen percent resorcinol; or
- 3 (d) Fifteen percent trichloroacetic acid;
- 4 (4) Application of cosmetics, eyelashes, or eyelash extensions;
- 5 (5) Perming, laminating, tinting, or lightening eyebrows, eyelashes, or other hair
- 6 on the body; or
- 7 (6) Depilating, tweezing, shaving, sugaring, or waxing hair from the body.
- 8 b. The term does not include:
- 9 (1) Any procedure invading living tissue below the stratum corneum layer of the
- 10 epidermis by any means;
- 11 (2) Threading hair removal; or
- 12 (3) Advanced esthetic procedures.
- 13 ~~6-13.~~ "Independent licensee" ~~is means~~ a licensed individual who maintains a separate ~~salon~~
- 14 ~~license and operates independently from the establishment owner in which the~~
- 15 ~~individual's suite or chair is located~~ practices cosmetology, manicuring, esthetics, or
- 16 advanced esthetics at a location within, but separate, from a cosmetology
- 17 establishment. The licensee must abide by the same provisions of this chapter as an
- 18 establishment.
- 19 ~~7-14.~~ "Instructor" means an individual who is a licensed cosmetologist, esthetician,
- 20 advanced esthetician, or manicurist who teaches cosmetology, esthetics, manicuring,
- 21 or other practices within the scope of the individual's license, in a duly registered
- 22 school of cosmetology, and who has met the requirements of section 43-11-27 and
- 23 has applied for and received an instructor's license.
- 24 8. ~~"Invasive care" means any procedure that invades the live tissue of the dermis by any~~
- 25 ~~means, including cutting, puncturing, burning, insertion of instruments, and includes:~~
- 26 a. ~~Laser use; and~~
- 27 b. ~~Chemical peels using:~~
- 28 (1) ~~Thirty percent or higher concentration of alpha hydroxy acid;~~
- 29 (2) ~~Twenty percent or higher concentration of beta hydroxy acid;~~
- 30 (3) ~~Two percent or higher concentration of resorcinol;~~
- 31 (4) ~~Fifteen percent or higher concentration of trichloroacetic acid (TGA); or~~

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1 (5) ~~Fifteen percent or higher concentration of phenol.~~

2 9-15. "Manicuring" means:

3 a. Cleansing, cutting, shaping, or beautifying nails;

4 b. Massaging from the elbow to the fingertips or knee to toes of any individual;

5 c. Caring for and treating the cuticles and nails; and

6 d. The application and removal of sculptured or otherwise artificial nails by hand or
7 with mechanical or electrical apparatus or appliances.

8 10-16. "Manicurist" means an individual licensed under this chapter to practice manicuring.

9 11-17. "Master cosmetologist" means an individual who has met the requirements of section
10 43-11-26 and has applied for and received a master cosmetologist license.

11 12-18. "Master esthetician" means an individual who has met the requirements of section
12 43-11-26 and has applied for and received a master esthetician license.

13 13-19. "Master manicurist" means an individual who has met the requirements of section
14 43-11-26 and has applied for and received a master manicuring license.

15 14. "Mechanical device" means ~~a clip, comb, crochet hook, curler, curling iron, hairpin,~~
16 ~~roller, scissors, blunt-tipped needle, thread, and hair binder.~~

17 15-20. "Natural hair braiding" means ~~the service of twisting, wrapping, weaving, extending,~~
18 ~~locking, or braiding hair by hand or with a mechanical device. Natural hair braiding is~~
19 ~~commonly known as "African-style hair braiding" but is not limited to any particular~~
20 ~~cultural, ethnic, racial, or religious forms of hairstyles~~ hair manipulation that results in
21 tension on hair strands by beading, braiding, cornrowing, extending, lacing, locking,
22 sewing, twisting, weaving, or wrapping human hair, natural fibers, synthetic fibers, and
23 hair extensions into a variety of shapes, patterns, and textures by hand or by using
24 simple hair braiding devices.

25 a. The term includes:

26 (1) ~~The use of natural or synthetic hair extensions, natural or synthetic hair and~~
27 ~~fibers, and decorative beads and other hair accessories;~~

28 (2) ~~Minor trimming of natural hair or hair extensions incidental to twisting,~~
29 ~~wrapping, weaving, extending, locking, or braiding hair;~~

30 (3)(1) ~~The making of wigs from natural hair, natural fibers, synthetic fibers, and~~
31 ~~hair extensions; and~~

1 noninvasive care and work on the body of any individual. The term does not include
2 invasive care or threading.

3 ~~20-25.~~ "Student" means any individual who is engaged in the learning or acquiring of any or
4 all the practices of cosmetology and while so learning, performs or assists in any of
5 the practices of cosmetology in any school registered or licensed and under the
6 immediate supervision of an instructor licensed as such under this chapter.

7 ~~24-26.~~ "Student instructor" means a cosmetologist, esthetician, advanced esthetician, or
8 manicurist who is receiving instruction in teacher's training within the scope of the
9 individual's license in a duly registered school of cosmetology.

10 ~~22-27.~~ "Threading" means the method of removing hair from the eyebrows, upper lip, or other
11 body part by using cotton thread to pull hair from follicles.

12 a. The term may include the use of an over-the-counter astringent, gel, and powder,
13 tweezers, and scissors, incidental to the removal of hair by threading.

14 b. The term does not include the use of chemicals, heat, or any type of wax.

15 ~~23-28.~~ "Tuition" means the total cost of an individual's cosmetology studies, and does not
16 include 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 provided by individuals practicing cosmetology upon members of the
22 individual's immediate families.
- 23 2. Services by nurses, undertakers, and morticians lawfully engaged in the performance
24 of the usual and ordinary duties of their vocation.
- 25 3. Educational activities conducted in connection with any regularly scheduled meeting or
26 any educational activities of any bona fide association of licensed cosmetologists,
27 estheticians, advanced esthetician, or manicurists from which the general public is
28 excluded. For purposes of this subsection, a "bona fide association of cosmetologists"
29 means any organization whose constitution, bylaws, or membership rules establish
30 within said organization a class of membership consisting of licensed cosmetologists,
31 estheticians, advanced estheticians, or manicurists.

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- 1 4. 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 5. Services provided in a licensed hospital or a nursing home by an individual practicing
- 6 cosmetology on a volunteer basis without compensation or by a nurse's assistant.
- 7 6. ~~Skin-care~~Advanced esthetic procedures provided by a licensed cosmetologist or
- 8 ~~esthetician outside of a licensed salon if the services are being provided under the~~
- 9 ~~supervision, control, and responsibility of a physician;~~
- 10 a. Physician or physician assistant practicing within the scope of the physician's or
- 11 ~~physician assistant's license under chapter 43-17; or nurse;~~
- 12 b. Nurse practicing within the scope of the nurse's license under chapter 43-12.1;
- 13 c. Dentist or dental surgeon practicing under chapter 43-23~~43-28;~~
- 14 d. Optometrist practicing under chapter 43-13; or
- 15 e. Chiropractor practicing under chapter 43-06.

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

18 **43-11-03. State board of cosmetology - Appointment - Term - Removal.**

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

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

28 **43-11-04. Members of board - Qualifications.**

29 Each member of the board must be ~~a citizen~~an eligible voting resident of this state and
30 have at least three years of practical experience in the occupation. ~~Three of the members of the~~
31 ~~board must each be a licensed cosmetologist who has had at least three years' practical~~

~~experience in the occupation. One member of the board must have professional experience as a secondary teacher or as a postsecondary educator. One member of the board must be a licensed health care provider.~~ The board must consist of at least three licensed cosmetologists, one licensed cosmetology instructor, and a secondary teacher or a postsecondary educator.
The remaining three members may be any of the following:

1. A licensed cosmetologist;
2. A licensed esthetician;
3. A licensed advanced esthetician; or
4. A licensed manicurist.

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

Material changes.

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

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

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

1. The members of the board annually shall elect a president and a secretary from the members of the board.
2. The president and the secretary may administer oaths.
3. The board may adopt rules necessary to implement this chapter shall:
 - a. Adopt and enforce rules to administer this chapter after collaborating with affected parties;
 - b. Employ administrative staff and additional staff positions as needed;
 - c. Set fees, manage funds, and authorize expenditures necessary for board operations;
 - d. Collect and analyze data;
 - e. Maintain a registry of licensees and registered individuals;
 - f. Issue licenses for cosmetologists, estheticians, advanced estheticians, manicurists, instructors, establishments, independent licensees, and schools;
 - g. Adopt and enforce rules for continuing competence of licensees and registrants;
 - h. Regulate cosmetology practices; and

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- i. Issue practice statements regarding the interpretation and application of this chapter.

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

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

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

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

43-11-08. Meetings of the board.

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

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

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

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

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

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

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

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

43-11-13. License required.

An individual may not:

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

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

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

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

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

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

1. Signed by the secretary of the board;

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

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

5 **43-11-15. Salon establishment ownership and operation.**

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

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

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

- 18 1. Each new establishment, independent licensee, and school must be inspected by the
19 board or the board's designee to determine compliance with the laws, rules, and
20 regulations of this chapter as determined by the board.
- 21 2. Each establishment, independent licensee, and school must be subject to routine
22 inspections as determined by the board.
- 23 3. An establishment, independent licensee, or school may be subject to additional
24 inspections if the establishment, independent licensee, or school:
 - 25 a. Had a violation in a previous inspection;
 - 26 b. Changed ownership;
 - 27 c. Did not timely renew the license; or
 - 28 d. Is on probation because of disciplinary action from the board.
- 29 4. A reinspection fee, determined by the board, may be charged for additional
30 inspections under subsection 3.

5. Inspections must be made during the establishment's regular hours of operation, or anytime the instruction or practice of cosmetology, esthetics, advanced esthetics, or manicuring is conducted, unless otherwise agreed by all interested persons.

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

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

Inspection generated by a complaint.

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

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

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

Refusal to allow inspection.

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

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

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

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

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

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

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

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

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

(4) Eleven hundred hours for advanced esthetics;

- c. Employs at least two full-time equivalent licensed instructors and maintains a maximum student-to-instructor ratio of twenty-four-to-one based on current enrollment, except a school that provides training and instruction limited to esthetics, advanced esthetics, or manicuring shall maintain a maximum student-to-instructor ratio of twelve-to-one based on current enrollment;
- d. Possesses apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum;
- e. Maintains a record of the attendance and performance of each student;
- f. Maintains regular class and instruction hours to include practical demonstrations and theoretical studies supplemented by audiovisual aids, and studies in sanitation~~disinfection~~, sterilization, infection control, and other safety measures ~~and the use of antiseptics, cosmetics, and electrical appliances~~ consistent with the practical and theoretical requirements as applicable to ~~cosmetology~~ all curriculums;
- g. Agrees not to:
 - (1) Permit any student to practice on any individual who is not an instructor or registered student of the school until the student has completed at least twenty percent of the total hours of instruction required under this chapter and only if the practice is under the immediate direction and supervision of a licensed instructor; or
 - (2) Compensate any of the school's basic students in any way; and
- h. At the time of application for licensure and upon the renewal of a license, furnishes to the board, and maintains in force at all times the license is in effect, a bond in the penal sum of ten thousand dollars. The bond must run in favor of the board, as agent of the state, and must be furnished by a surety company authorized to do business in this state. It must be conditioned upon the bonded school's providing its registered students with the full course of instruction required under this chapter and must provide for a refund of a proportionate amount of each student's tuition fee upon default.

2. A student enrolled in the training or who has completed the training of the esthetician or cosmetologist curriculum in part or as a whole at a board-licensed school or who is a holder of an active North Dakota license as a cosmetologist or esthetician license will receive up to six hundred hours credit toward advanced esthetics requirement as allowed by rule.

2-3. Any school that enrolls student instructors shall set up an adequate course of training with the approval of the board and consisting of:

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

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

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

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

43-11-16.1. Internships and apprenticeship programs.

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

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

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

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

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

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

b. Complete board-approved educator training.

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4. If an approved apprenticeship program or apprenticeship establishment implements changes affecting the information required to be provided to the board under this section or rules adopted under this section, the revised information must be submitted to the board before implementing the changes.

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

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

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

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

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

Licensed nursing facilities and assisted living centers.

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

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

43-11-19. Students - Registration.

1. A student must:

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

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

- 1 c. Complete at least a tenth grade education or equivalent; and
2 e.d. Have enrolled in a school of cosmetology and complied with the preliminary
3 requirements thereof.

- 4 2. ~~The names and qualifications of all students~~ A student registration form for each
5 student must be certified submitted to the board office by each school of
6 cosmetology enrollment. The ~~certification~~ registration form must be accompanied by a
7 processing fee for each student in an amount ~~as may be determined by the board~~
8 under section 43-11-28.

9 **SECTION 22. AMENDMENT.** Section 43-11-20.3 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-11-20.3. Cancellation of contract for instruction.**

12 Any person has the unrestricted right to rescind, revoke, or cancel a contract for a course of
13 instruction at any school of ~~cosmetology~~ after entering into the contract without incurring any
14 tort or contract liability.

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

17 **43-11-21. Cosmetologist, esthetician, advanced esthetician, manicurist license -**
18 **Examination required - Application - Examination - Fees.**

19 Each individual who desires to secure a cosmetologist, esthetician, advanced esthetician,
20 or manicurist license shall file with the board a written application under oath on a form supplied
21 by the board. The application must be accompanied by ~~all of the following~~:

- 22 1. An examination fee ~~as may be fixed by the board pursuant to~~ under section 43-11-28.;
23 2. Satisfactory proof that the applicant has completed the ~~required training in a school of~~
24 cosmetology board-approved training requirements; and
25 3. A fee for original licensure as required by section 43-11-28.

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

28 **43-11-23. Examination.**

29 The examination of applicants for license to practice under this chapter must be conducted
30 under rules adopted by the board and must include ~~both practical demonstrations and written or~~
31 ~~oral tests in reference to~~ theoretical examinations on the practices for which a license is desired

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and in reference to related studies or subjects as the board may determine necessary for the proper and efficient performance of a practice. The board may require the practical portion of the examination be conducted by schools of cosmetology as part of graduation requirements. The examination may not be confined to any specific system or method and must be consistent with the practical and theoretical requirements of cosmetology.

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

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

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

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

43-11-25. Licensure by ~~reciprocity~~ endorsement.

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

- ~~1. The applicant has:~~
 - ~~a. Provided satisfactory proof of a license in good standing with the District of Columbia, or any other state, territory, foreign country, or province where the requirements are equally substantial to those in force in this state at the time the application for the license is filed; or~~
 - ~~b. Provided satisfactory proof:~~
 - ~~(1) The applicant is licensed in good standing in any other state, territory, or jurisdiction of the United States to practice cosmetology;~~

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(2) ~~The applicant worked in the licensed profession for at least three of the past five years; and~~

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

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

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

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

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

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

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

(3) Pays all applicable fees; and

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

b. If the following conditions are met:

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

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

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

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

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

c. In the case of:

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

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

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

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

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

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

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

c. Issued without a fee.

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

a. A board approved application;

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

c. In the case of:

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

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

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

(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.

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

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

1. No individual may be licensed as an instructor of cosmetology unless the individual passes a theory and a practical examination required by the board after paying the examination fee set forth in section 43-11-28 and ~~provides evidence of having a general education equivalent to the completion of four years in high school.~~ An applicant:
 - a. Shall possess a current North Dakota license as a cosmetologist, esthetician, advanced esthetician, or manicurist; and must
 - b. ~~Must have at least nine hundred sixty hours instructor's training in cosmetology in a school of cosmetology;~~
 - b. Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and must have been actively engaged in the practice under the scope of the applicant's license for at least one year before application for an instructor's license, supplemented by not less than four hundred eighty hours instructor's training in a school of cosmetology or course of training approved by the board; or
 - c. Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and shall have been actively engaged in the practice of cosmetology for at least three years prior to application for an instructor's license supplemented by not less than one hundred sixty hours instructor's training in a school of cosmetology or course of training approved by the board. No instructor or student instructor may be permitted to practice cosmetology on a patron other than that part of practical work which pertains directly to the teaching of practical operations to students completed the required hours of instructor's training in a school of cosmetology or course approved by the board.
2. An instructor or student instructor may not practice cosmetology on a patron at a school other than as part of practical work pertaining directly to the teaching of students.

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

3-4. No individual is entitled to renew an instructor's license unless the instructor has
furnished to the board evidence of completion of the continuing education established
by the board by rule.

4-5. Licensed estheticians and manicurists may only provide instruction within the scope of
practice of the respective licenses determined under this chapter.

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

License requirements - Additional certifications for advanced estheticians.

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

1. Microneedling pens, rollers, or devices;
2. Nonablative devices; or
3. Advanced chemical peels.

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

Advanced esthetician license - Grandfather provision.

1. A cosmetologist or esthetician licensed in this state with practical experience of at least one year immediately preceding the enactment date of this Act, may apply for an advanced esthetician license until December 31, 2027, if the applicant:
 - a. Completes a board-approved four-hour safety and infection control training;
 - b. Obtains an active occupational safety and health administration bloodborne pathogens certification;
 - c. Obtains an active red cross first aid and cardiopulmonary resuscitation certification; and
 - d. Provides:
 - (1) A notarized affidavit from a supervising medical professional certifying the applicant worked under the direct supervision and control of a licensed physician or physician assistant practicing under chapter 43-17, or nurse under chapter 43-12.1, for a minimum of three hundred hours of actual service work within five years immediately preceding application; or
 - (2) Proof of completing one hundred fifty hours of advanced esthetic training approved by the board.
2. A cosmetologist or esthetician licensed in this state who fails to meet the requirements in subsection 1 or fails to apply by December 31, 2027, will be required to complete five hundred hours of training in advanced esthetics in a board-approved program.

SECTION 32. AMENDMENT. Section 43-11-28 of the North Dakota Century Code is amended and reenacted as follows:

43-11-28. Fees and qualifications.

1. The board shall determine the qualifications for licensure of cosmetologists, estheticians, advanced estheticians, manicurists, instructors, establishments, independent licensees, and schools, and may issue licenses upon approval.
2. Fees to be paid by applicants for original registrations, original licenses, renewals, licenses issued upon reciprocity, and examinations as required under this chapter may not exceed the following amounts:

a. <u>Original registrations, licenses, and annual</u>	MAXIMUM
<u>-renewals:</u>	FEE:

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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	c. 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. Fees:	<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>

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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

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b-c. ~~Furnishing~~Furnishment to the board of satisfactory proof of passing the North Dakota law, rules, and regulations examination.

5. The board may not reinstate a license if more than five years has lapsed since the license expired. If a license has not been renewed within five years, the individual may reapply for licensure under the requirements of initial licensure as set forth under this chapter.

SECTION 34. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows:

Establishment, independent licensee license renewal - Failure to renew.

1. An establishment license issued by the board expires annually on December thirty-first. If the application for renewal is not received on or before the expiration date, the license expires.
2. The board may renew a license if:
 - a. An application for renewal is submitted as provided by the board;
 - b. The renewal fee is paid; and
 - c. Grounds for denial do not exist under section 43-11-31.
3. The holder of an expired establishment or independent license, within twelve months from the date of the license's expiration, may obtain a reinstatement of the establishment license upon:
 - a. Payment of the required late fee; and
 - b. Payment of the current renewal fee.
4. After twelve months from the date of the license's expiration, the holder of an expired establishment or independent license seeking licensure shall pay the required late penalty fee for each year not renewed and reapply for establishment or independent licensure under this chapter.

SECTION 35. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows:

School license renewal - Failure to renew.

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

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- 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.

**REPORT OF STANDING COMMITTEE
HB 1126**

Industry, Business and Labor Committee (Rep. Warrey, Chairman) recommends **AMENDMENTS** ([25.8014.01001](#)) and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1126 was placed on the Sixth order on the calendar.

25.8014.01001
Title.02000

Adopted by the Industry, Business and
Labor Committee
January 29, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1126

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Cosmetology)

A BILL for an Act to create and enact eleven new sections to chapter 43-11 of the North Dakota Century Code, relating to salon and school inspections, nursing home and assisted living facility salons, military and military spouse reciprocity licensure, advanced esthetician licensing and late renewals for establishments and schools; to amend and reenact sections 43-11-01, 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, 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, 43-11-25, 43-11-26, 43-11-27, 43-11-28, and 43-11-29, of the North Dakota Century Code, relating to the practice and licensure of cosmetologists, estheticians, advanced estheticians, manicurists and instructors; to repeal sections 43-11-11.1, 43-11-17, and 43-11-27.1 of the North Dakota Century Code, relating to the use of brush rollers, licenses issued for schools and salons, and esthetician and manicurist licensing qualifications and fees; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

43-11-01. Definitions.

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

1. "Ablative esthetic procedure" means an esthetic procedure to excise, vaporize, disintegrate, or remove living tissue. Ablative procedures may not be performed by cosmetologists, estheticians, advanced estheticians, or manicurists.

1 2. "Advanced esthetician" means an individual who practices advanced esthetics and
2 esthetics.

3 3. "Advanced esthetics" means the practice of advanced cosmetic preparations or
4 procedures using the hands or a mechanical or electronic apparatus for esthetic
5 purposes.

6 a. The term includes:

7 (1) Advanced chemical peels;

8 (2) Microneedling; and

9 (3) Extractions using lancets.

10 b. The term does not include:

11 (1) Procedures to treat a medical, physical, or mental ailment; or

12 (2) Ablative esthetic procedures.

13 4. "Apprentice" means an individual who is:

14 a. At least sixteen years of age;

15 b. Employed in an apprenticeable occupation; and

16 c. Registered in North Dakota by the office of apprenticeship of the United States
17 department of labor.

18 5. "Apprentice program" means a program registered with the office of apprenticeship of
19 the United States department of labor, meeting the terms and conditions for
20 qualifications, recruitment, selection, employment, and training of apprentices,
21 including the requirement for a written apprenticeship agreement between an
22 apprentice and an active licensee in an active licensed establishment in accordance
23 with the rules adopted by the board.

24 6. "Apprentice trainer" means an individual who trains an apprentice in an approved
25 apprenticeship program and who is approved by rule of the board.

26 7. "Approved apprenticeship establishment" means an establishment approved by rule of
27 the board.

28 8. "Board" means the state board of cosmetology.

29 ~~2.9.~~ "Cosmetologist" means an individual licensed under this chapter to practice
30 cosmetology.

1 ~~3-10.~~ "Cosmetology" means any one or a combination of practices generally and usually
2 performed by and known as the occupation of beauty culturists or cosmeticians or
3 cosmetologists or hairdressers, or of any other individual holding out as practicing
4 cosmetology by whatever designation and within the meaning under this chapter and
5 in and upon whatever place or premises.

6 a. The term includes:

- 7 (1) Hair care, including arranging, dressing, curling, waving, permanent waving,
8 cleansing, cutting, shaving, trimming, singeing, bleaching, coloring,
9 straightening, or similar work, upon the hair of any individual by any means
10 or with hands or mechanical or electrical apparatus or appliances;
11 (2) ~~Skin care~~Esthetics;
12 (3) Manipulation and application of product to eyelashes and eyebrows,
13 including extensions, design, treatment, tinting, and lightening;
14 (4) Hair extensions using chemical hair joint agents, such as synthetic tape,
15 keratin bonds, or fusion bonds; and
16 (5) Manicuring.

17 b. The term does not include natural hair braiding or threading.

18 ~~4-11.~~ "Esthetician" means an individual licensed under this chapter to practice esthetics and
19 skin care.

20 ~~5-12.~~ "Esthetics" means ~~manipulation and application of product to eyelashes and~~
21 ~~eyebrows, including extensions, design, treatment, tinting, and lightening and skin-~~
22 ~~care; the practice of a variety of services to beautify or improve the appearance of the~~
23 ~~skin.~~

24 a. The term includes:

- 25 (1) Beautifying, massaging, cleansing, or stimulating the skin of the human
26 body by the use of cosmetic preparations, antiseptics, tonics, lotions, or
27 creams;
28 (2) Use of a device to care for the skin, including microdermabrasion,
29 dermaplanning, or high frequency;
30 (3) Cosmetic peels using a concentration of less than:
31 (a) Thirty percent alpha hydroxy acid;

- 1 (b) Twenty percent beta hydroxy acid;
2 (c) Fifteen percent resorcinol; or
3 (d) Fifteen percent trichloroacetic acid;
4 (4) Application of cosmetics, eyelashes, or eyelash extensions;
5 (5) Perming, laminating, tinting, or lightening eyebrows, eyelashes, or other hair
6 on the body; or
7 (6) Depilating, tweezing, shaving, sugaring, or waxing hair from the body.
8 b. The term does not include:
9 (1) Any procedure invading living tissue below the stratum corneum layer of the
10 epidermis by any means;
11 (2) Threading hair removal; or
12 (3) Advanced esthetic procedures.
13 6.13. ~~"Independent licensee" is~~means a licensed individual who maintains a separate salon-
14 license and ~~operates independently from the establishment owner in which the~~
15 ~~individual's suite or chair is located~~practices cosmetology, manicuring, esthetics, or
16 advanced esthetics at a location within, but separate, from a cosmetology
17 establishment. The licensee must abide by the same provisions of this chapter as an
18 establishment.
19 7.14. "Instructor" means an individual who is a licensed cosmetologist, esthetician,
20 advanced esthetician, or manicurist who teaches cosmetology, esthetics, manicuring,
21 or other practices within the scope of the individual's license, in a duly registered
22 school of cosmetology, and who has met the requirements of section 43-11-27 and
23 has applied for and received an instructor's license.
24 8. ~~"Invasive care" means any procedure that invades the live tissue of the dermis by any~~
25 ~~means, including cutting, puncturing, burning, insertion of instruments, and includes:~~
26 a. ~~Laser use; and~~
27 b. ~~Chemical peels using:~~
28 (1) ~~Thirty percent or higher concentration of alpha hydroxy acid;~~
29 (2) ~~Twenty percent or higher concentration of beta hydroxy acid;~~
30 (3) ~~Two percent or higher concentration of resorcinol;~~
31 (4) ~~Fifteen percent or higher concentration of trichloroacetic acid (TCA); or~~

1 (5) ~~Fifteen percent or higher concentration of phenol.~~

2 9.15. "Manicuring" means:

3 a. Cleansing, cutting, shaping, or beautifying nails;

4 b. Massaging from the elbow to the fingertips or knee to toes of any individual;

5 c. Caring for and treating the cuticles and nails; and

6 d. The application and removal of sculptured or otherwise artificial nails by hand or
7 with mechanical or electrical apparatus or appliances.

8 40.16. "Manicurist" means an individual licensed under this chapter to practice manicuring.

9 44.17. "Master cosmetologist" means an individual who has met the requirements of section
10 43-11-26 and has applied for and received a master cosmetologist license.

11 42.18. "Master esthetician" means an individual who has met the requirements of section
12 43-11-26 and has applied for and received a master esthetician license.

13 43.19. "Master manicurist" means an individual who has met the requirements of section
14 43-11-26 and has applied for and received a master manicuring license.

15 14. ~~"Mechanical device" means a clip, comb, crochet hook, curler, curling iron, hairpin,~~
16 ~~roller, scissors, blunt-tipped needle, thread, and hair binder.~~

17 45.20. ~~"Natural hair braiding" means the service of twisting, wrapping, weaving, extending,~~
18 ~~locking, or braiding hair by hand or with a mechanical device. Natural hair braiding is~~
19 ~~commonly known as "African-style hair braiding" but is not limited to any particular~~
20 ~~cultural, ethnic, racial, or religious forms of hairstyles~~hair manipulation that results in
21 tension on hair strands by beading, braiding, cornrowing, extending, lacing, locking,
22 sewing, twisting, weaving, or wrapping human hair, natural fibers, synthetic fibers, and
23 hair extensions into a variety of shapes, patterns, and textures by hand or by using
24 simple hair braiding devices.

25 a. The term includes:

26 (1) ~~The use of natural or synthetic hair extensions, natural or synthetic hair and~~
27 ~~fibers, and decorative beads and other hair accessories;~~

28 (2) ~~Minor trimming of natural hair or hair extensions incidental to twisting,~~
29 ~~wrapping, weaving, extending, locking, or braiding hair;~~

30 (3)(1) ~~The making of wigs from natural hair, natural fibers, synthetic fibers, and~~
31 ~~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.

47.23. "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~~

1 noninvasive care and work on the body of any individual. The term does not include
2 invasive care or threading.

3 ~~20.25.~~ "Student" means any individual who is engaged in the learning or acquiring of any or
4 all the practices of cosmetology and while so learning, performs or assists in any of
5 the practices of cosmetology in any school registered or licensed and under the
6 immediate supervision of an instructor licensed as such under this chapter.

7 ~~24.26.~~ "Student instructor" means a cosmetologist, esthetician, advanced esthetician, or
8 manicurist who is receiving instruction in teacher's training within the scope of the
9 individual's license in a duly registered school of cosmetology.

10 ~~22.27.~~ "Threading" means the method of removing hair from the eyebrows, upper lip, or other
11 body part by using cotton thread to pull hair from follicles.

12 a. The term may include the use of an over-the-counter astringent, gel, and powder,
13 tweezers, and scissors, incidental to the removal of hair by threading.

14 b. The term does not include the use of chemicals, heat, or any type of wax.

15 ~~23.28.~~ "Tuition" means the total cost of an individual's cosmetology studies, and does not
16 include 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 provided by individuals practicing cosmetology upon members of the
22 individual's immediate families.
- 23 2. Services by nurses, undertakers, and morticians lawfully engaged in the performance
24 of the usual and ordinary duties of their vocation.
- 25 3. Educational activities conducted in connection with any regularly scheduled meeting or
26 any educational activities of any bona fide association of licensed cosmetologists,
27 estheticians, advanced esthetician, or manicurists from which the general public is
28 excluded. For purposes of this subsection, a "bona fide association of cosmetologists"
29 means any organization whose constitution, bylaws, or membership rules establish
30 within said organization a class of membership consisting of licensed cosmetologists,
31 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 are discarded after each customer demonstration. The board may adopt rules to ensure sanitary conditions for services provided under this exemption.
5. Services provided in a licensed hospital or a nursing home by an individual practicing cosmetology on a volunteer basis without compensation or by a nurse's assistant.
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 supervision, control, and responsibility of a physician:
 - a. Physician or physician assistant practicing ~~within the scope of the physician's or~~ physician assistant's license under chapter 43-17, ~~or nurse~~;
 - b. Nurse practicing ~~within the scope of the nurse's license~~ under chapter 43-12.1;
 - c. Dentist or dental surgeon practicing under chapter ~~43-23~~43-28;
 - d. Optometrist practicing under chapter 43-13; or
 - e. Chiropractor practicing under chapter 43-06.

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

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

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

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

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

Each member of the board must be a ~~citizen~~an eligible voting resident of this state and have at least three years of practical experience in the occupation. ~~Three of the members of the board must each be a licensed cosmetologist who has had at least three years' practical~~

~~experience in the occupation. One member of the board must have professional experience as a secondary teacher or as a postsecondary educator. One member of the board must be a licensed health care provider.~~
The board must consist of at least three licensed cosmetologists, one licensed cosmetology instructor, and a secondary teacher or a postsecondary educator.
The remaining three members may be any of the following:

1. A licensed cosmetologist;
2. A licensed esthetician;
3. A licensed advanced esthetician; or
4. A licensed manicurist.

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

Material changes.

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

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

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

1. The members of the board annually shall elect a president and a secretary from the members of the board.
2. The president and the secretary may administer oaths.
3. The board may adopt rules necessary to implement this chapter shall:
 - a. Adopt and enforce rules to administer this chapter after collaborating with affected parties;
 - b. Employ administrative staff and additional staff positions as needed;
 - c. Set fees, manage funds, and authorize expenditures necessary for board operations;
 - d. Collect and analyze data;
 - e. Maintain a registry of licensees and registered individuals;
 - f. Issue licenses for cosmetologists, estheticians, advanced estheticians, manicurists, instructors, establishments, independent licensees, and schools;
 - g. Adopt and enforce rules for continuing competence of licensees and registrants;
 - h. Regulate cosmetology practices; and

- 1 i. Issue practice statements regarding the interpretation and application of this
2 chapter.

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

5 **43-11-06. Compensation of members of board - How paid.**

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

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

15 **43-11-08. Meetings of the board.**

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

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

21 **43-11-10. Records of board - Fees - Expenses - How paid.**

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

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

3 **43-11-11. Rules of cleaning and disinfecting - Practice outside salon.**

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

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

12 **43-11-13. License required.**

13 An individual may not:

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

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

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

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

28 **43-11-14. Licenses - Board to issue - Form - Displayed.**

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

- 31 1. Signed by the secretary of the board;

2. Attested by the seal of the board; and
3. Displayed in clear view to the public ~~where services are being provided.~~

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

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

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

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

Inspections of establishments, independent licensees, and schools.

1. Each new establishment, independent licensee, and school must be inspected by the board or the board's designee to determine compliance with the laws, rules, and regulations of this chapter as determined by the board.
2. Each establishment, independent licensee, and school must be subject to routine inspections as determined by the board.
3. An establishment, independent licensee, or school may be subject to additional inspections if the establishment, independent licensee, or school:
 - a. Had a violation in a previous inspection;
 - b. Changed ownership;
 - c. Did not timely renew the license; or
 - d. Is on probation because of disciplinary action from the board.
4. A reinspection fee, determined by the board, may be charged for additional inspections under subsection 3.

1 5. Inspections must be made during the establishment's regular hours of operation, or
2 anytime the instruction or practice of cosmetology, esthetics, advanced esthetics, or
3 manicuring is conducted, unless otherwise agreed by all interested persons.

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

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

8 **Inspection generated by a complaint.**

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

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

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

16 **Refusal to allow inspection.**

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

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

21 **43-11-16. Schools of cosmetology - Qualifications for licensure.**

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

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

26 b. Requires training and instruction to be a minimum of ~~one;~~

27 (1) One thousand five hundred hours of training and instruction in cosmetology,
28 six;

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

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

(4) Eleven hundred hours for advanced esthetics;

- c. Employs at least two full-time equivalent licensed instructors and maintains a maximum student-to-instructor ratio of twenty-four-to-one based on current enrollment, except a school that provides training and instruction limited to esthetics, advanced esthetics, or manicuring shall maintain a maximum student-to-instructor ratio of twelve-to-one based on current enrollment;
- d. Possesses apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum;
- e. Maintains a record of the attendance and performance of each student;
- f. Maintains regular class and instruction hours to include practical demonstrations and theoretical studies supplemented by audiovisual aids, and studies in sanitation~~disinfection~~, sterilization, infection control, and other safety measures ~~and the use of antiseptics, cosmetics, and electrical appliances~~ consistent with the practical and theoretical requirements as applicable to ~~cosmetology~~all curriculums;
- g. Agrees not to:
 - (1) Permit any student to practice on any individual who is not an instructor or registered student of the school until the student has completed at least twenty percent of the total hours of instruction required under this chapter and only if the practice is under the immediate direction and supervision of a licensed instructor; or
 - (2) Compensate any of the school's basic students in any way; and
- h. At the time of application for licensure and upon the renewal of a license, furnishes to the board, and maintains in force at all times the license is in effect, a bond in the penal sum of ten thousand dollars. The bond must run in favor of the board, as agent of the state, and must be furnished by a surety company authorized to do business in this state. It must be conditioned upon the bonded school's providing its registered students with the full course of instruction required under this chapter and must provide for a refund of a proportionate amount of each student's tuition fee upon default.

2. A student enrolled in the training or who has completed the training of the esthetician or cosmetologist curriculum in part or as a whole at a board-licensed school or who is a holder of an active North Dakota license as a cosmetologist or esthetician license will receive up to six hundred hours credit toward advanced esthetics requirement as allowed by rule.

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

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

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

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

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

43-11-16.1. Internships and apprenticeship programs.

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

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

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

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

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

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

b. Complete board-approved educator training.

4. If an approved apprenticeship program or apprenticeship establishment implements changes affecting the information required to be provided to the board under this section or rules adopted under this section, the revised information must be submitted to the board before implementing the changes.
5. The board or the board's designee shall audit and inspect approved apprenticeship establishments for compliance with this chapter at least annually.
 - a. If the board determines that an approved apprenticeship establishment is not maintaining the standards required by this chapter, written notice must be given.
 - b. An approved apprenticeship establishment that fails to correct the conditions listed in the notice to the satisfaction of the board within a reasonable time may be subject to penalty.
6. An approved apprenticeship establishment shall post a notice to consumers in the reception area of the establishment stating that services may be provided by an apprentice. The notice must state: "This establishment is a participant in a state-approved apprenticeship program. Apprentices in this program are in training and have not yet received a license."

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

Licensed nursing facilities and assisted living centers.

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

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

43-11-19. Students - Registration.

1. A student must:
 - a. Adhere to the laws and rules regarding the practice of cosmetology;
 - b. ~~Have educational qualifications equivalent to completion of four years of high school~~Be at least sixteen years old;

- 1 c. Complete at least a tenth grade education or equivalent; and
- 2 e.d. Have enrolled in a school of cosmetology and complied with the preliminary
- 3 requirements thereof.

- 4 2. ~~The names and qualifications of all students~~A student registration form for each
- 5 student must be ~~certified~~submitted to the board office by each school of
- 6 ~~cosmetology~~enrollment. The ~~certification~~registration form must be accompanied by a
- 7 ~~processing~~the fee for each student in an amount ~~as may be~~ determined by the board
- 8 under section 43-11-28.

9 **SECTION 22. AMENDMENT.** Section 43-11-20.3 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-11-20.3. Cancellation of contract for instruction.**

12 Any person has the unrestricted right to rescind, revoke, or cancel a contract for a course of
13 instruction at any school of ~~cosmetology~~ after entering into the contract without incurring any
14 tort or contract liability.

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

17 **43-11-21. Cosmetologist, esthetician, advanced esthetician, manicurist license -**
18 **Examination required - Application - Examination - Fees.**

19 Each individual who desires to secure a cosmetologist, esthetician, advanced esthetician,
20 or manicurist license shall file with the board a written application under oath on a form supplied
21 by the board. The application must be accompanied by ~~all of the following~~:

- 22 1. An examination fee ~~as may be~~ fixed by the board ~~pursuant to~~ under section 43-11-28.;
- 23 2. Satisfactory proof that the applicant has completed the ~~required training in a school of~~
- 24 ~~cosmetology~~board-approved training requirements; and
- 25 3. A fee for original licensure as required by section 43-11-28.

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

28 **43-11-23. Examination.**

29 The examination of applicants for license to practice under this chapter must be conducted
30 under rules adopted by the board and must include ~~both practical demonstrations and written or~~
31 ~~oral tests in reference to~~ theoretical examinations on the practices for which a license is desired

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

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

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

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

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

20 **43-11-25. Licensure by reciprocity endorsement.**

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

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

- 1 (2) ~~The applicant worked in the licensed profession for at least three of the past~~
2 ~~five years; and~~
- 3 (3) ~~A license granted to the applicant in any other state, territory, or jurisdiction~~
4 ~~of the United States is not subject to suspension or revocation, or otherwise~~
5 ~~restricted in any manner for disciplinary purposes.~~
- 6 2. ~~The applicant passes to the satisfaction of the board an examination on North Dakota~~
7 ~~laws, rules, and regulations.~~
- 8 1. As used in this section, "issuing jurisdiction" means the duly constituted authority in
9 another state, territory, foreign country or province that issued a license to an
10 individual.
- 11 2. The board shall issue a license to a cosmetologist, esthetician, advanced esthetician,
12 or manicurist applicant:
- 13 a. Without an examination if the out-of-state applicant:
- 14 (1) Is licensed by another jurisdiction with similar scope of work through
15 substantially similar or equivalent licensure standards of examination; the
16 other jurisdiction verifies the out-of-state applicant met minimum education
17 requirements to be licensed in that jurisdiction; the out-of-state applicant has
18 maintained good standing in all jurisdictions in which the person holds a
19 license for at least one year before making application to the North Dakota
20 state board of cosmetology;
- 21 (2) Has not had a license revoked and has not voluntarily surrendered a license
22 in any other issuing jurisdiction or country while under investigation;
- 23 (3) Pays all applicable fees; and
- 24 (4) Has not had discipline imposed by any other regulating entity in this state or
25 another issuing jurisdiction or country. If another jurisdiction has taken
26 disciplinary action against the applicant, the board shall determine if the
27 cause for the action was corrected and the matter resolved. If the board
28 determines the matter has not been resolved by the jurisdiction imposing
29 discipline, the board shall not issue or deny a license to the person until the
30 matter is resolved.
- 31 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

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

c. In the case of:

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

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

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

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

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

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

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

c. Issued without a fee.

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

a. A board approved application;

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

c. In the case of:

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

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

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

(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.

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

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

1. No individual may be licensed as an instructor of cosmetology unless the individual passes a theory and a practical examination required by the board after paying the examination fee set forth in section 43-11-28 and ~~provides evidence of having a~~ general education equivalent to the completion of four years in high school. An applicant:
 - a. Shall possess a current North Dakota license as a cosmetologist, esthetician, advanced esthetician, or manicurist; and ~~must~~
 - b. ~~Must~~ have at least nine hundred sixty hours instructor's training in cosmetology in a school of cosmetology;
 - b. ~~Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and must have been actively engaged in the practice under the scope of the applicant's license for at least one year before application for an instructor's license, supplemented by not less than four hundred eighty hours instructor's training in a school of cosmetology or course of training approved by the board; or~~
 - e. ~~Shall possess a current North Dakota license as a cosmetologist, esthetician, or manicurist and shall have been actively engaged in the practice of cosmetology for at least three years prior to application for an instructor's license supplemented by not less than one hundred sixty hours instructor's training in a school of cosmetology or course of training approved by the board. No instructor or student instructor may be permitted to practice cosmetology on a patron other than that part of practical work which pertains directly to the teaching of practical operations to students~~ completed the required hours of instructor's training in a school of cosmetology or course approved by the board.
2. An instructor or student instructor may not practice cosmetology on a patron at a school other than as part of practical work pertaining directly to the teaching of students.

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

3-4. No individual is entitled to renew an instructor's license unless the instructor has furnished to the board evidence of completion of the continuing education established by the board by rule.

4-5. Licensed estheticians and manicurists may only provide instruction within the scope of practice of the respective licenses determined under this chapter.

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

License requirements - Additional certifications for advanced estheticians.

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

1. Microneedling pens, rollers, or devices;
2. Nonablative devices; or
3. Advanced chemical peels.

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

Advanced esthetician license - Grandfather provision.

1. A cosmetologist or esthetician licensed in this state with practical experience of at least one year immediately preceding the enactment date of this Act, may apply for an advanced esthetician license until December 31, 2027, if the applicant:
 - a. Completes a board-approved four-hour safety and infection control training;
 - b. Obtains an active occupational safety and health administration bloodborne pathogens certification;
 - c. Obtains an active red cross first aid and cardiopulmonary resuscitation certification; and
 - d. Provides:
 - (1) A notarized affidavit from a supervising medical professional certifying the applicant worked under the direct supervision and control of a licensed physician or physician assistant practicing under chapter 43-17, or nurse under chapter 43-12.1, for a minimum of three hundred hours of actual service work within five years immediately preceding application; or
 - (2) Proof of completing one hundred fifty hours of advanced esthetic training approved by the board.
2. A cosmetologist or esthetician licensed in this state who fails to meet the requirements in subsection 1 or fails to apply by December 31, 2027, will be required to complete five hundred hours of training in advanced esthetics in a board-approved program.

SECTION 32. AMENDMENT. Section 43-11-28 of the North Dakota Century Code is amended and reenacted as follows:

43-11-28. Fees and qualifications.

1. The board shall determine the qualifications for licensure of cosmetologists, estheticians, advanced estheticians, manicurists, instructors, establishments, independent licensees, and schools, and may issue licenses upon approval.
2. Fees to be paid by applicants for original registrations, original licenses, renewals, licenses issued upon reciprocity, and examinations as required under this chapter may not exceed the following amounts:

a. <u>Original registrations, licenses, and annual</u>	MAXIMUM
<u>-renewals:</u>	FEE:

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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 ~~b-c.~~ FurnishingFurnishment to the board of satisfactory proof of passing the North
2 Dakota law, rules, and regulations examination.

3 5. The board may not reinstate a license if more than five years has lapsed since the
4 license expired. If a license has not been renewed within five years, the individual may
5 reapply for licensure under the requirements of initial licensure as set forth under this
6 chapter.

7 **SECTION 34.** A new section to chapter 43-11 of the North Dakota Century Code is created
8 and enacted as follows:

9 **Establishment, independent licensee license renewal - Failure to renew.**

- 10 1. An establishment license issued by the board expires annually on December thirty-
11 first. If the application for renewal is not received on or before the expiration date, the
12 license expires.
- 13 2. The board may renew a license if:
- 14 a. An application for renewal is submitted as provided by the board;
- 15 b. The renewal fee is paid; and
- 16 c. Grounds for denial do not exist under section 43-11-31.
- 17 3. The holder of an expired establishment or independent license, within twelve months
18 from the date of the license's expiration, may obtain a reinstatement of the
19 establishment license upon:
- 20 a. Payment of the required late fee; and
- 21 b. Payment of the current renewal fee.
- 22 4. After twelve months from the date of the license's expiration, the holder of an expired
23 establishment or independent license seeking licensure shall pay the required late
24 penalty fee for each year not renewed and reapply for establishment or independent
25 licensure under this chapter.

26 **SECTION 35.** A new section to chapter 43-11 of the North Dakota Century Code is created
27 and enacted as follows:

28 **School license renewal - Failure to renew.**

- 29 1. A school license issued by the board expires annually on December thirty-first. If the
30 application for renewal is not received on or before the expiration date, the license
31 expires.

- 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.

2025 SENATE WORKFORCE DEVELOPMENT

HB 1126

2025 SENATE STANDING COMMITTEE MINUTES

Workforce Development Committee Fort Lincoln Room, State Capitol

HB 1126
3/6/2025

Relating to salon and school inspections, nursing home and assisted living facility salons, military and military spouse reciprocity licensure, advanced esthetician licensing and late renewals for establishments and schools; relating to the practice and licensure of cosmetologists, estheticians, advanced estheticians, manicurists and instructors; relating to the use of brush rollers, licenses issued for schools and salons, and esthetician and manicurist licensing qualifications and fees; to provide a penalty; and to provide an effective date.

2:00 p.m. Chairman Wobbema opened the hearing.

Members Present: Chairman Wobbema, Vice-Chairman Axtman, Senator Boschee, Senator Larson, Senator Powers.

Discussion Topics:

- Modernizing Terminology
- Staffing regulations
- Apprenticeship Opportunities
- Volunteer exemptions

2:00 p.m. Holly Blomquist, Executive Director of ND State Board of Cosmetology, testified in favor and submitted testimony #38638, and #38502.

2:24 p.m. Nikki J. Wegner, President of ND Long Term Care Association, testified in favor and submitted testimony #38436.

2:30 p.m. Stacy Todorovic testified in favor and submitted testimony #39341.

2:32 p.m. Jessee Skittrall, Program Coordinator with Atarashii Apprentice Program, testified in favor and submitted testimony #39006.

2:34 p.m. Miranda Nichols testified in neutral and submitted testimony #39210, #39211 and #39212.

Additional written testimony:

Debbie Medhurst submitted written testimony in favor #38776.

Josie C. Schlosser Master Esthetician with Nickel & Dodge, submitted written testimony in favor #39258.

Hilari Dittus, Esthetician/Owner of Lou's, submitted written testimony in neutral #39272.

2:39 p.m. Chairman Wobbema closed the meeting.

Senate Workforce Development Committee
HB 1126
03/06/2025
Page 2

Andrew Ficek, Committee Clerk

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.

Nikki Wegner MS, OTR/L, President
North Dakota Long Term Care Association
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Bismarck, ND 58501
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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)

A BILL for an Act to create and enact eleven new sections to chapter 43-11 of the North Dakota Century Code, relating to salon and school inspections, nursing home, basic care and assisted living facility salons, military and military spouse reciprocity licensure, advanced esthetician licensing and late renewals for establishments and schools; to amend and reenact sections 43-11-01, 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, 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, 43-11-25, 43-11-26, 43-11-27, 43-11-28, and 43-11-29, of the North Dakota Century Code, relating to the practice and licensure of cosmetologists, estheticians, advanced estheticians, manicurists and instructors; to repeal sections 43-11-11.1, 43-11-17, and 43-11-27.1 of the North Dakota Century Code, relating to the use of brush rollers, licenses issued for schools and salons, and esthetician and manicurist licensing qualifications and fees; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

43-11-01. Definitions.

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

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

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

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

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

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

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

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

Licensed nursing facilities, basic care and assisted living centers.

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

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

43-11-19. Students - Registration.

1. A student must:

a. Adhere to the laws and rules regarding the practice of cosmetology;
b. ~~Have educational qualifications equivalent to completion of four years of high school~~Be at least sixteen years old;

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



North Dakota STATE BOARD OF COSMETOLOGY

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Amendments of First Engrossment of HB 1126

Page 2, SECTION 1, at line 3

"Advanced esthetics" means the practice of advanced cosmetic preparations or procedures using the hands or a mechanical or electronic apparatus for esthetic purposes. Some advanced esthetic services as determined by rules adopted by the board may be limited in scope or required to be performed under the supervision or direction of a licensed physician or physician assistant licensed under chapter 43-17 or an advanced practice registered nurse licensed under chapter 43-12.1, who is sufficiently trained or certified in the procedure being supervised.

a. The term includes:

- (1) Advanced chemical peels;
- (2) Microneedling; and
- (3) Extractions using lancets; and
- (4) Nonablative procedures.

Page 8, SECTION 2, lines 3-4

5. Services provided in a licensed hospital, basic care facility or a nursing home by an individual practicing cosmetology on a volunteer basis without compensation or by a ~~nurse's assistant~~ facility staff.

Page 9, SECTION 4, lines 3-4

One licensed cosmetology instructor, ~~and~~ or a secondary teacher or a postsecondary educator.

Page 16, SECTION 20, lines 15-22

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

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

Page 25, SECTION 31, line 8

c. Obtains an active ~~red cross~~ first aid and cardiopulmonary resuscitation certification approved by the board; and

Page 28, SECTION 32, add #7 new item for legacy status of license at line 15

7. A licensee who has maintained an active license issued by this board for forty-five years or more and who is no longer engaged in the active practice of the profession may make application to the board for a legacy status of license no less than ninety days prior to expiration. Licenses with legacy status expire on December 31 each year and must be renewed annually for the fee of twenty-five dollars. While in legacy status, no continuing education hours are required for renewal. This status does not apply to instructor license, establishment license or independent licensee license. Licensee may remove legacy status by:

- (a) Make application to the Board and pay applicable renewal fee; and
- (b) Take require annual continuing education hours if applicable.

Holly Blomquist
Executive Director



North Dakota

STATE BOARD OF COSMETOLOGY

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Chairman, Wobbema and Members of the Workforce Development Committee,
 I am Holly Blomquist, Executive Director of the State Board of Cosmetology. We, as a board, serve approximately:

- 1816 Establishments & Independent Licensees
- 6630 Cosmetologist,
- 789 Estheticians,
- 925 Manicurist,
- 69 Instructors,
- 5 schools (2 in Fargo, 1 in Grand Forks, 1 in Bismarck, 1 in Williston),
- along with approximately 200 students.

In 2024 the board issued 393 new individual licenses and 318 new establishment/independent licensee licenses.

Our mission is to ensure the health and safety of North Dakota consumers by promoting ethical standards and by enforcing the laws of the beauty industry. It is the duty of the board to protect the public's health, welfare, and safety.

Today I am introducing HB 1126.

But before I get started, we have a few amendments, which I have handed out separately.

- Page 2, section 1 we updated the definition of Advanced Esthetics to include nonablative procedures and to allow the Board to adopt rules to limit the scope of practice or require the supervision or direction of licensed physicians, Pa's and or advance practice nurses for some procedures.
- Page 8, section 2 lines 3-4 and page 16, section 20 lines 15-22. Which was suggested by the ND Long Term Care Association, we are changing language to include basic care facilities,
- Page 9, section 4 line 4. Changes 'and' to 'or'
- Page 25, Section 31 line 8 An amendment to remove Red Cross and add 'approved by the board'.
- And finally, page 28, section 32, add #7, a new item for legacy status of license at line 15.

Now let's begin,

The State Board of Cosmetology conducted a thorough review of our existing laws to modernize and enhance their clarity. Our primary objectives are:

- To reduce barriers to entry in the cosmetology profession,
- To remove outdated language,
- Add necessary definitions,

- And ensure consistency in repeated terminology.

Our goal is to make these laws more accessible and understandable for licensed professionals, aspiring professionals, and individuals relocating to our state.

This bill is rather lengthy and before I get to line by line explanations, let me summarize the main points. We will:

- Define language for apprenticeship programs for cosmetology, esthetics & manicuring.
- Create a new license type, advanced esthetician, to allow our licensed estheticians and cosmetologist the opportunity to expand their businesses by offering services that are not currently allowed in their scope of practice.
 - We felt rather than require all future estheticians, some who may not want to perform these advanced services, obtain additional curriculum hours, to offer as a separate enhanced license type.
- Add clarity around inspections that are currently being conducted.
- Expedite licensure for those transferring to our state.
- Adopt licensing provisions for our active military and veterans who transfer to our state to make the move easier.
- Increase the number of board members from 5 to 7 to allow inclusion of all our license types.
- Further define the powers of the Board.
- Simplify training hours needed to obtain an instructor's license and establish a required curriculum.
- Increase licensing fees.

Let's begin with updating terminology and consistency in repeated terminology. Page 3, line 8, 15, and 16.

"Esthetics." We are updating this definition, and we will get more into esthetics shortly.

Page 4, lines 10-15 and 17.

Here we are updating and clarifying terminology and creating consistency.

Page 5, lines 12-13.

"Mechanical device." Updating terminology that is no longer needed.

Page 5, lines 14-31, page 6, lines 1-12.

"Natural hair braiding." We are updating terminology and removing "African style hair braiding" terminology to better clarify this service with modern terminology.

The following are updating and clarifying terminology and creating consistency, mainly adding advanced esthetician where needed.

Page 6, lines 24-25.

Page 7, lines 5, 25, and 28-29.

Page 8, lines 5-7.

Page 10, lines 14, 27, and 28.

Page 11, lines 4-6, 12-16, and 31.
Page 12, lines 3, 4, and 12.
Page 13, lines 19-28, and 30.
Page 14, lines 2, and 9-12.
Page 15, lines 3-4, 15-16, and 10-11.
Page 17, lines 3-6, 12, 16-23, and 29-31.
Page 18, lines 1-9.
Page 22, lines 24-25.
Page 23, line 11.
Page 24, line 8.
Page 28, 12 and 31.
Page 29, line 1.

Moving back to esthetics. We are adding and redefining necessary terminology to align with our new advanced esthetician license type.

Page 1, lines 18-20.

"Ablative esthetic procedure" is a definition we feel needs to be added so our licensed professionals understand what is not in their scope of practice. This term refers to services that are beyond the scope of our licensees and should only be performed by licensed medical professionals. We wanted to make this very clear in law.

Staying on page 1, line 21-22, and moving to page 2, lines 1-10.

The introduction of the "Advanced Esthetician" license and its associated terms, such as "advanced esthetics" and "advanced esthetic procedures," represents a forward-thinking approach for our licensed professions. This new license will provide an opportunity for professionals to explore and offer advanced services that are in high demand. We recognize the growing market for these services and want to ensure our licensed professionals are not restricted from pursuing these opportunities. At the same time, we are committed to establishing clear guidelines and oversight to protect the health and safety of North Dakota consumers. Additionally, the creation of an Advanced Esthetician license will enhance reciprocity agreements, making it easier for licensed professionals to move between states while maintaining high standards.

Page 3, lines 17-31 and page 4, lines 1-9.

We have already outlined Advanced Esthetics and now we are clarifying Esthetics.

Page 4, lines 21-29.

We have taken out the term "Invasive care." This definition is not applicable with the creation of the Advanced Esthetician license. We redefined this section and included it under "esthetics" for better clarification on what is allowed under that license type while not eliminating these from an Advanced Esthetician's scope of practice.

Page 6, lines 13-21.

"Nonablative esthetic procedure" and "Noninvasive care." These are other definitions that

need to be clarified for advanced estheticians and other scopes of practice.

Also on page 6, lines 26-30.

"Skin care" was eliminated because this outdated terminology no longer aligns with modern terminology as things are more defined in "esthetics" and "advanced esthetic procedures."

Page 8, lines 5-13.

We further defined other licensed professions that may also be offering "advanced esthetics procedures" within their practices under this exemption as to not limit their practices.

Page 11, line 21-23.

It is again, a clarification on the scope of the practice for our licensed professionals.

Page 13, line 29, page 14, lines 28-30, and page 15, lines 1-9.

We are defining the hours for advanced esthetics license and how many hours will go towards advanced esthetics if one is already licensed as a cosmetologist or esthetician.

Starting on page 23 going to 25. 43-11-27.

To ensure the health and safety of the public, it is essential that licensed Advanced Estheticians receive comprehensive training. The services outlined require a high level of skill, and those performing these procedures must have the specialized training necessary to do so safely and effectively. Our goal is to provide the public with confidence that these licensed professionals are well-qualified and prepared to deliver these advanced services. We have outlined an opportunity for our licensed professionals who currently hold a license as an esthetician or cosmetologist to become a licensed advanced esthetician.

Now let's address apprenticeship. Another big topic. Page 2, lines 11-25.

"Apprentice, Apprentice Program, and Apprentice Trainer." In 2021, 43-11-16.1 was established and states: "The board may establish internships with the schools of cosmetology and may establish apprenticeship programs. The board may adopt rules related to the licensure and discipline of interns and apprentices practicing in programs established under this section." We are now defining these terms.

Page 15, lines 18-30, and page 16, lines 1-14.

In 43-11-16.1, we are outlining the apprenticeship program. We want to make as clear as possible for those who want to take part in this program.

Also on page 16, lines 28-30, and page 23, lines 7-8, we are reducing the barrier to entry by removing the need to have general education equivalent to the completion of four years in high school.

Let's cover the State Board of Cosmetology. Page 8, lines 27-31, Page 9, lines 1-7

As our industry continues to grow and evolve, we believe a seven-member board that includes not only cosmetologists, but also forward-thinking manicurists, estheticians, and advanced

estheticians will best represent the voices of our licensed professionals. While we recognize the challenges of maintaining a licensed healthcare provider on the board, we believe that including an advanced esthetician will bring valuable expertise and perspective on skincare, ensuring well-rounded and informed decision-making.

Continuing on page 9, lines 15-31.

We want things to be clearer for our board in rulemaking and their compensation.

Page 10, lines 4-7.

This is clarification on the compensation of the board.

Moving onto salon and inspections.

Page 12, lines 6-10, 15-31, and page 13, lines 1-15.

We are eliminating the requirement of needing a master licensee to supervise licensees and establishments as we do not want to get in the way of an individual licensee pursuing their own business or dictating how owners manage their businesses.

The Board's current practice is to conduct inspections, and we want to provide clarity for establishments, owners and independent licensees and schools as to when and why they are being inspected. We feel it is very important for the board to do inspections in a timely manner for the health and safety of the public.

Nursing home facilities. Page 16, lines 17-22.

Our goal is to ease the burden on these facilities and support the licensed professionals who serve the older generation in these settings, as the residents are already protected under the facility's medical standards. The facilities many times are limited on space and need to use space that is designated for a salon for other services which would not necessarily be allowed under the board licensing, putting an undue burden on the facility. Many facilities also have family members and/or volunteers that perform services to residents, and we don't want to limit their ability to work in the space the facilities already have established.

Removing the establishment license requirement would ease this burden while still allowing are older generation to receive services in their facility. There are some facilities that allow our licensed professionals to bring non-resident clientele in to receive services. We feel for these non-resident consumers' safety, establishments that allow this will need to be licensed and regulated by our board.

43-11-25. Page 18, lines 20-31, page 19, lines 1-29 and page 20, lines 1-18.

This is another way we are reducing barriers to licensure in our state. We are making it easier for those who are licensed in another jurisdiction to get licensed more quickly in our state, while ensuring they have the required training and/or experience to safely provide services for the public. We reduced the requirement to hold a license from 3 years to 1 year if the applicant's licensing requirements were not substantially equivalent to ND requirements. They also will not have to take exams if they hold a license for 1 year or more. This also allows those licensed under 1 year to obtain an ND license while taking their work experience into consideration if their state doesn't have

substantially equivalent requirements in training hours.

Section 27. Page 20, lines 21-30, page 21, lines 1-31, and page 22, lines 1-11.

The Board wants us to do what we can for those serving our nation. We want them to be working as quickly as possible. We are allowing immediate provisional licenses at no cost for active military/spouses who are relocated to ND for as long as they are active duty stationed in ND. We also added 3-year provisional licenses for no fee to veterans/spouses who are returning to ND.

Sections 34 and 35. Page 29, lines 9-31, and page 30, lines 1-6.

We are clarifying license renewal and failure to renew for our schools, establishments, owners and independent licensees. We believe our licensed professionals will better understand what is expected of them.

Before we talk about the money, let's cover practical examination and continuing education. Page 28, lines 4,5, and 7-9.

Currently our practical examinations must be administered by the Board at the board office, with candidates (students) paying the fee established in law. We would like to be able to offer additional options for this exam such as the ability to take it remotely. This could reduce the time and travel expense incurred by candidates who may choose to or otherwise not be able to travel to Bismarck to take the exam. To do this, we would need to utilize a third-party test administrator who the student would need to pay directly, similar to our current written exams.

If we learned anything from 2020, it was the importance of educating ourselves about infection control practices and utilizing responsible behaviors to keep the public safe. This is why we feel it is important to have the option to adopt rules for all our licensees to complete continuing education in the future. The instructors need to complete 8 hours of continuing education per year. Currently, there is no continuing education required for our other licensed professionals.

Now, let's address the financial aspects outlined in 43-11-28

Page 25, lines 24-31, page 26, lines 1-31, page 27, lines 1-31, page 28, lines 1-3.

We are familiar with rising costs and the prevalence of fraud and scams, and our board is not immune to these challenges. It's worth noting, the board has not requested a fee increase since 2003. While we've managed to keep fees remarkably low for over 20 years, this decision has likely come at the expense of operational efficiencies.

To put this in perspective, according to the U.S. Bureau of Labor Statistics, a \$20 license fee in 2003 would equate to approximately \$35 today, simply to account for inflation. To maintain the same operational standards as in 2003, the board would need to raise fees just to cover employee wages, benefits, office leases, postage, and printing costs. However, the needs of 2025 extend well beyond those of 2003.

Today, we must address modern expenses such as data security, identity verification, licensing software, and meeting licensee expectations for online applications and payments. Unfortunately, the board's current income from licensee fees has not kept pace with these

growing demands of managing 8,413 individual licensees and 1,816 establishments. To mitigate expenses over the past few years, the board has implemented several cost-saving measures:

- We transitioned to email communication whenever possible, reducing the costs of paper, printing, and postage.
- Establishment inspections are now conducted using an online platform and iPads, eliminating the need for costly triplicate inspection forms and reducing mailing costs.
- Utilization of virtual meetings to reduce expenses paid for Board Members time and travel.
- The board adopted state fleet vehicles to lower mileage reimbursement expenses.
- We renegotiated vendor contracts, reduced underused services, and streamlined processes.

Additionally, we restructured our inspection team from nine part-time regional inspectors to two full-time benefited positions. While this change has not increased hourly wages or mileage reimbursements, it has significantly reduced administrative overhead, provided more consistent and timely inspections, and improved service for establishment owners. However, the inclusion of employee benefits does come with additional costs.

We are committed to ensuring that any fee increases are both necessary and minimal, carefully balancing the board's operational needs with the financial impact on our licensed professionals. Further details are outlined in the fiscal note.

In closing I would again like to highlight some of the ways this bill would reduce some barriers for licensure and entry into the cosmetology profession in North Dakota.

- Lowering age to 16 or 10th grade education to become licensed and allowing high schools to offer program.
- Simplifying the endorsement requirements for those transferring from other jurisdictions.
- Special provisions for our military members relocating to our state.
- Creating apprenticeships for cosmetology, esthetics and manicuring licensure to allow individuals to 'earn while they learn.'
- Allowing the use of remote or alternate examinations can reduce the need for candidates to travel for exams.
- Removing the requirement of obtaining a master license to become an independent licensee

Chairman Wobbema and Workforce Development Committee members, today I present to you HB 1126.

Again, I am Holly Blomquist, Executive Director of the State Board of Cosmetology. I will entertain questions at this time.

Supplemental Information:

2025 ND Occupation License Fees: (Individuals)

BARBER:

Master Barber: Original License Fee: \$175
Annual Renewal: \$100

MASSAGE THERAPIST:

Massage Therapist: Original License: \$150
Renewal: Every 2 years \$200 (\$100/year)

PLUMBER:

Journeyman: Annual
Renewal: \$100 Master
Plumber: Annual Renewal:
\$200

NURSE:

LPN: Every 2 years: \$130
(\$65/year) RN: Every 2
years: \$140 (\$70/year)

CURRENT COSMETOLOGY: (Since 2003)

Cosmetologist: Original License: \$15
Annual
Renewal: \$15 Instructor:
Original License: \$35
Annual Renewal: \$20

All Other Licenses: Original License:
\$25
Annual Renewal: \$20

Other states that offer Advanced Esthetician License= 7

MN, NV, OR, UT, WA, VA, DC

Why Establishment instead of Salon:

With the creation of advanced esthetician which will now require the licensing of medi spas that employ our licensees, we felt the term 'salon' did not adequately represent what we call our 'business' licenses going forward. This also helps further distinguish the difference between an independent licensee and 'salon'

Why eliminate the requirement of master license and not eliminate the master license type: We do not want to get in the way of an individual licensee pursuing their own business. We also do not want to eliminate the license type at this time as commission salon owners still may prefer to require this in their personal businesses management practices.

Why change Instructor requirements:

We felt our current requirements were very confusing and a bit unclear. We simplified the hours required and created required curriculum elements to ensure student instructors were trained in teaching methodology, presentation styles and learner styles. Currently schools are allowed to create their own curriculum with no required elements.

HOUSE BILL NO. 1126

March 3, 2025

Hello Committee Members,

I am Debbie Medhurst, a licensed Esthetician and small business owner. I have been practicing esthetics for ten years in North Dakota. In regards to HB #1126 I would like to share my personal viewpoint.

The esthetics industry has evolved rapidly in recent years, highlighting the need for estheticians to be able to perform these advancements on our clients, without regulatory interference. We should be able to provide treatments that we are qualified to perform safely and that are uniquely tailored to our expertise, without any interruptions.

I believe that the medical industry is intruding upon the field of esthetics without possessing the same level of expertise and understanding of skin. As estheticians, we undergo comprehensive training with professional skincare companies and advanced skincare modalities to safely carry out.

SECTION 30. A new section to chapter 43-11 of the North Dakota Century Code is created and enacted as follows: License requirements – Additional certifications for advanced estheticians

I fully support the implementation of an additional licensing requirement for advanced estheticians. Granting estheticians, the ability to perform services like microneedling, advanced chemical peels, and non-ablative devices will enable us to better serve our clients and distinguish ourselves from those with entry-level licenses.

ADVANCE ESTHETICAN LICENSE – GRANDFATHER PROVISION

I support the idea of allowing an esthetician to be grandfathered in, as long as they possess the required documentation and experience. However, I DISAGREE with the necessity of obtaining additional hours for the advanced practice license. Having an

established practice and potentially needing to shut down to accumulate more hours would negatively impact my business.

I fully support adding microneedling but I do not feel this needs to be under the advanced esthetics. An esthetician, with a masters license, should be able to perform microneedling to a depth of .25mm, which is considered cosmetic and meets the FDA guidelines. It will be difficult for a solo esthetician to flourish and achieve success if we are required to collaborate with a medical director to provide these services. Securing a medical director is both challenging and expensive.

In addition, with the rise of skincare and beauty products on social media, many consumers are increasingly tempted to try at-home skincare treatments, especially when their esthetician is not permitted to perform them. Numerous companies now sell at-home chemical peels, microneedling devices, and serums with the same strengths and depths that licensed estheticians in North Dakota are allowed to administer—and in some cases, even deeper microneedling and stronger formulations. This poses a significant danger to consumers, as they lack the necessary training and skin knowledge to safely perform these treatments.

Additionally, it undermines the value of licensed estheticians and the extensive education we've completed. If consumers can attempt these procedures at home for a fraction of the cost, especially when their North Dakota estheticians are restricted from performing microneedling and are limited in their ability to offer certain chemical peels, why would they choose to seek professional care? I worry that this trend could ultimately threaten the future of professional esthetics.

I appreciate your attention to my written testimony.

Atarashii Apprentice Program LLC
514 97th Dr Ne Unit B
Lake Stevens, WA 98258
425-341-3457 www.Atarashii.org



RE: Support for ND HB 1126

Dear North Dakota Legislators,

My name is Jessee Skittrall, and I am the program director for the Atarashii Apprentice Program. I am writing to urge your support for ND HB 1126. Thank you for taking the time to review this critical legislation and consider the positive impact it will have on North Dakota's beauty industry and workforce development.

I am a sixth-generation cosmetologist, holding licenses in cosmetology, hair design, barbering, manicuring, and esthetics. I have written curriculum for the beauty trades and have successfully led programs in private, for-profit higher education institutions. Our company operates a U.S. Department of Labor (DOL)-approved Beauty Trades Apprenticeship Program, which is already in place in over sixteen (16) states.

ND HB 1126 represents a forward-thinking approach to workforce development in the beauty industry. The current licensure system places excessive barriers to entry, requiring future practitioners to complete extensive hours and commit to high financial obligations before earning an income. These challenges disproportionately impact lower-income individuals and those in rural communities who cannot relocate for training.

The Problem with the Current System

Traditional beauty schools often focus solely on preparing students for licensure exams rather than equipping them with the practical skills needed for long-term career success. Many graduates enter the workforce unprepared, frequently hearing statements like, *"Everything you need to learn, you'll learn once you're out there."*

This results in:

- **High attrition rates** – 83% of licensed professionals leave the industry within 3-5 years.
- **Financial burden** – The average beauty school student incurs \$9,000 in debt for a program that costs approximately \$18,000, yet earns an average annual wage of only \$26,000.
- **Inefficiencies in workforce development** – Schools profit from student enrollment, but they fail to provide a sustainable pipeline of skilled professionals.

Apprenticeship as the Solution

Apprenticeship provides an **"Earn While You Learn"** model that allows individuals to gain real-world experience in a structured environment while being overseen by the Federal DOL and the North Dakota State Board of Cosmetology. This model enhances education by combining hands-on training with regulatory oversight, ensuring apprentices learn both industry skills and essential sanitation and safety protocols.

Key Benefits of Apprenticeship:

- Apprentices start with a job instead of debt.
- 93% of apprentices stay with their Training Agent employer after licensure.
- The average journeyman salary is **\$77,000**—nearly three times the industry average for traditional graduates.
- Apprentices contribute to the tax base while learning, unlike students who rely on federal loans and grants.

Impact on North Dakota's Economy

ND HB 1126 will be particularly beneficial for **rural communities** by allowing local salons and beauty businesses to train talent from their own areas. Under the current model, aspiring professionals often have to leave their hometowns for schooling and may never return. With apprenticeships, these individuals can **stay, train, and contribute** to their local economies.

Proven Success

Atarashii Apprentice Program has demonstrated the effectiveness of this model:

- **86% completion rate** (compared to traditional beauty school graduation rates).
- **97% first-time pass rate on licensure exams.**
- **92% of apprentices remain in the industry 3-5 years post-licensure.**
- Apprentices achieve **75% productivity rates** by program completion.
- We currently have a **waiting list of 10 salons in North Dakota** eager to participate in the program for esthetics, manicuring, and hair design.

A Blueprint for the Nation

ND HB 1126 has the potential to set a national precedent by addressing long-standing issues in beauty industry education and workforce retention. By supporting this bill, North Dakota can lead the way in creating a **more accessible, equitable, and effective** pathway into the beauty trades.

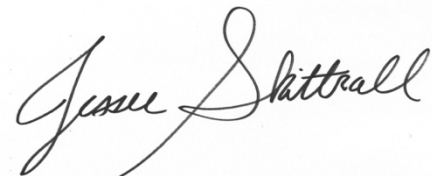
I urge you to support ND HB 1126 to empower future beauty professionals, strengthen local economies, and modernize beauty education in North Dakota.

Thank you for your time and consideration. I welcome any opportunity to discuss this further.

Sincerely,

Jessee Skittrall

Program Director, Atarashii Apprentice Program



Jessee Skittrall
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2021

**FIRST
DISTRICT
HEALTH UNIT**

ENVIRONMENTAL HEALTH
DIVISION

RULES AND REGULATIONS FOR BODY ART

PERTAINING TO ALL TATTOOING, PIERCING, PERMANENT MAKEUP AND EAR PIERCING

REVISED APRIL 2021

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The following regulations, promulgated by the First District Health Unit (FDHU) and approved by resolution of the First District Board of Health on the 20th day of May, 2021, and effective July 1, 2021 as authorized by Section 23-35-08 of the North Dakota Century Code, shall be posted in all Body Art Facilities in a prominent location so that they may be read by clients and by operators of a Body Art Facility. Any and all Body Art Facilities and Operators located within the FDHU are required to operate in full accordance with the following regulations.

Section 1. Definitions. Unless content or context specifies otherwise, the following terms used in these regulations shall be defined as follows (words not defined in this section or in any other location in this document shall have the definitions found in the most current version of the Merriam-Webster Dictionary):

- 1-1. "AFTERCARE" means instructions given to the client, specific to the body art procedure(s) performed upon that client, about caring for the body art and surrounding area. These instructions will include information about when to seek medical treatment, if necessary.
- 1-2. "ANTISEPTIC" means a product that is labeled as useful in preventing diseases caused by microorganisms present on the skin and/or on mucosal surfaces of humans. This includes products meant to kill germs and/or labeled as "antiseptic," "antimicrobial," "antibacterial," "microbicide," or "germicide," or other similar terms.
- 1-3. "APPLICANT" means any person that applies to the Department for a license.
- 1-4. "APPRENTICE OPERATOR" means a person that is working as a body art operator under the direct supervision of a licensed body art operator in a licensed body art establishment performing body art procedures for purposes of learning how to perform body art procedures.
- 1-5. "APPROVED" means acceptable to the Department based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.
- 1-6. "ASEPTIC TECHNIQUE" means a set of specific practices and procedures performed under controlled conditions with the goal of minimizing contamination by pathogens.
- 1-7. "AUTOCLAVE" means a device that is intended for use for sterilizing products by means of pressurized steam. This device must comply with one of three types of steam programs defined as B, N, and S by standard EN13060, ISO 17665.
- 1-8. "BODY ART" means the practice of physical body adornment involving, but not limited to, the following techniques: body piercing, ear piercing, tattooing, cosmetic tattooing, branding, suspension, cutting and scarification. This definition does not include practices that are considered medical procedures by the state board of medical examiners, such as implants under the skin, which shall not be performed in a body art facility.
- 1-9. "BODY ART ESTABLISHMENT" or "BODY ART FACILITY" means any place or premise where the practices of body art, whether or not for profit, and whether permanent or temporary, are performed. This definition does not include any establishment where such practices are performed by a dentist, physician or surgeon who has a current license for the practice of medicine issued by the State of North Dakota pursuant to Chapter 43-17 of the North Dakota Century Code.

- 1-10. "BODY PIERCING" means the puncturing or penetration of the skin or mucous membranes of a person with needles or other devices for the purposes of insertion of jewelry or other adornment thereto in the opening. The process of puncturing the lobe of the ear with a pre-sterilized single-use stud-and-clasp-ear-piercing system or "piercing gun" shall not be included in this definition (see "Ear Piercing").
- 1-11. "BRANDING" means deliberately inducing a pattern on the skin of a person by using any method including heat, cold, or any chemical compound applied to the skin to burn or freeze the skin.
- 1-12. "CLEANING" means the removal of visible soil and debris (specifically organic or inorganic materials) from objects or surfaces either manually or mechanically.
- 1-13. "CLIENT" means any person on whom a body art procedure or ear piercing will be performed.
- 1-14. "COMMUNICABLE DISEASE" means any disease that can be directly or indirectly transmitted from person to person.
- 1-15. "CONTAMINATED WASTE" means any liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; sharps and any wastes containing blood and other potentially infectious materials, as defined in 29 Code of Federal Regulations Part 1910.1030 (latest edition), known as "Occupational Exposure to Bloodborne Pathogens."
- 1-16. "COSMETIC TATTOOING" means a tattoo, whether permanent, semi permanent, or temporary done at procedure sites including, but not limited to, eyebrows, eyelids, lips or other body parts for beauty marks, hair imitation, lash enhancement, scar camouflage, or areola repigmentation. This term includes any procedures referred to, but not limited to, "permanent makeup", micropigmentation", "micropigment implantation", "microblading", "micro-needling with the use of pigment", "dermagraphics", or any other similar procedures.
- 1-17. "COSMETIC TATTOOIST" or "COSMETIC OPERATOR" means someone who performs cosmetic tattooing procedures.
- 1-18. "CRITICAL ITEM" means an item that pierces or enters tissue.
- 1-19. "CUTTING" means the practice of cutting the skin, mucous membranes or any part of the body to create a permanent scar or division of tissue for the purpose of body art. Cutting does not include any procedures performed by a dentist, physician or surgeon who has a current license for the practice of medicine issued by the State of North Dakota pursuant to Chapter 43-17 of the North Dakota Century Code.
- 1-20. "DECONTAMINATION" means the use of physical and/or chemical means to remove, inactivate, or destroy pathogens on a surface. A surface is considered decontaminated when there are no infectious particles present, and the surface is rendered safe for handling, use, or disposal.
- 1-21. "DEPARTMENT" means the FDHU, or its authorized representatives.

- 1-22. "DISINFECT" means to destroy pathogenic and other kinds of microorganisms by physical and/or chemical means. Disinfection is less lethal than sterilization because it destroys most recognized pathogenic microorganisms; it does not, however, necessarily destroy all microbial forms, such as bacterial spores. Disinfection does not ensure the margin of safety associated with sterilization processes (CDC Division of Oral Health).
- 1-23. "DISINFECTANT" means a substance or solution, registered with the United States Environmental Protection Agency (EPA), that kills or inactivates viruses and pathogenic microorganisms on cleaned environmental surfaces and that is formulated for decontamination procedures.
- 1-24. "DRYER" means a mechanical clothes dryer.
- 1-25. "EAR PIERCER" means any person who does ear piercing.
- 1-26. "EAR PIERCING" means the puncturing of the non-cartilaginous lobe of the ear with a stud and clasp ear-piercing system or "piercing gun".
- 1-27. "EASILY CLEANABLE" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be removed effectively by normal cleaning methods.
- 1-28. "EMPLOYEE" means the license holder, their designate, a person in charge, a person having supervisory or management duties, a person on the payroll, a family member, a volunteer, a person performing work under contractual agreement, or any other person working in a body art establishment.
- 1-29. "ENTITY" means something that has a real existence or is a thing.
- 1-30. "EQUIPMENT" means all machinery, fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances used in connection with the operation of a body art facility.
- 1-31. "FACILITY" means any room, space or establishment including those that are temporary.
- 1-32. "GENERAL OPERATOR" means an individual that performs both tattooing and body piercing procedures.
- 1-33. "GENTIAN VIOLET" means the compound $C_{25}H_{30}ClN_3$ having the synonyms: ((4-bis(p-(dimethylamino)phenyl)methylene)-2,5-cyclohexadien-1-ylidene)dimethylammonium chloride used for making markings on the skin. Gentian violet used in a body art facility needs to be in a sterile, aqueous medical grade formulation.
- 1-34. "GERMICIDE" means an agent that can kill microorganisms, particularly pathogenic organisms. "GERMICIDE" includes antiseptics and disinfectants.
- 1-35. "GLOVES" means medical grade or exam grade, sterile or non-sterile, disposable, single-use, full hand coverings worn for protection against disease transmission.

- 1-36. "GUARDIAN" means a person lawfully invested with the power and charged with the obligation of taking care of managing the property and rights of a person who, because of age, understanding, or self-control, is considered incapable of administering his or her own affairs.
- 1-37. "GUEST OPERATOR" means an operator that does not normally perform body art procedures within the boundaries of the FDHU, but that has met the criteria to perform body art procedures for a set, limited timeframe under the supervision of the license holder for a permanent body art establishment located in the FDHU.
- 1-38. "HAND WASHING SINK" or "HAND SINK" means a sink, basin or vessel for washing, a washbasin, or a plumbing fixture especially placed for use in personal hygiene and designed for the washing of the hands. Hand washing sink includes any automatic hand washing device or hand washing sink.
- 1-39. "HAZARD" means a biological, chemical, or physical property that may cause an unacceptable health risk.
- 1-40. "HOT WATER" means water that attains and maintains a temperature of at least 100° Fahrenheit.
- 1-41. "IMPLANTING" or "SUBDERMAL IMPLANTING" means to fix or set securely an object in or under tissue and includes, but is not limited to, 3-dimensional body art applications. Implanting does not include any procedures performed by a dentist, physician or surgeon who has a current license for the practice of medicine issued by the State of North Dakota pursuant to Chapter 43-17 of the North Dakota Century Code.
- 1-42. "INSPECTION" means an examination, exploration, and/or evaluation of a body art establishment or body artist for compliance with approved practices and procedures contained herein. Inspection can include the creation of a written record or document, the taking of photographs and the collection of samples.
- 1-43. "INSTRUMENTS USED FOR BODY ART" means hand pieces, needles, needle bars, and any other instruments that may come in contact with a client's body or bodily fluids or that may be exposed to bodily fluids during body art procedures.
- 1-44. "INVASIVE" means entry into the body either by incision or insertion of an instrument into or through the skin or mucous membranes, or by any other means intended to puncture, break, or compromise the skin or mucous membranes.
- 1-45. "JEWELRY" means any ornament inserted into a pierced area.
- 1-46. "LAW" includes applicable federal, state, and local statutes, ordinances, and regulations.
- 1-47. "LICENSE" means the document issued by the Department that authorizes a person to operate a body art facility or to perform body art procedures as a body art operator in the boundaries of the FDHU.
- 1-48. "LICENSE HOLDER" means any person or entity that has obtained any type of license from the department.

- 1-49. "MATERIAL CERTIFICATE" means all documents intended to state the specifics of a material used for body jewelry. Names for these documents include, but are not limited to, 'mill certificates', 'material certificates', 'metal composition sheets', 'MSD', and 'material certification sheets'.
- 1-50. "MICROBLADING", means a type of tattooing procedure in which a hand-held device is used to deposit pigment in the outer layers of the skin, whether the results are permanent or semi-permanent. "Microblading" is regulated as a cosmetic tattooing procedure.
- 1-51. "MINOR" means any person under the legal age of consent.
- 1-52. "MUCOSAL SURFACE" means the moisture-secreting membrane lining all body cavities or passages that communicate with the exterior, including but not limited to the nose, mouth, vulva and urethra.
- 1-53. "NON-CRITICAL ITEM" means an item that contacts the intact skin of a client.
- 1-54. "OPERATOR" means any person who controls, operates, manages, conducts, or practices any body art activities at a body art establishment. The term does not include any apprentice, assistant, employee or technician who may be involved in performing body art practices but who does not perform the actual body art procedure. This term does not include any dentist, physician or surgeon who has a current license for the practice of medicine issued by the State of North Dakota pursuant to Chapter 43-17 of the North Dakota Century Code who is functioning in a medical capacity.
- 1-55. "OTHER POTENTIALLY INFECTIOUS MATERIALS (OPIM)" means:
1. The following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids;
 2. Any unfixed tissue or organ (other than intact skin) from a human (living or dead); and
 3. HIV-containing cell or tissue cultures, organ cultures, HIV- or HBV-containing culture medium or other solutions, blood, organs, or other tissues from experimental animals infected with HIV or HBV.
- 1-56. "OWNER" means any person or entity that owns, runs or operates any body art establishment.
- 1-57. "PERMANENT BODY ART FACILITY" means any body art facility operating at one location for more than fourteen (14) days.
- 1-58. "PERSON" means any individual, any form of business or social organization, any other non-governmental legal entity, or any other identifiable entity including but not limited to corporations, partnerships, limited-liability companies, associations, trusts or unincorporated organizations.
- 1-59. "PHYSICAL FACILITIES" means the components of a body art facility including the structure, interior surfaces including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air-conditioning system vents, and any pertinent exterior surfaces and accessory structures pertinent to operation of a body art facility.

- 1-60. "PHYSICIAN" means a person currently licensed by the state of North Dakota to practice medicine pursuant to the relevant provisions of the North Dakota Century Code.
- 1-61. "PIERCER" or "PIERCING OPERATOR" means an individual that performs body piercing procedures.
- 1-62. "PREMISES" means the physical facility, its contents, and the contiguous land or property under the control of the license holder; or the physical facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the license holder that may impact body art facility personnel, facilities, or operations, if a body art establishment is only one component of a larger organization.
- 1-63. "PRIVATE HOME" means a place of residence of an individual or family.
- 1-64. "PROCEDURE" means the actual course of mode of action during which a tattoo, piercing or other body art activity is performed. The procedure includes all aspects of the process including, but not limited to: scheduling, the education and information process, setup, the actual piercing/tattooing, takedown and cleanup of the procedure area and aftercare.
- 1-65. "PROCEDURE AREA" means the actual space in which the body art procedure or ear piercing procedure is performed.
- 1-66. "PROCEDURE SITE" means the area or location on the client's body selected for the placement of body art.
- 1-67. "PROCEDURE SURFACE" means any surface of any inanimate object that contacts client's clothed or unclothed body during a body art or ear piercing procedure or any surface in the associated work area that may contact or be contaminated by any bodily fluids during a procedure.
- 1-68. "PROCESS CHALLENGE DEVICE (PCD)" means a test device intended to provide a challenge to the sterilization process that is equal to or greater than the challenge posed by the most difficult item routinely processed.
- 1-69. "PROPOSED BODY ART FACILITY" means any facility that is operating as or that is intended to operate as a body art facility but that has not received a body art facility license from the Department.
- 1-70. "PROOF OF AGE" means a form of identification that:
- A. Includes at least all of the following:
 - 1. A photograph of the person,
 - 2. That person's date of birth,
 - 3. That person's signature, and
 - 4. An identifying number or code unique to that individual; and
 - B. Is one of the following:
 - 1. A valid driver's license or identification card issued by any state or province,
 - 2. A valid military identification card issued by the United States Department of Defense,
 - 3. A valid passport,
 - 4. A valid resident alien card,
 - 5. A valid tribal identification card, or

6. Some other form of identification that has been submitted to, and that has been given approval by, the Department.

- 1-71. "PROVISIONAL LICENSE" means a license that has been issued to a license holder who has not completely met all criteria necessary for permanent licensure. The provisional license is temporary, is valid only for the duration of time specified by the Department, and may be revoked at any time for failure to completely meet the required criteria for licensure.
- 1-72. "REGULATORY AUTHORITY" means the federal, state and local enforcement authority or authorities having jurisdiction over any facility or over any component of a facility or any equipment or supply used in a body art facility or as part of a body art procedure.
- 1-73. "RULES AND REGULATIONS FOR BODY ART" means this document and all things contained within it. For purposes of identification inside the document, it shall hereafter be referred to as the "Code".
- 1-74. "SAFETY DATA SHEET" means a document for any potentially harmful chemical that includes information such as the properties of each chemical; the physical hazards, health hazards, and environmental health hazards; protective measures; and safety precautions for handling, storing, and transporting the chemical.
- 1-75. "SCARIFICATION" means deliberately inducing scar tissue formation on a person for the purpose of creating a permanent mark or design on the skin.
- 1-76. "SEMI-CRITICAL ITEM" means items that contact mucous membranes, non-intact skin, or critical items.
- 1-77. "SHARPS" means any objects (sterile or contaminated) that may purposefully or accidentally cut or penetrate the skin or mucous membrane, including, but not limited to, needles, razors and scalpel blades.
- 1-78. "SHARPS CONTAINER" means a closable, puncture-resistant, leak-proof (on sides and bottom) container made specifically to be a sharps container that meets NIOSH standards and that can be closed for handling, storage, transportation, and disposal. A sharps container must be whole or partially red in color and must be clearly labeled with the International Biohazard Symbol.
- 1-79. "SINGLE USE" means products or items that are intended for one-time, one-person use and are disposed of after one use on any client and includes, but is not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary covering, razors, piercing needles, tattooing needles and shaders and associated bars, tubes, scalpel blades, stencils, ink cups, and protective gloves.
- 1-80. "STERILIZE" means to treat an object or surface with a procedure that kills or irreversibly inactivates all microorganisms, including, but not limited to, bacteria, viruses, pathogenic fungi, and any spores. For purposes of this document, sterile shall be, at a minimum, a sterility assurance level of 10^{-6} reduction.
- 1-81. "STUD AND CLASP" means a system of equipment used for piercing the lobes of the ears that consists of an ear piercing instrument (commonly referred to as a piercing gun or ear piercing gun) and a sharpened earring and back that are usually pre-packaged.

- 1-82. "STUDENT OPERATOR" means a person who is learning about the practice of body art under the supervision of a licensed body art operator and who is not an apprentice.
- 1-83. "SUSPENSION" means the piercing of human tissue with any apparatus to raise or lower an individual with pulleys or other apparatus.
- 1-84. "TATTOOING" means any method of placing ink, pigment (including those visible only under ultraviolet light), or any other material into or under the skin or mucous membranes (of a live human being) by the aid of needles or any other instrument, resulting in the coloration or marking of the skin or mucous membranes whether or not such markings are visible to the unaided eye. This term includes all forms of body and cosmetic tattooing.
- 1-85. "TATTOOIST" or "TATTOO OPERATOR" means any operator who is licensed to perform tattooing procedures only, but does not include cosmetic tattooing procedures.
- 1-86. "TEMPORARY BODY ART FACILITY" means any body art facility operating in one location or at one event for fourteen (14) days or less in conjunction with a single event or celebration.
- 1-87. "ULTRASONIC CLEANER" means a cleaning device that removes debris by a process called cavitation, in which waves of acoustic energy are propagated in aqueous solutions to disrupt the bonds that hold particulate matter to surfaces.
- 1-88. "UNIVERSAL PRECAUTIONS" means a set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6, and as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures", in NNWR, July 12, 1991, Vol.40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other bloodborne pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood-and body fluid-contaminated products.
- 1-89. "VARIANCE" means a written document issued by the Department that authorizes a modification or waiver of one or more requirements of this Code, if, in the opinion of the Department a health hazard or nuisance will not result from the modification or waiver.
- 1-90. "VIOLATION" means the act of violating or going against any section or subsection of this document.
- 1-91. "WASHER" means mechanical clothes washer.

Section 2. Licensure.

- 2-1. Licenses are issued and classified as one of the following:
- A. Body art establishment license,
 - B. Ear piercing establishment license,
 - C. Body art operator license,
 - D. Apprentice operator license,

- E. Student operator license, or
- F. Guest operator license.

2-2. Any classification of license must be obtained from the Department. Any license that is not issued by the Department, even those issued by another regulatory authority, does not replace or substitute for a license issued by the Department.

2-3. General licensure information.

- A. No body art facility may open for business or operate as a body art facility without first obtaining a license. (41)
- B. No person may perform body art procedures without first obtaining a license. (41)
- C. License fees shall be paid in accordance with the fee structure of the FDHU.
- D. All classifications of license are valid from the date of issuance until midnight on December 31, except as specified in this section or unless otherwise specified on the license.
- E. Failure to renew any license prior to the close of business on January 31 shall result in the license fee being doubled.
- F. Failure to renew any license prior to the close of business on February 28 shall result in revocation of the license.
- G. A license holder may notify the Department when a body art facility is not operating or when a body art operator is not performing body art procedures for a period of time that will be at least 30 days or more. Upon receiving such notice, the Department may classify the license as being inactive.
 - 1. At the discretion of the Department, inactive licenses may be exempted from parts E and F above.
 - 2. While a license is inactive:
 - a. No body art procedures may be done in a body art facility, and
 - b. An operator may not perform any body art procedures.
 - 3. To re-activate a license:
 - a. The license holder must contact the Department, and
 - b. The Department must have given the license holder written notification the the license has been re-activated.
- H. Body art facilities found to be operating without a license, the proprietor or their designate shall be given notice of the requirement for licensure and the facility shall be immediately closed.
- I. Persons found to be performing body art procedures without a license shall be given notice of the requirement for licensure and to immediately cease performing body art procedures.
- J. If any person is given notice as specified in Parts H or I, and does not cease operations or performing body art procedures, then that person shall become ineligible for licensure.
- K. The Department may, after providing written notice, refuse to issue a license to an applicant for a license. An applicant for a license to whom a license has been refused may request a hearing as specified in Section 14.
- L. If any information required to be submitted to the Department to obtain a license is changed or modified, such changes or modifications shall be submitted to the Department within 14 days. (15)

2-4. Facilities where body art or ear piercing procedures are performed shall be licensed as either a body art establishment or as an ear piercing establishment. Hereafter, unless context or

requirement makes it necessary to make a distinction between them, both shall be referred to as a “body art facility”.

2-5. Body art facility licenses.

- A. Prior to building a new, or substantially remodeling an existing body art facility, a potential license holder shall submit a facility plan review packet. The packet shall include:
 - 1. A completed and signed plan review request form (this form shall be provided by the Department),
 - 2. The plan review fee,
 - 3. Proposed layout, plumbing and mechanical schematics, construction materials, and finish schedules,
 - 4. A complete scaled plan of the entire area to be included in the project showing all sinks, restrooms, procedure areas and biohazard rooms,
 - 5. The name and address of the developer, architect, engineer, and/or designer,
 - 6. The location and specifications of the water supply, sewer, and refuse disposal facilities for solid waste and contaminated waste, and
 - 7. Documentation from the regulatory authority that the zoning for the site is approved for location of and operation of a body art facility. (15)
- B. Construction of a proposed body art facility shall not begin until approval has been received from the Department. Such approval shall be in writing and shall be referred to as a “plan review approval letter”. A license to operate a body art facility shall not be issued to any proposed body art facility that has not been issued a plan review approval letter. (41)
- C. As part of the licensing process, the potential license holder for a body art facility shall submit to the Department an application packet. The application packet shall be submitted at least 30 days prior to the projected date of onset of operation for the body art facility, and shall include:
 - 1. A completed and signed application form (this form shall be provided by the Department),
 - 2. The license fee,
 - 3. For newly built or substantially remodeled facilities, a copy of the plan review approval letter, and
 - 4. A copy of the operating plan (as specified in Section 6-3) for the facility. (41)
- D. Any body art establishment shall have on record with the Department the name of at least one body art operator with a license issued by the Department that performs procedures at that establishment. (41)
 - 1. The license holder for a body art establishment shall notify the Department within 48 hours by submitting a completed operator residency notice form if a body art operator on record with the Department as performing procedures at a body art establishment no longer performs procedures there. (15)
 - 2. If a body art establishment does not have at least one licensed body art operator on record as performing procedures at that body art establishment, then the license for that establishment shall be immediately suspended.
 - 3. If no body art procedures have been performed in a body art establishment for a period of time that is 30 days or longer, then the license for that body art establishment shall be inactivated.
 - 4. If a body art establishment license is inactivated as per parts 2 or 3 above, the license holder must obtain approval from the Department prior to the license being reinstated.
- E. Temporary body art facility.

1. This license may be issued at the discretion of the Department.
 2. All of the required criteria for a permanent body art facility apply.
 3. In cases where a potential temporary body art facility location may not be able to meet any required criteria, the license holder may apply for a variance as specified in Section 13. Variances may be granted at the discretion of the Department.
 4. A temporary body art facility license is only valid for the dates specified on the license, and the facility may only operate on those dates (41).
- F. Any proposed changes to, remodeling of, or alteration of any part of any body art facility shall be presented to the Department for approval before any changes, remodeling or alterations are begun. (15)

2-6. Body art operator licenses. Any person that performs body art procedures in a body art establishment, whether licensed or not, will hereafter be referred to as a “body art operator” or “operator”.

- A. Body art operators are classified as:
1. General operators. This operator may perform all legal tattooing or piercing procedures except for cosmetic tattooing.
 2. Tattooist operators. This operator may perform any legal tattooing procedure except for cosmetic tattooing.
 3. Piercing operators. This operator may perform any legal piercing or other non-tattooing body art procedure that is not otherwise prohibited.
 4. Cosmetic operators. This operator may perform any legal cosmetic tattooing procedure.
 5. Temporary operator. This operator may perform body art procedures at temporary body art establishments as specified in Section 2-7.
 6. Teaching operator. This operator may perform body art procedures and may supervise student operators as specified in Section 2-8.
 7. Apprentice operator. This operator may perform body art procedures under the supervision of an operator specified in Parts 1-4 above as specified in Section 2-11 and 2-13.
 8. Student operator. This operator may perform body art procedures under the supervision of a teaching operator as specified in Section 2-14.
 9. Guest operator. This operator may perform body art procedures as specified in Section 2-15.
- B. A person applying for a license specified in Part A (1-4) or a person covered by an apprentice operator license as specified in Part A (7) that has not completed a full series of Hepatitis B shots may be issued a provisional license.
1. The provisional operator shall have received the first shot in the series and shall complete the series of shots within 12 months of the first shot in the series.
 2. The provisional operator shall provide documentation of receiving all required shots to the Department within 14 days of receiving the final shot (15).
 3. Failure to complete parts 1 and 2 above will result in revocation of the provisional license (41).
 4. A provisional license is valid from the date of issuance until a date that is no greater than 6 months from the date of issuance.
 5. A provisional license may only be obtained one time, and may not be renewed

2-7. A person applying for a operator license that will be performing body art procedures in a temporary body art establishment may apply for a temporary operator license.

- A. The temporary operator license shall be sub-classified one of the types specified in Section 2-6(1-4), and the operator may only perform the types of procedures specified for that type.
 - B. A temporary operator license is valid from the date of issuance until midnight on a date that is not more than 14 days from the date of issuance.
 - C. A temporary operator license holder must be on record with the Department as operating in a facility with a valid temporary body art establishment license. The duration for which this temporary operator license is valid shall only be concurrent with the duration of the validity of the license for the temporary body art establishment (41).
- 2-8. An operator as specified Section 2-6(A)(1-4) may apply for a teaching operator license.
- A. A body art operator must have performed at least 400 completed procedures in a body art establishment licensed by the Department after obtaining a body art operator license prior to applying for a teaching operator license.
 - B. A teaching operator must submit a curriculum to the Department for approval prior to being issued a teaching operator license. The curriculum:
 - 1. Shall specify the details of any course of education offered to students including length in days and number of hours of education provided.
 - 2. Shall specify the numbers and types of procedures that will be performed by students during the course of education.
 - C. A teaching art operator may not supervise more than 5 student operators (41).
 - D. While supervising student operators, a teaching operator must:
 - 1. Be in the immediate vicinity of each student operator and be able to see the procedure site for the client (15).
 - 2. Not be performing any body art procedures with the exception that the teaching operator may perform part of a procedure to display a technique prior to students also performing the same technique. The student operators may not perform the technique at the same time as the instructor, and the instructor must stop performing the technique and begin supervising the student operators once they are performing the technique (15).
 - E. A teaching operator shall have the following additional information in their operating plan (as specified in Section 6-3):
 - 1. A copy of their curriculum.
 - 2. The length of time for any and all courses for which they will be supervising student operators as they perform procedures.
 - 3. The types and number of procedures that a student operator will be performing in each type of course offered. (20)
 - F. Students operating under a teaching operator may not perform procedures that are not specified in the curriculum. (41)
- 2-9. All body art operator license holders must be on record as performing procedures in at least one licensed body art establishment. This record shall be in writing and shall be submitted to the Department and maintained in the body art establishment on a form provided by the Department, hereafter referenced as the operator residency notice. (41)
- A. The operator residency notice must be completed by the license holder for the body art establishment, or their designate.
 - B. There must be at least one operator residency notice on file with the Department prior to final issuance of a body art operator license.
 - C. The operator residency notice shall include:
 - 1. The name and operator license number for the body art operator.

2. The date on which the body art operator will begin performing body art procedures in the body art establishment.
3. The name, address, and phone number of the person submitting the notification.
4. The name and license number for the body art establishment.
- D. If a body art operator is no longer performing procedures at a body art establishment, the license holder for the body art establishment shall submit an operator residency notice to the Department within:
 1. 7 days of the date on which the license holder becomes aware that the body art operator is no longer performing procedures at a non-temporary body art establishment (15), or
 2. 24 hours of the time when the license holder becomes aware that the body art operator is no longer performing procedures at a temporary body art establishment (15).
- E. The operator residency notice specified in Part D above shall include:
 1. The name and operator license number for the body art operator.
 2. The date after which the body art operator will no longer be performing body art procedures in the body art establishment.
 3. The name, address, and phone number of the person submitting the notification.
 4. The name and license number for the body art establishment.
- F. If a body art operator is not on record as performing body art procedures in at least one licensed body art establishment, the license for that operator shall be suspended effective immediately upon receipt by the Department of the notice specified in Part D above.
- G. A body art operator may submit an operator residency notice to the Department if they are no longer performing procedures at a body art establishment. The operator residency notice shall include:
 1. The name and license number for the body art operator.
 2. The date and time after which the body art operator will no longer be performing body art procedures in the body art establishment.
 3. The name and license number for the body art establishment.

2-10. FDHU Body Art Operators Licensure Exam. To obtain a body art operator license specified in Section 2-6 (1-6), a potential license holder must take and pass the FDHU Body Art Operators Licensure Exam.

- A. To register for the Exam, a person must submit an application packet. The application packet must include:
 1. A completed and signed application form (this form shall be provided by the Department), and
 2. The license fee, and
 3. Proof of immunity to hepatitis B (shot record or titer), and
 4. Proof of completion for an OSHA approved, body art industry specific bloodborne pathogens and infection control training course, and
 5. Proof of completion for an approved CPR and first aid certification, and
 6. A clearly legible, color copy of a current proof of age, and
 7. Proof of eligibility, as specified in Section H.
- B. This exam shall be administered by the Department.
- C. The potential license holder must achieve a score that is at least 75 percent to pass.
- D. If a potential license holder does not achieve a passing score, they may not retake the exam until a period of time of not less than 30 days has passed.
- E. If a potential license holder fails to pass the exam four times, they are ineligible for licensure, and may not take the exam again.

- F. The potential license holder is prohibited from having the following items on their person or in their possession for the duration of the exam: electronic equipment, computers, communication devices, or any other items deemed to be inappropriate.
- G. Candidate conduct that interferes with the examination process (directly or indirectly giving, receiving, soliciting, and attempting to give, receive or solicit aid during the exam; violating part F; exhibiting behavior that impedes the normal progress of the examination) will be deemed to have failed the exam and will forfeit the submitted license fee.
- H. Eligibility. Prior to applying to take the FDHU Body Art Operators Licensure Exam, a person must:
 - 1. Complete an apprenticeship in accordance with Section 2-11 below; or
 - 2. Provide acceptable documentation showing that:
 - a. They hold a license for the practice of body art issued by the regulatory authority in another health jurisdiction.
 - i. The license must be current and valid at the time application is made to the Department, and
 - ii. The license must be in good standing with no attributed outbreaks of illness attributed to the persons operating under the license, and with no history of committing any acts that would result in a suspension or revocation of license under this Code.
 - iii. A clearly legible copy of the license and contact information for the regulatory authority and for the representative for the regulatory authority that is the point of contact for or inspector for the facility named on the license shall be considered to be acceptable documentation for Part 2(a); and
 - b. They have been engaged in the practice of body art as a full time occupation for at least three of the previous five years and have completed at least:
 - i. 400 tattooing procedures if applying for a tattoo operator license, or
 - ii. 400 cosmetic tattoo procedures if applying for a cosmetic operator license, or
 - iii. 400 piercing procedures if applying for a piercing operator license, or
 - iv. 250 tattooing and 250 piercing procedures if applying for a general operator license.
 - c. Acceptable proof for Part b above shall include copies of client information packets that are substantially equivalent to those required in Section 6-4(C) and that, at a minimum, include a client consent form signed by the client and operator and that has a legible copy of a proof of age.

2-11. Body Art Apprenticeship. An apprenticeship must meet the following criteria:

- A. The apprenticeship must be done in a body art establishment that is licensed by the Department, or other regulatory authority for those establishments that are not located in the FDHU; and
- B. The body art operator under whom the apprenticeship is completed must be licensed by the Department, or be licensed by or covered by a license (ex. a body art facility license) issued by the regulatory authority for those establishments that are not located in the FDHU; and
- C. The person completing the apprenticeship must have an apprentice operator license issued by the Department; or have either an apprentice operator license (or its

equivalent) or be covered by a license (ex. a body art facility license) issued by the regulatory authority for those establishments that are not located in the FDHU; and

D. The apprenticeship must include, at a minimum:

1. At least 100 hours of training. Training hours may occur concurrently with obtaining practical experience, but all training must be completed prior to performing any body art procedures on clients. Training must include instruction in and observation of concepts involving:
 - a. Safety, infection control, bloodborne pathogens; and
 - b. Sterilization and disinfection practices; and
 - c. Business operations, including exposure control plans and federal regulations; and
 - d. First District Health Unit regulations; and
 - e. Client service, including paperwork and aftercare; and
 - f. Client anatomy, physiology and histology; and
 - g. Tattoo specific topics including, but not limited to, needles and bars, tattoo machines and their operation, equipment/supplies, color theory and pigments, skin, and design, art, and placement; and
 - h. Piercing specific topics including, but not limited to, needles, jewelry materials and selection, equipment/supplies, and procedure site suitability/pierceability; and
2. At least 1000 hours of practical experience. These hours must include completing procedures, workstation set up and tear down, and equipment cleaning, disinfection and/or sterilization; and
3. The completion of:
 - a. At least 400 completed tattooing procedures to qualify for a tattooist operator license or cosmetic operator license, or
 - b. At least 400 completed piercing procedures to qualify for a piercing operator license, including
 - i. Cartilage piercings, with a minimum of five each of the following: helix, tragus, rook, conch, daith, and nostril;
 - ii. Body piercings, with a minimum of five each of the following locations: septum, eyebrow, bridge, nipple, navel, and earlobe;
 - iii. Oral piercings, with a minimum of five each of the following: mouth, tongue and lip, or
 - c. At least 250 completed tattooing procedures and 250 completed piercing procedures (with the same qualifications as specified in part ii (a), (b), and (c) above) for a general operator license.
4. Documentation for parts a, b, and c shall be recorded on forms provided by the Department. Final verification of part c may involve an audit of client information packets.
5. The documentation specified in part d shall be signed and dated by the apprentice and the operator holding the apprentice license for that apprentice.

2-12. The Department may mandate further education or training for body art operators as such training becomes available. If a license holder is not able to attend a mandated education or training opportunity as specified by the Department, they shall have 3 months to attend an alternate education or training opportunity provided that:

- A. They notify the Department in writing that they will not be able to attend the original education or training, and
- B. The alternate education or training is approved by the Department. (15)

2-13. Apprentice operator licenses.

- A. The license shall be one of the following classes:
 - 1. General apprentice license. This license allows the apprentice to perform all legal tattooing or piercing procedures except for cosmetic tattooing.
 - 2. Tattooist apprentice license. This license allows the apprentice to perform any legal tattooing procedure except for cosmetic tattooing.
 - 3. Piercing apprentice license. This license allows the apprentice to perform any legal piercing or other non-tattooing body art procedure that is not otherwise prohibited.
 - 4. Cosmetic apprentice license. This license allows the apprentice to perform any legal cosmetic tattooing procedure only. The apprentice is not allowed to perform conventional, non-cosmetic tattooing procedures.
 - 5. The class of apprentice license must match the class of the body art operator license of the operator to whom the apprentice license is issued, with the exception that a general body art operator may be issued a general, tattooist, or piercing apprentice license.
- B. This license may only be issued to a licensed body art operator.
 - 1. The body art operator license must be current and in good standing.
 - 2. The person named on the apprentice operator license will hereafter be referred to as the apprentice operator.
 - 3. During the period of the apprenticeship, the operator is responsible for any and all actions of the apprentice operator that occur in the body art establishment.
 - 4. Any activities of the apprentice operator that may result in suspension or revocation of an apprentice license may also result in suspension or revocation of the license of the body art operator that the apprentice license is issued to.
 - 5. Each body art operator may have up to two licensed apprentice operators at one time, and may not obtain more than two apprentice operator licenses per calendar year.
 - 6. All body art procedures performed by an apprentice shall be done under the direct supervision of the operator holding the apprentice license for that apprentice. If the apprentice license holder performs procedures in a body art establishment that has more than one body art operator performing procedures in that establishment, the apprentice may perform body art procedures under the direct supervision of any body art operator holding a license that allows them to perform the same types of body art procedures as those allowed by the apprentice license for the apprentice (41).
- C. To apply for a body art apprentice license, the body art operator shall submit an application packet. The application packet shall contain:
 - 1. A completed and signed application form (this form shall be provided by the Department), and
 - 2. The license fee, and
 - 3. Proof of immunity to hepatitis B (shot record or titer) for the proposed apprentice, and
 - 4. Proof of completion for an OSHA approved, body art industry specific bloodborne pathogens and infection control training course for the proposed apprentice, and
 - 5. Proof of completion for an approved CPR certification for the proposed apprentice, and
 - 6. A clearly legible, color copy of a current proof of age for the proposed apprentice.

2-14. Student operator license.

- A. This license may only be issued to a licensed body art operator holding a teaching body art operator license.
 - 1. The teaching body art operator license must be current and in good standing.
 - 2. The person for whom the license is obtained shall hereafter be referred to as the student operator.
 - 3. The body art operator to whom the student operator license is issued is responsible for any and all actions of the student operator that occur in the body art establishment.
 - 4. Any activities of the student operator that may result in suspension or revocation of the student operator license may also result in suspension or revocation of the license of the body art operator that the student license is issued to.
 - 5. Each body art operator may have up to five licensed student operators.
 - 6. All body art procedures performed by a student operator shall only be done under the direct supervision of the operator holding the student license for that student (41).
- B. To apply for a student operator license, the body art operator shall submit an application packet. The application packet shall contain:
 - 1. A completed and signed application form (this form shall be provided by the Department), and
 - 2. The license fee, and
 - 3. The following information about the proposed student operator:
 - a. Proof of immunity to hepatitis B (shot record or titer), and
 - b. Proof of completion for an OSHA approved, body art industry specific bloodborne pathogens and infection control training course, and
 - c. Proof of completion for an approved CPR and first aid certification, and
 - d. A clearly legible, color copy of a current proof of age.
- C. This license:
 - 1. Shall be valid from the date it is issued until the date marking the end of the training as specified by the teaching operator in their operating plan.
 - 2. Is only valid in the body art establishment and for the procedures specified by the teaching operator in their operating plan.
 - 3. Is intended only for those persons acting in good faith as students participating in a course of study under an approved curriculum, and is not intended for persons not otherwise able to obtain a body art operator's license. (41)

2-15. Guest operator license.

- A. The license holder for a body art establishment may apply for a guest operator license.
 - 1. No license holder may have more than 2 guest operator licenses at one time, and no more than 4 guest operator licenses will be issued to a single license holder per calendar year.
 - 2. The guest operator license will allow the individual named on the license to perform body art procedures in the FDHU. This person will hereafter be referred to as a guest operator.
 - 3. The guest operator license will be restricted to only the types of procedures for which the guest operator is licensed to perform by the regulatory authority or regulatory authorities responsible for issuing those licenses for facilities and operators located outside the FDHU.
 - 4. The license holder must be present at all times in the body art establishment while the guest operator is performing body art procedures, and is responsible for

ensuring that the guest operator operates in compliance with the criteria contained in this Code (41).

- B. The guest operator must provide acceptable proof of meeting all the following criteria:
 - 1. They hold all necessary licenses for the practice of body art issued by the regulatory authority or regulatory authorities that is not the FDHU.
 - a. The license(s) must be current and valid at the time application is made to the Department, and
 - b. The license(s) must be in good standing with no attributed outbreaks of illness attributed to the persons operating under the license(s), and with no history of committing any acts that would result in a suspension or revocation of license under this Code.
 - c. Acceptable proof for this part shall include a clearly legible copy of the license(s) and the contact information for the regulatory authority or regulatory authorities that issued the license(s) and for the representative for the regulatory authority that is the point of contact for or inspector for the facility named on the license.
 - 2. They have been engaged in the practice of body art as a full time occupation for at least three of the previous five years and have completed at least:
 - a. 400 tattooing procedures if applying for a tattoo operator license,
 - b. 400 cosmetic tattoo procedures if applying for a cosmetic operator license,
 - c. 400 piercing procedures if applying for a piercing operator license, or
 - d. 250 tattooing and 250 piercing procedures if applying for a general operator license.
 - e. Acceptable proof for this part shall include copies of client information packets that are substantially equivalent to those required in Section 8 and that at a minimum include a client consent form signed by the client and operator and that has a legible copy of a proof of age.
- C. To apply for a guest operator license, the license holder for a body art establishment shall submit an application packet. The application packet shall contain all the following:
 - 1. A completed and signed application form (this form shall be provided by the Department),
 - 2. The license fee,
 - 3. Proof of immunity to hepatitis B (shot record or titer) for the proposed guest operator,
 - 4. Proof of completion for an OSHA approved, body art industry specific bloodborne pathogens and infection control training course for the proposed guest operator,
 - 5. Proof of completion for an approved CPR and first aid certification for the proposed guest operator, and
 - 6. A clearly legible, color copy of a current proof of age for the proposed guest operator.
- D. A guest operator license will be valid for a specified period of time not to exceed seven days.
- E. A guest operator may not perform procedures under more than 4 guest operator licenses per calendar year.

Section 3. Inspection. Any body art facility shall be subject to inspection by the Department at any time while it is open for operation or during any time during which body art activities or activities that may impact the performing of body art practices or procedures are occurring. Any body art operator shall be subject to inspection at any time that they are in a body art establishment or are performing body art procedures. Inspection by the Department may include such activities as entering, evaluating, photographing, and securing any samples, photographs or other evidence from any establishment for purposes of enforcing this Code.

- 3-1. After the Department presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the Department to determine if the body art facility or operator is in compliance with this Code by allowing access to the facility or operator, allowing inspection, and providing information and records specified in this Code and to which the Department is entitled according to law, during the body art facility's hours of operation and at other reasonable times. The Department may suspend the body art facility or operator license upon denial of inspection. (41)
- 3-2. If a person denies access to the Department, the Department shall:
 - A. Inform the person that:
 - 1. The license holder is required to allow access to the Department as specified in Section 3-1 of this Code,
 - 2. Access is a condition of the acceptance and retention of a body art facility or operator license; and
 - B. Make a final request for access; and
 - C. If the person continues to deny access, the Department shall notify the person in charge that the license for the body art facility or operator is immediately suspended.
 - D. Provide details of the denial of access on an inspection form.
- 3-3. The Department shall document on an inspection report form:
 - A. Administrative information about the body art facility's identity, address, inspection date, and type of inspection for body art facilities; and operator's name, address and identity of the body art establishment in which the inspection is taking place, inspection date and type of inspection for an operator inspection.
 - B. Specific factual observations, violative conditions, or other deviations from this Code that require correction by the license holder.
 - C. Any required correct-by dates or time frames for correction of items determined to be out of compliance with the requirements of this Code.
- 3-4. Each inspection shall start with the license holder having a score of 100. For those requirements of this Code that have a point value assigned to them (the point value will be the numerical value found in parenthesis at the end of the requirement), a violation of that requirement shall result in the point value for that violation being subtracted from the score.
 - A. Each documented violation of any requirement will result in the subtraction of that point value. Multiple violations of any single requirement shall be subtracted individually.
 - B. A final score that is below 70 shall result in a mandatory reinspection.
 - 1. A reinspection fee may be charged as per the Department's fee schedule.
 - 2. To pass a reinspection, all violations documented on the initial inspection must be corrected.
 - C. A final score that is below 60 shall result in immediate suspension of the license.
 - 1. The license shall be suspended until written notice is given by the Department that the license has been reinstated.

2. All violations documented on the initial inspection shall be corrected. Once corrected, the license holder may contact the Department to request a reinspection. A reinspection fee may be charged as per the Department's fee schedule.
 3. Upon verification that all violations documented on the initial inspection are corrected, the Department may issue written notice that the license has been reinstated. Such notice may not be issued until all reinspection fees are paid.
- 3-5. The inspection form shall be signed by the Department and by the license holder or their designate. The Department shall provide a copy of the inspection report form to the license holder or their designate.
- 3-6. If the license holder or their designate refuses to sign the inspection form, the Department shall:
 - A. Inform a person who declines to sign the inspection form that:
 1. Refusal to sign the inspection form does not affect the license holder's obligation to correct the violations noted in the inspection report form within the time frames specified, and
 2. A refusal to sign an inspection form is noted in the inspection form and is recorded in the Department's historical record for that body art facility or operator.
 - B. Make a final request that the license holder or their designate sign the inspection form.
- 3-7. The Department shall conduct one or more preoperational inspections to verify that the body art establishment is constructed and equipped in accordance with the approved plans and approved modifications of those plans, has an operating plan as specified under Section 6-3, and is in compliance with law and this Code. No procedures may be performed in a body art establishment until the establishment has received a final pre-operational inspection and written approval is given for operations to commence. (41)
- 3-8. Any facility that fails to meet a certain minimum standard as defined by the Department shall have a mandatory reinspection. Reinspections shall be performed by the Department and a reinspection fee shall be charged to the license holder as per the FDHU fee schedule.
- 3-9. Timely correction.
 - A. Except as specified in Part B of this section, a license holder shall at the time of inspection correct a violation of this Code and implement corrective actions for a written plan provision that is not in compliance.
 - B. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the Department may agree to or specify a longer time frame than specified in Part A of this section.
- 3-10. Verification and documentation of correction.
 - A. After observing at the time of inspection a correction of a violation or an operating plan deviation, the Department shall enter the violation and information about the corrective action on the inspection report form.
 - B. After receiving notification that the license holder has corrected a violation or operating plan deviation, or at the end of the specified period of time, the Department shall verify correction of the violation, document the information on an inspection report form, and enter the report in the Department's records.

- 3-11. The Department shall conduct inspections as necessary to ensure that the establishment is operating in compliance with these regulations and is not a potential threat to the public health.

Section 4. Management and Personnel. The following requirements shall pertain to all license holders and other persons working in a body art facility.

- 4-1. A. At all times that a body art facility is open for business or during which any body art practices or procedures are being performed, the license holder or their designate shall be present (41).
B. The license holder or their designate shall be knowledgeable regarding safe body art practices and the requirements of this Code (15).
C. The license holder or their designate shall be responsible for ensuring that all parts of this Code pertaining to the physical facilities and to those practices generally applying to the entire facility are in compliance with the requirements contained herein (15).
- 4-2. All persons applying for an operator license shall be a minimum of 18 years of age, and no person under the age of 18 may perform body art procedures.
- 4-3. Each operator shall have access to a copy of these regulations at all times while body art procedures or practices are performed. (5)
- 4-4. All operators shall be able to demonstrate adequate knowledge of this Code and of safe and proper body art. This knowledge shall be demonstrated by:
A. Being in compliance with the provisions of this Code, and
B. Being able to respond correctly to the Department's questions regarding body art practices and procedures. (15)
- 4-5. Body art procedures and practices may not be performed at any place other than a body art facility that is in compliance with this Code. (41)
- 4-6. No operator may perform any body art procedure while under the influence of alcohol, any illegal drug, or any mind altering drug. (41)
- 4-7. No operator may perform any body art procedure on the genitalia or nipples of a minor. (41)
- 4-8. Any operator, license holder, or other employee of any body art facility who learns of any infections, complications, or diseases resulting from any body art procedure shall report them to the Department within 24 hours by:
A. Calling the Department and reporting to a representative of the Department directly; or
B. Completing a written report including names, addresses, and phone numbers of all affected clients including the dates of their procedures and then submitting the written report to the Department using means of (relatively) immediate delivery (including, but not limited to email and fax). The person making the report shall then follow up by completing reporting to a representative of the Department directly on the first business day following the day the written report was submitted. (41)
- 4-9. An apprentice operator may not perform any body art procedures unless a body art operator licensed to perform that same type of body art procedure at that same facility is present in the body art establishment during the duration of the body art procedure. The

apprentice operator shall perform the procedure under the supervision of the body art operator. (41)

- 4-10. Operators shall maintain a high degree of personal cleanliness and shall conform to approved hygienic practices. (10)
- 4-11. No operator or other employee with boils, infected wounds, open sores, abrasions, keloids, weeping dermatological lesions, acute respiratory infections, or any communicable disease transmissible through contact shall perform any work in any area of a body art establishment in which there is a likelihood that the person could contaminate body art equipment, supplies or procedure surfaces with body substances or pathogenic microorganisms. (41)
- 4-12. Persons performing body art procedures or any other task or function in a body art facility must use aseptic techniques. (41)
- 4-13. Operators shall maintain a current, approved bloodborne pathogens certification. (5)
- 4-14. Operators shall maintain a current CPR certification. (5)

Section 5. Client Requirements. The following requirements pertain to all clients or potential clients of a body art facility:

- 5-1. Nothing in this Code shall be construed as to require any operator to perform any body art procedure upon any client.
- 5-2. No operator may perform any body art procedure on a client who the operator knows to be or that appears to be under the influence of alcohol or drugs, or who the operator has any reason to believe may be otherwise legally incapacitated, incompetent, or otherwise obviously unsuited to undergo a body art procedure. (41)
- 5-3. No operator may perform any body art procedure upon a minor client without the presence of, written consent of, and proper identification of a parent, legal custodial parent, or legal guardian. The parent, legal custodial parent or legal guardian shall be present during all parts of the body art procedure. (41)
- 5-4. No operator may perform any body art procedure upon any person under the age of fifteen except:
 - A. An operator licensed to perform piercing procedures may pierce the non-cartilaginous lobes of the ear on a person under the age of fifteen.
 - B. An ear piercer may pierce the non-cartilaginous lobes of the ear on a person under the age of fifteen. (41)
- 5-5. The skin or mucous membrane surface of the procedure site shall be normal in appearance, and shall be free of sunburn or skin disease or disorders including, but not limited to open lesions, rashes, wounds, or puncture marks. (10)

Section 6. Policies and Procedures.

- 6-1. The following body art procedures are prohibited:
 - A. Cutting
 - B. Branding

- C. Implanting
- D. Suspension
- E. Scarification
- F. Piercing the testes, deep shaft (corpus cavernosa) of the penis, uvula, eyelids, horizontal tongue piercings, and sub-clavicle piercings. (41)

6-2. The following documents shall be posted in an easily visible location in a body art facility:

- A. The body art facility license shall be posted at the entrance (5),
- B. The operator license for each operator that performs procedures in the body art establishment shall be posted in the procedure area for that operator (5), and
- C. The Body Art Facility Public Notice (found at www.fdhhu.org) (5).

6-3. All body art facilities shall have an operating plan. The operating plan shall be maintained current and shall be updated at least one time per calendar year. The operating plan shall include:

- A. A copy of the exposure control plan.
 - 1. The exposure control plan shall be in writing, and
 - 2. Shall meet the requirements found in 29 CFR 1910.1030;
- B. Manufacturer's manuals, maintenances schedules and maintenance logs for all autoclaves
- C. Documentation for items obtained presterilized, as required in Section 9-3,
- D. Materials certificates and all other certifications for materials used as jewelry for initial piercings as required in Section 10-10,
- E. The information required in Section 6-4,
- F. The information required in Section 9-3,
- G. Proof of immunity to hepatitis B (shot record or titer) for all employees that are not licensed by the Department as operators and whose duties may involve contact with contaminated waste,
- H. The vermin control plan as specified in Section 11-15.
- I. The operator residency notice for each operator that will be performing procedures in the body art establishment. (10)

6-4. Each body art facility shall retain certain records as follows:

- A. The following information about the body art facility:
 - 1. Name and address of each person who has an ownership interest in the body art establishment.
 - 2. A complete list of all operators who have worked in the establishment for the previous three years including clear, legible copies of proof of age and of the operator license.
 - 3. A current inventory of all instruments used for body art, body jewelry, and all inks used for any and all body art procedures, including names of manufacturers, lot numbers and dates of manufacture unless such information is not available on the packaging of such product, in that case such information as will otherwise identify the product shall be inventoried, such as copies of invoices or orders. (5)
- B. The following information about each employee (for three years after an employee's last date of employment):
 - 1. Employee's full name, job title and exact duties;
 - 2. Date of birth;
 - 3. Gender;
 - 4. Home address;
 - 5. Home and mobile telephone numbers;

6. Clear identification photo (if it is of sufficient clarity and size to clearly identify the individual, the photo required in Part 7 may be used to fill this requirement); and
 7. Photo copy of proof of age. (5)
 - C. A client packet for each client. The packet shall contain:
 1. A completed pre-procedural information form;
 2. A completed consent form;
 3. A completed aftercare instruction form; and
 4. Copies (either physical or electronic) of any photographs of any part of the procedure or of the finished procedure site. (10)
 - D. A complete description of all body art procedures performed for the previous three years including all operators involved in the procedure. A complete client packet for each procedure performed on each client shall meet this requirement. (5)
- 6-5. All required records must be kept in either print or digital form. Print records shall be legible and in a form that is reasonably available to review by the Department. Digital records shall be in a format so as to be conveniently and immediately accessible for review by the Department. (15)
 - 6-6. All records shall be stored in a manner that prohibits access from unauthorized personnel (ex. locked cabinets, locked rooms, password protected files). (15)
 - 6-7. All required records shall be retained for a minimum of three years with at least those from the previous 12 months retained on site at the body art facility. (15)
 - 6-8. Any activity or practice that is likely to result in the release of large amounts of particulate or vapor contamination of the air is prohibited in any body art facility. This includes, but is not limited to, the following activities: the smoking or burning of any tobacco or drug; vaping, or the use of e-cigarettes; the burning of incense; the burning of candles; open fires, as in a fireplace; soldering; or use of air fresheners. (20)
 - 6-9. All germicide products shall be used only in a manner consistent with the manufacturer's EPA approved label. (10)
 - 6-10. Germicide products removed from their original containers into any other container and germicide products mixed with any other product to dilute or prepare them for use shall be transferred and/or mixed or diluted fresh and used within 24 hours, or used within the time frame specified on the EPA approved label. (10)
 - 6-11. Any products removed from their original container and put into a working container shall be labeled with the common name for that product. (3)
 - 6-12. For any facility using a water system specified in Section 11-4(C):
 - A. All water test reports shall be maintained as per Section 6-7 and as specified by state water quality regulations, and
 - B. If a lab other than the FDHU lab is used to perform water analysis, a copy of the results shall be submitted to the Department within seven days of receipt of the results by the facility. (1)
 - 6-13. If any water test for a water system fails, the establishment shall immediately cease operations and may not resume operations until obtaining a passing sample and being granted permission to reopen by the Department. (41)

Section 7. Education and Information Requirements. All body art establishments and any operators shall provide education and information to prospective clients and shall gather information from them as follows.

- 7-1. The information required in this section as a whole shall hereafter be referred to as the client packet. All required information in a client packet shall be recorded in such a way so as to be clearly legible. (5)
- 7-2. The client packet form(s) shall be submitted to and must have been approved by the Department prior to the issuance of a body art operator or body art facility license. If the client packet form(s) are significantly modified by a license holder, such modifications must have received approval from the Department prior to replacing an existing client packet form(s). (5)
- 7-3. The operator shall provide each client with a copy of the materials contained in the client packet. If the client chooses not to receive a copy of the materials, the operator shall indicate such in the client packet. (5)
- 7-4. The client packet shall be completely filled out and signed by all required parties prior to the operator beginning the body art procedure. (10)
- 7-5. For purposes of this section, the client packet is divided into three parts as detailed below. For each of the three parts:
 - A. The client shall affix their signature attesting to their agreement with and understanding of the information contained therein.
 - B. For any minor client, the legal guardian or parent shall affix their signature attesting to their agreement with and understanding of the information contained therein in their role as the legal guardian or parent of that minor.
 - C. The operator shall affix their signature attesting to their having reviewed the information contained therein with the client and that they gave the client the opportunity to ask questions and that they answered any questions posed by the client.
 - D. Each person affixing their signature shall also include the date. (5)
- 7-6. Pre-Procedural Information
 - A. The pre-procedural information shall include the following information about the client:
 1. Name,
 2. Address,
 3. Phone number, and
 4. Date of birth.
 - B. The pre-procedural information shall include at a minimum the following statements (as applicable to the specific body art procedure):
 1. A tattoo is permanent and may only be removed by a surgical procedure that may leave scarring.
 2. A tattoo/piercing is an invasive procedure that may result in complications that may include: scarring, infection, allergic reaction/metal sensitivity, inflammation, embedding or possible other medical problems or complications.
 3. A successful result of a tattoo/piercing partially depends on actions taken by the client. Certain actions or a failure to perform certain actions by the client may result in an unsuccessful tattoo/piercing so it is important that the client follow the aftercare instructions completely.

4. The client has been made aware that tattoos may change in appearance over time due to many factors some of which are a result of actions taken by the client.
5. The name and contact information for the health department is:

First District Health Unit
801 11th Ave SW
Minot ND 58701
701-852-1376
6. If the client has any difficulties/problems with the tattoo/piercing they should contact the body art operator for advice or to resolve the situation.
7. If the client has any signs, symptoms or concerns about a potential infection at the site of the body art procedure or has signs, symptoms or concerns regarding an illness that is related to the body art procedure, they should contact a physician immediately.
8. The name, address and phone number of the body art establishment.
9. The client must attest that they have been given the opportunity to ask questions and that they understand the items listed above.
10. If the body art operator uses latex gloves, the client must attest that they are aware that the operator will use latex gloves and that to the best of their knowledge they do not have an allergy to latex. (5)

7-7. Consent Form

- A. The consent form shall include the following information about the client:
 1. Name,
 2. Address,
 3. Phone number, and
 4. Date of birth.
- B. The consent form shall specify the name(s) of any operator(s) or employee(s) that perform or participate in performing the procedure.
- C. The consent form shall detail the following information about the procedure:
 1. Date and time of the procedure,
 2. The procedure site,
 3. A complete description of the procedure performed, including a listing of the jewelry/inks/materials used during the procedure, and
 4. Pictures of the procedure, if applicable.
- D. The consent form shall include a clear and legible copy of the proof of age of the client.
- E. If the client is a minor, the consent form shall also include a clear and legible copy of the proof of age of the client's parent/guardian.
 1. The last name of the minor shall match the last name of the parent/guardian.
 2. If the last name of the minor is different from the last name of the parent/guardian, the parent/guardian shall also provide legal documentation detailing the reason for the difference in last names and proving that the person is legally the parent and/or guardian.
 3. If the potential client is a minor married to someone over the age of 18, the consent form shall contain a photocopy of the proof of age of the client, a photocopy of the proof of age of the spouse and a copy of the marriage certificate.
- F. The consent form shall include this statement:

If you have certain medical conditions, you should speak to a physician about the risks and possible complications associated with getting a body art procedure. These conditions are those that may cause an increased level of risk to your health and safety up to, and possibly including death, if you undergo a body art procedure:

1. Diabetes,
 2. Hemophilia,
 3. A history of any skin diseases, skin lesions, or skin sensitivities to soaps or disinfectants, or any other skin sensitivities,
 4. A history of allergies or adverse reactions to pigments, dyes, metals, or latex,
 5. A history of epilepsy, seizures, narcolepsy, or fainting,
 6. The use of any medications that may affect bleeding or blood clotting,
 7. Hepatitis infection (A, B or C),
 8. HIV or AIDS,
 9. High blood pressure or heart disease,
 10. Pregnancy,
 11. Any communicable diseases,
 12. Any immune system disorders,
 13. Any serious physical or mental health problems, or
 14. MRSA.
- G. The consent form shall include a statement indicating that the client gives permission for the operator to do the specified body art procedure. (5)

7-8. Aftercare Instructions

- A. The aftercare instructions shall include the following information about the client:
1. Name,
 2. Address,
 3. Phone number, and
 4. Date of birth.
- B. The aftercare instructions shall include the following statements:
1. Seek medical attention immediately if you see any signs of possible infection at the procedure site, or if you experience any symptom of illness that may be associated with this tattoo/piercing.
 2. Before any person performs any aftercare or touches the procedure site, they must thoroughly wash their hands with soap and water.
- C. For piercing procedures, the aftercare instructions shall give information regarding nickel sensitivities/allergies. (5)

Section 8. Procedure Requirements. The following requirements apply to the procedure area and to the performing of body art procedures.

- 8-1. Eating and drinking are prohibited in the procedure area. (5)
- 8-2. Tables, trays, and any other equipment/single use items shall not be shared between operators or employees working on multiple clients. (5)
- 8-3. There shall be no dusting, vacuuming or other cleaning in the procedure area during any body art or ear piercing procedure. (5)
- 8-4. All procedural surfaces shall be cleaned and then disinfected with an approved disinfectant after completion of any body art or ear piercing procedure and prior to the performing of any other procedures on that procedural surface. (25)

- 8-5. For each client, all equipment used shall be:
- A. Single use and disposable, or
 - B. Designed for multiple uses and capable of undergoing cycles of cleaning and disinfection or sterilization without degradation or deterioration. (15)
- 8-6. Multi-use equipment (including, but not limited to spray or squeeze bottles, tattoo machines and related appurtenances, and lighting) that is used during the procedure and that cannot be sterilized shall be covered with a single use disposable barrier that is removed and discarded after each client. (5)
- 8-7. A durable tray or container shall be maintained in the procedure area for placement of used equipment that requires cleaning, decontamination and autoclaving. (5)
- 8-8. Any non-critical equipment or single use item used during the body art or ear piercing procedure that becomes contaminated or that touches any surface that may result in contamination shall be discarded and replaced immediately with a new, uncontaminated piece of equipment or new single use item. (15)
- 8-9. Any critical or semi-critical piece of equipment that becomes contaminated or that touches any surface that may result in contamination shall be discarded and replaced immediately with a new, sterile piece of equipment. (41)
- 8-10. Any operator or employee assisting in performing a body art procedure shall wear a new set of clean clothing for each procedure or shall have a new lap cloth or other single use barrier in place during each procedure. (5)
- 8-11. Prior to performing a body art procedure, the operator and any employee assisting in performing a body art procedure shall wash their hands as follows:
- A. Wet hands under warm (at least 100-degree F) running water.
 - B. Using an approved cleanser, scrub the hands and all exposed portions of the arms (or surrogate prosthetic devices for hands or arms) using vigorous friction on the surfaces of the lathered fingers, the fingertips, the areas between the fingers, the hands, and the arms for at least sixty seconds.
 - C. Scrub the fingernails and areas under the fingernails with a single use, surgical nailbrush.
 - D. Thoroughly rinse the hands and exposed portions of the arms (or surrogate prosthetic devices for hands or arms) under clean, running warm water.
 - E. Immediately follow the cleaning procedure with the thorough drying of cleaned hands and arms or surrogate prosthetic devices using a single use towel. (15)
- 8-12. Other than as specified in Section 8-11 above, the following procedure shall be used by any operator or employee assisting in performing a body art procedure when washing the hands:
- A. Wet hands under warm (at least 100-degree F) running water.
 - B. Using an approved cleanser, scrub the hands and all exposed portions of the arms (or surrogate prosthetic devices for hands or arms) using vigorous friction on the surfaces of the lathered fingers, the fingertips, the areas between the fingers, the hands, and the arms for at least twenty to thirty seconds.
 - C. Thoroughly rinse the hands and all exposed portions of the arms (or surrogate prosthetic devices for hands or arms) under clean, running warm water.
 - D. Immediately follow the cleaning procedure with the thorough drying of cleaned hands and arms or surrogate prosthetic devices using a single use towel. (15)

8-13. Any person shall wash their hands before:

- A. Putting on gloves,
- B. Handling any equipment, single use items or before performing any tasks involving procedure surfaces or working in the procedure area,
- C. Beginning any body art procedure, and as often as necessary during the procedure to prevent contamination of the hands, equipment, procedure site or any part of the client,
- D. Leaving the procedure area after completing or assisting in any body art procedure, or after cleaning or disinfecting any procedure area, or after handling or disposing of any equipment, single use items, needles, inks or any other materials used in or for the performing of a body art procedure, or
- E. At any other time when there is a likelihood that the hands may have become contaminated. (31)

8-14. The following items may not be touched with bare hands:

- A. Any critical item (Ex. tattoo needles or bars, tubes, needles, jewelry, or ink),
- B. Any semi-critical item (Ex. receiving tubes, tattoo machine tubes, or tattoo machine cartridge type assemblies),
- C. Items such as ink cups, stencil materials, razors, or any other single use items or multi use items that will come into contact with critical or semi-critical items or with any part of a client, or
- D. Clients. (31)

8-15. Gloves.

- A. During all parts of the body art procedure, including set up procedures, the operator and any employee(s) that assist in performing the procedure shall wear disposable gloves that are labeled as medical or that are labeled for body art procedures (31).
- B. The gloves shall be discarded, at a minimum, after the completion of each procedure (or after multiple procedures an individual client as long as the gloves are not contaminated during or between procedures) (31).
- C. Single use gloves that contact one client may not come into contact with any other client (31).
- D. If a glove worn by an operator during a procedure is pierced, torn, or otherwise damaged so that there is a chance that the hand of the operator could be contaminated, the operator shall:
 - 1. Remove and discard their gloves,
 - 2. Wash their hands as per Section 8-11 above, and
 - 3. Put on a new pair of gloves prior to continuing the procedure (41).
- E. No operator or employee may wear jewelry on the hands or arms while:
 - 1. Performing or assisting in performing a body art procedure,
 - 2. While wearing gloves, or
 - 3. When performing any tasks involving washing, disinfecting or sterilizing equipment (10).
- F. An operator or employee assisting in performing a body art procedure shall change gloves:
 - 1. After set up and preparing the client's skin by washing and shaving, but before application of any stencil or markings (5),
 - 2. After application of stencils or markings, but before performing a body art procedure (5),

3. During a procedure, if the gloves become contaminated by contact with any non-sterilized surfaces or objects (including any site on the client other than the procedure site) (31),
 4. After completion of the procedure, prior to beginning any part of a procedure on another client or to performing post-procedure teardown (31),
 5. After cleaning and disinfecting the procedure area (5), and
 6. At any point during the procedure if the gloves become contaminated (31).
- 8-16. Prior to applying a stencil or markings or to performing the body art procedure, the procedure site shall be cleaned using a surgical skin preparation product or equivalent and then prepped using an approved antiseptic in accordance with the manufacturer's instructions. (15)
- 8-17. Shaving.
- A. Any razors used on clients shall be single use and disposable and only used on one client. (15)
 - B. The entire area to be shaved shall be washed with soap and water or an approved cleanser before being shaved. (5)
- 8-18. A. Any products dispensed from bulk containers (ex. ink, petroleum jelly) shall only be dispensed immediately before performing a body art procedure or as needed during the procedure (5).
- B. Containers or surfaces used to hold working quantities of products specified in part A shall be single use, and shall be unused and clean (10).
 - C. Upon completion of the body art procedure, these single-use containers or surfaces and their contents shall be disposed of appropriately, and such products may not be salvaged or used on another client (15).
- 8-19. In the event of blood flow, all products used to check the flow of blood or to absorb blood shall be single use and disposed of immediately as contaminated waste. (15)
- 8-20. After the completion of a body art procedure, the procedure site shall be washed with an approved cleanser and allowed to air dry. For tattoo procedures, the procedure site shall be covered with an approved single use covering (ex. Sterile gauze, bandages or saniderm) to protect it from airborne or contact contamination. (15)

Section 9. Sanitation and Sterilization Procedures. All body art facilities and operators or any employee that is assisting in any part of a body art or ear piercing procedure shall comply with the following sanitation and sterilization procedures:

- 9-1. Sterility requirements.
- A. Critical items shall be sterile at the time of use (41).
 - B. Semi-critical items shall be sterile at the time of use (41).
 - C. Non-critical items shall at a minimum undergo disinfection with a product or combination of products approved for, labeled for and suitable for use on that item before contacting any client (31).
- 9-2. Items required to be sterile must either be:
- A. Obtained sterile, or
 - B. Sterilized on premises. (41)

- 9-3. For those items obtained sterile, documentation shall be obtained and maintained on site detailing the sterilization process used on those items and all documentation showing validation of the sterilization process.
- A. Items marked to indicate that they have been sterilized in compliance with 21 CFR part 820 or International Standardization Organization standard 13485 shall be deemed to meet this requirement.
 - B. Documentation from the manufacturer stating that the items have been sterilized in compliance with 21 CFR part 820 and International Standardization Organization standard 13485 shall meet this requirement.
 - C. Other documentation will be accepted if approved by the Department.
 - D. Items for which appropriate and approved documentation cannot be obtained or that do not come with the required markings shall be considered to be not sterile and shall be sterilized prior to use. (10)
- 9-4. All body art facilities shall be equipped with an approved autoclave or sterilizer, except as specified in Part B below.
- A. For each autoclave/sterilizer used in a facility, the license holder shall have documentation of all manufacturer's validation processes and FDA approvals for that device. Autoclaves/sterilizers used for sterilizing hollow items (tattoo tubes, jewelry, etc.) shall be validated for that use (5).
 - B. If the body art facility uses only single-use, pre-sterilized instruments used for body art and uses pre-packaged, pre-sterilized supplies and jewelry, an autoclave shall not be required.
 - C. The license holder shall have on hand and available all manufacturer's information and the manual for each autoclave (5).
 - D. All autoclaves shall be kept in good repair and in such condition so as to perform in a manner consistent with the manufacturer's original tolerances and specifications.
 - 1. Any maintenance and upkeep recommended or required by the manufacturer shall be performed within in the timeframes specified by the manufacturer.
 - 2. A record of all such maintenance and upkeep shall be kept and shall be onsite and available for review.
 - 3. The record shall detail the maintenance activity done, the date and time of completion and the name of the person doing the maintenance.
 - 4. This record shall also detail the results of all testing done to comply with parts E and F below. (5)
 - E. Each autoclave shall be tested to determine if it is capable of attaining sterilization by conducting biological monitoring using an approved standard spore suspension unit (hereafter referred to as a spore test) available for this purpose (31).
 - 1. These tests shall be verified through an approved, independent laboratory.
 - 2. The spore test shall be performed at least once per calendar month, but shall not be spaced more than 30 days apart (5).
 - 3. The results of all spore tests shall be retained by the body art facility license holder on premises for a period of three years and made available to the Department upon request (5).
 - 4. If any spore test returns an unsatisfactory result, all items run through the autoclave subsequent to the last spore test that returned a satisfactory result shall be pulled from service and considered to be not sterile (5).
 - 5. If a spore test returns an unsatisfactory result, the license holder shall determine the cause of failure and then correct it. Once corrected, the license holder shall:

- a. Run three consecutive empty cycles each containing a spore test process challenge device (PCD) placed in the part of the tray or cartridge where steam is least likely to penetrate,
 - b. The autoclave shall be completely cooled to room temperature between each cycle specified in part a,
 - c. Once three passing PCD tests have been achieved, the autoclave may be put back into service. (15)
- F. Each load shall be tested with a Class 5 integrating indicator or Class 6 emulating indicator in an appropriate challenge pack or PCD.
 - 1. The indicator shall be located in the part of the autoclave tray or cartridge where steam is least likely to penetrate.
 - 2. If the indicator does not reach an acceptable endpoint, the load may not be used and shall be reprocessed.
 - 3. Upon failure of an indicator, the license holder shall determine the cause of failure and then correct it. Once corrected, the license holder shall:
 - a. Run three consecutive empty cycles each containing a spore test PCD and an indicator PCD placed in the part of the tray or cartridge where steam is least likely to penetrate.
 - b. The autoclave shall be completely cooled to room temperature between the cycles specified in part a.
 - c. Once three passing spore tests have been achieved, the autoclave may be put back into service. (5)
- G. The autoclave shall be used according to the original manufacturer's instructions. (31)
- H. All exterior surfaces of the autoclave shall be cleaned with a disinfectant before and after each use. (5)
- I. No autoclave may be located in any part of a body art facility other than the biohazard room. (31)

9-5. All body art facilities that have equipment that is cleaned on site or jewelry or implements used for body art that are not obtained sterile shall be equipped with at least one ultrasonic cleaning unit. Ultrasonic cleaning units shall meet the following requirements:

- A. They shall either be equipped to hold disposable containers of cleaning solution and clean rinse water; or to have a basket or tray that is capable of being sterilized.
- B. If a tattooing and piercing operations are both performed at a body art facility, there shall be separate ultrasonic cleaners provided for tattooing and piercing equipment, and tattooing and piercing equipment shall be cleaned separately from each other in their respective, designated ultrasonic cleaners.
- C. In any facility where jewelry is cleaned prior to sale or use, there shall be a separate ultrasonic cleaning unit used for that jewelry that is not used for any contaminated equipment.
- D. No ultrasonic cleaner may be located or operated in any part of the establishment other than the biohazard room.
- E. An ultrasonic cleaner shall be labeled for, designed for and FDA approved for use for cleaning body art, medical or dental instruments.
- F. The FDA approved manufacturers validated instructions for use shall be located on site and shall be available for review at all times. (10)

9-6. All instruments used for body art or any equipment that are not single use shall be cleaned thoroughly after each use by washing with soap and water until all fluid, tissue or any other contaminants or soil has been removed. After washing, the items shall be run through an ultrasonic cleaning unit operated in accordance with manufacturer's instructions. (15)

- 9-7. All critical items, semi-critical items, and any other equipment that needs to be sterile and that is not obtained sterile in compliance with Section 9-3 shall be sterilized on site. After being cleaned as per Section 9-6, all such items shall be packed individually in approved packaging. Approved packaging shall:
- A. Allow penetration of the sterilant used in the body art facility,
 - B. Provide protection against contact contamination during handling,
 - C. Provide an effective barrier to microbial penetration or recontamination,
 - D. Maintain sterility of the processed items after sterilization,
 - E. Be such packaging that it is approved for use for body art equipment, jewelry or single use items by the manufacturer and by the Department, and
 - F. Shall contain an approved sterilization process indicator. (15)
- 9-8. After being packaged as per Section 9-7, all critical items, semi-critical items and any other equipment that needs to be sterile and that is not obtained sterile in compliance with Section 9-3 shall be rendered sterile using an approved autoclave or sterilizer. (15)
- 9-9. Items packaged as per Section 9-7 and sterilized on site as per Section 9-8 shall be marked on the packaging with a clearly legible date of sterilization unless they are sterilized on and used on the same date. (5)
- 9-10. Gloves.
- A. All persons must wear gloves while washing instruments used for body art or equipment as per Section 9-6.
 - B. A new, clean pair of gloves shall be put on by any person prior to packaging items as per Section 9-7. (5)
- 9-11. All sterilized critical items, semi-critical items, and any other equipment that needs to be sterile shall be stored in such a way so as to maintain sterility and to protect them from potential contamination. If any event occurs that would be likely to compromise the sterility of any items, those items shall be cleaned, repackaged and resterilized as per the requirements of this section. Events and conditions that may contribute to the likelihood of and timing of contamination of items include, but are not limited to:
- A. Bioburden (the amount of contamination in the air): Items packaged and sterilized shall be stored in a location that prevents contamination and is conducive to maintaining the sterility of the equipment (ex. clean, covered containers). Items that have any visible dust, debris or other contaminants on them shall be considered no longer sterile.
 - B. Air movement through the facility and in the storage area: Items packaged and sterilized shall be stored in a location out of moving air currents and drafts.
 - C. Traffic in the storage area: Items packaged and sterilized may not be stored in any location used as a path of travel from one area to another, or in any area accessible to the general public.
 - D. Location of the storage area: Items packaged and sterilized may not be stored in any location where there is a likelihood of contamination (ex. restrooms, garbage rooms).
 - E. Humidity: Items packaged and sterilized shall not be stored in any location with a relative humidity higher than 70 percent.
 - F. The presence of insects or rodents: Items packaged and sterilized shall be stored in such a way as to be inaccessible to insects, rodents or any other animal. If signs of rodent, insect or other animal contact or contamination are found in a storage area, all items in that area are considered no longer sterile.

- G. Flooding or other water contamination: Items packaged and sterilized shall be stored in a dry location. They may not be stored under any exposed sewer or water lines. If the item or its packaging is exposed to water, it shall be considered no longer sterile.
- H. The amount of storage area space: Items packaged and sterilized shall be stored at least two inches from exterior walls and 12 inches above the floor.
- I. Whether shelving/storage areas are open/closed: Closed and covered storage is required.
- J. Air temperature in the storage area: Items packaged and sterilized shall be stored at a temperature that is less than 75 degrees F.
- K. Time lapsed from date of sterilization: Items packaged and sterilized shall be considered to be sterile for a period of time not to exceed six months from the date of sterilization.
- L. The properties of the package material: If the package material has any specified time limit for the maintenance of sterility, and if that time limit is shorter than six months, then that shorter time limit shall be observed. If the packaging is ripped, torn or otherwise damaged, the item shall be considered no longer sterile. (10)

Section 10. Equipment, Single Use Items and Supplies. Equipment, single use items, instruments used for body art and supplies shall conform to the following requirements:

- 10-1. All Equipment, single use items, instruments used for body art, and supplies shall be:
 - A. Used only in accordance with any manufacturer's labeling, or for the use that they are manufactured for and intended to be used for by the manufacturer,
 - B. Durable under normal use conditions,
 - C. Clean to sight and touch, and
 - D. Maintained in good repair and so as to maintain their intended characteristics. (5)
- 10-2. All equipment, single use items, instruments used for body art, and supplies shall be stored clean and dry in covered containers or protected locations that are at least 12 inches off of the floor and at least 18 inches from any sprinkler heads. (5)
- 10-3. The use of any equipment, single use item, instrument used for body art, supply, chemical or ink after the expiration date as indicated by any manufacturer's date markings is prohibited. Any such items must be removed from the body art facility after the expiration date is reached, expired items may not be used or present. (5)
- 10-4. Cloth items:
 - A. Multi-use cloth items or uniforms shall be washed with detergent, hot water, and chlorine bleach (used according to label instructions) in a washer and then dried in a dryer after each use.
 - B. Cleaned cloth items or uniforms shall be stored in a protected location and kept dry and clean until used.
 - C. Cloth items may not be used as semi-critical or non-critical items. (5)
- 10-5. Stencils:
 - A. Items or materials used for stencils shall be safe, non-toxic, and approved for such use.
 - B. Stencils and all stencil making materials shall be stored in a closed, dust proof container.
 - C. Multi-use stencils are prohibited.
 - D. Only products made for and approved for such use may be used to apply stencils.
 - E. Used stencils shall be disposed immediately after use. (5)

10-6. Single-Use Items:

- A. Single-use items shall not be used more than one time or on more than one client.
- B. After use, all single-use needles, razors and other sharps shall be immediately disposed of in approved sharps containers. (5)

10-7. Inks and pigments:

- A. Any inks, dyes, paints or pigments applied to the surface of the skin shall be non-toxic and approved for and safe for use on the skin (31).
- B. All inks, dyes, pigments, and instruments used for body art shall be obtained from reputable suppliers and shall be marked with expiration dates by the manufacturer (5).
- C. Ink or pigment used for tattooing must be manufactured and labeled for such use (31).
- D. All inks, dyes or pigments shall be stored in clean, covered containers until use (5).
- E. Immediately prior to use, the quantity of ink required for use shall be dispensed into a single use container in such a way so as to prevent contamination of the bulk container or its contents (15).
- F. No inks, dyes, or pigments used for tattooing may be adulterated with or mixed with any materials or substances other than with other inks, dyes or pigments or with sterile, potable water (15).
- G. Inks, dyes or pigments disapproved by or under recall by the FDA or any other federal agency having jurisdiction, the manufacturer, or by the Department shall not be used (31).
- H. Any materials used to make markings on the skin shall be made for and approved for such use.
 - 1. Single use, medical grade markers are the only approved markers.
 - 2. Medical grade ink only may be used, and must be applied with a single use marking system.
 - 3. Gentian violet may be used as long as it is applied with a single use marking system. (5)

10-8. Tattoo needles:

- A. All tattoo needles and bars shall be single use and discarded immediately after use on a single client into an approved sharps container (31).
- B. Each needle shall be visually inspected prior to performing a tattoo. Defective or faulty needles or bars may not be used (5).
- C. Tattoo needles and tubes shall be kept sealed in sterile packaging until they are opened (5).
- D. Tattoo needles and tubes shall be opened in the presence of the client (and parent or guardian for minor clients) on whom they will be used (5).

10-9. Piercing needles:

- A. All needles used for piercing procedures shall be single use (31).
- B. Each needle shall be visually inspected prior to performing a piercing. Defective or faulty needles may not be used (5).
- C. Piercing any body part other than the non-cartilaginous lobes of the ears with a "piercing gun" or "stud and clasp" system is prohibited (31).
- D. Piercing needles shall be obtained from reputable suppliers and shall be specifically manufactured for body piercing (5).

10-10. Jewelry:

- A. Any jewelry used or sold in a body art facility shall be obtained from a reputable manufacturer and shall be manufactured for and intended for use in a piercing (5).

- B. Jewelry used in an initial piercing may be made of only materials found in the Association of Professional Piercers membership standards under the heading “Minimum Standards for Jewelry for Initial Piercings”. The following materials are approved as per their 5/28/19 revision:
1. Any and all materials that meet ASTM and/or ISO standards for implantation. Examples of these include, but are not limited to:
 - a. Steel that is ASTM F138 compliant or ISO 5832-1 compliant.
[Note: The EEC Nickel Directive is a regulation that requires a low rate of nickel release for all materials used for costume or fine jewelry, belt buckles, watches, or other metallic accessories with direct skin contact. It does not specify nor prove that a material is safe to wear in the body; therefore, compliance with this directive alone is not sufficient for meeting the APP initial jewelry standards.]
 - b. Steel that is ISO 10993-6, 10993-10 and/or 10993-11 compliant.
 - c. Unalloyed titanium that is ASTM F67 or ISO 5832-2 compliant.
 - d. Alloyed Titanium (Ti6Al4V ELI) that is ASTM F136 compliant or ISO 5832-3 compliant.
 - e. Alloyed Titanium (Ti6Al7Nb ELI) that is ASTM F1295 compliant or ISO 5832-11 compliant.
 - f. Polytetrafluoroethylene (PTFE) that is ASTM F754 compliant.
 - g. Any polymer or plastic material that is ISO 10993-6, 10993-10 and/or 10993-11 compliant and/or meets the United States Pharmacopeia (USP) Class VI material classification.
 2. Solid 14 karat or higher yellow, white, or rose gold that is nickel and cadmium free. Gold jewelry used for initial piercing may not be:
 - a. Plated, unless using materials approved by this standard over solid 14 karat or higher yellow, white, or rose gold that is 14k or higher, or white rhodium;
 - b. Gold-filled; or
 - c. Gold overlay/vermeil.
 3. Solid unalloyed or alloyed platinum that is cadmium, nickel, and lead free.
 4. Unalloyed Niobium (Nb) that is ASTM B392 compliant. This includes but is not limited to:
 - a. Commercial grade 2 Niobium; and
 - b. Commercial grade 4 Niobium that contains 1% Zirconium.
 5. Glass that is lead free. This includes, but is not limited to:
 - a. Fused quartz;
 - b. Borosilicate; and
 - c. Soda-lime.
 6. All threaded or press-fit jewelry must have internal tapping (no threads on exterior of posts and barbells).
 7. For body jewelry purposes, surfaces and ends must be smooth and free of nicks, scratches, burrs, stamps, hallmarks, polishing compounds, and other potentially harmful residues.
 8. Metals must have a consistent mirror finish on surfaces that frequently come in contact with tissue.
 9. All jewelry used for initial piercing on people above the age of 12 must be ASTM F2999 compliant.
 10. All jewelry used for initial piercing on people ages 12 and under must be ASTM F2923 compliant. (15)

- C. Certification (which shall include material certificates for materials found in subparts 1 of part E above) of the quality of the jewelry shall be obtained from the manufacturer or supplier and kept on hand for a period of time at least equal to the time the jewelry is kept on hand or for as long as the records for any client for which the jewelry was used in an initial piercing are kept on file; whichever requirement is longer. Material certificates shall be obtained for each gauge of bar stock or spool stock for all jewelry used for initial piercing (5).
- D. Each piece of jewelry shall be visually inspected prior to use. All jewelry used in an initial piercing shall be free of nicks, scratches, or irregular surfaces (5).
- E. Threaded jewelry with external threads shall not be used for an initial piercing (5).
- F. Any jewelry supplied by a client for use in an initial piercing may only be used if it meets all criteria of this section. Any such jewelry shall be cleaned as per Section 9-6 and sterilized as per Section 9-8 prior to use (31).

10-11. Chemicals:

- A. Shall be registered with the Environmental Protection Agency.
- B. Shall be kept in closed, original containers or transferred to a closed, working container prior to use.
- C. All containers or chemicals shall bear an original manufacturer's label, or if transferred to a working container shall be clearly labeled with the common name for the chemical.
- D. Shall be used in compliance with the manufacturer's label.
- E. Disinfectant solutions shall be mixed fresh on a schedule as per the manufacturer's label, or daily for products without a specified schedule. (5)

10-12. A body art facility shall have at least the following supplies on hand at the beginning of each day's operations (unless otherwise mandated or specified, an adequate supply is considered to be that amount necessary for performing twice the number of expected or scheduled clients for that day):

- A. An adequate supply of skin cleanser or germicidal soap.
- B. An adequate supply of antiseptic.
- C. An adequate supply of distilled water.
- D. An adequate supply of disinfectant.
- E. An adequate supply of all single use items, including but not limited to covering materials for tattoo machines, clip cords, squeeze bottle, tongue depressors, and bandages or other covering material for completed tattoos.
- F. 25 sets of sterile, single use needles and tubes per tattoo operator or general operator. For purposes of this requirement, one set of needles and tubes consists of one liner needle on a bar and one shader on a bar along with the appropriate tubes.
- G. 25 individually packaged sterile piercing needles or needles that are ready to be used after sterilization prior to use in a rapid cycle type autoclave/sterilizer per piercing operator or general operator.
- H. 300 disposable medical examination gloves.
- I. 500 single use ink containers. (5)

Section 11. Physical Facilities. Body art facilities shall be constructed and maintained in compliance with the following:

11-1. Code.

- A. All plumbing, electrical, mechanical and structural elements of the establishment shall be constructed and installed in accordance with all relevant state and local codes,

whichever is stricter. In cases where no state or local code is in effect, the Department may mandate an appropriate standard be followed.

- B. Construction and operation of a body art facility shall be in compliance with the legally adopted fire code for the state of North Dakota, or of any subdivision thereof having jurisdiction, whichever is stricter.
- C. In the event that any item contained in this Code is different from any requirement specified elsewhere as detailed in Part A or B, then the stricter standard shall be enforced.

11-2. All parts of the physical facility shall be clean to sight and touch. (1)

11-3. All parts of the physical facility shall be maintained in good repair and shall retain characteristics as intended by the original manufacturer. (1)

11-4. All water shall be obtained from an approved source, and shall meet the following requirements:

- A. Be from a water system that is constructed, maintained, and operated according to law.
- B. Water from a water system shall meet the criteria for drinking water found in 40 CFR 141 – National Primary Drinking Water Regulations and North Dakota Department of Health (NDDOH) Drinking Water Quality Standards.
- C. Be sampled and tested at least monthly if from any source that is not regulated by the NDDOH Division of Municipal Facilities.
- D. The water source and system shall be of sufficient capacity to meet the peak water demands of the facility.
- E. Have hot water generation and distribution systems sufficient to meet the peak hot water demands throughout the facility. (5)

11-5. Water shall be received from the source through the use of:

- A. An approved public water main; or
- B. A nonpublic water main, water pumps, pipes, hoses, connections, and other appurtenances that shall be constructed, maintained, and operated according to law. (5)

11-6. A water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after any occurrence or emergency situation, such as a flood, that may introduce contaminants to the system. The water from the system shall be tested by a certified lab to ensure compliance with 40 CFR 141 – National Primary Drinking Water Regulations and NDDOH Drinking Water Quality Standards before the system is put into use. (41)

11-7. General sewage.

- A. Sewage shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including the use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to law.
- B. Non-water-carried sewage disposal facilities are prohibited.
- C. No mop water, rinse water or any other substance that may become foul or offensive or that is putrescible shall be thrown upon the ground or poured into the storm sewer.
- D. Facilities shall be kept free from the effluvia arising from any sewerage, drain, or other source within the control of the proprietor.

- E. Temporary establishments shall either be connected to an approved municipal sewer system or shall have approved holding tanks.
 - 1. The holding tank shall have a capacity that is at least 15% greater than the capacity of the water supply tank.
 - 2. Liquid waste shall not be discharged from the holding tank when the facility is in motion.
 - 3. All connections for the waste disposal system shall be of a different size or type from the potable water connections.
 - 4. The waste connection shall be located lower than or in a separate location from the water inlet connection to preclude contamination of the potable water system. (5)

11-8. Sinks.

- A. All sinks shall be equipped with hot and cold water under pressure and connected to an approved sewer system or approved waste water collection tank (5).
- B. Utility sinks.
 - 1. All facility buildings or service buildings equipped with running water shall be equipped with, or have reasonable access to, at least one utility sink or curbed cleaning facility with a floor drain for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes.
 - 2. The use of toilets, urinals, hand washing or equipment washing sinks for disposal of mop water or similar liquid wastes is prohibited. (5)
- C. Hand washing sinks:
 - 1. Hand washing sinks shall be plumbed with hot and cold water under pressure, with the hot water tap being on the left and the cold water tap being on the right.
 - 2. Hot water shall be at least 100 degrees F
 - 3. Hand washing sinks shall be equipped with liquid soap, disposable paper towels and a covered wastebasket immediately adjacent to the sink, except that the wastebasket for a hand washing sink in toilet room may be located by the door.
 - 4. Each procedure area shall have unrestricted access to a hand wash sink that is not in a toilet room. No procedure area may be more than 15 feet from its designated hand sink.
 - 5. One hand wash sink shall serve no more than three operators or ear piercers.
 - 6. Hand sinks in procedure areas shall be equipped with wrist operated, foot operated or "hands free" controls.
 - 7. Hand washing sinks may be used for the washing of hands and for no other purpose. (15)
- D. The use of bar soap at hand sinks is prohibited. (5)

11-9. Toilet Facilities:

- A. A body art facility shall have at least one toilet room. For purposes of this section a toilet room shall include at least one toilet fixture, one hand washing sink, one covered trash can located at the toilet fixture and one standard trash can located near the door into the toilet room.
- B. The toilet room shall be completely enclosed by solid, floor to ceiling walls and shall have a solid, self-closing door equipped with a lock that can be secured from the inside of the room.
- C. The toilet room shall be accessible to clients and body art facility employees at all times that the body art facility is open for business.
- D. The toilet room shall be mechanically vented to the outside of the building.
- E. All toilet fixtures shall be supplied with toilet tissue.

- F. No equipment, implements used for body art, uniforms, aprons, clothing or single use items may be stored, cleaned, rinsed, prepared or disposed of in the toilet room. (5)

11-10. HVAC.

- A. The establishment shall be well-ventilated and shall be equipped with adequate heating and cooling facilities so as to maintain a temperature of 65 to 80 degrees F.
- B. The humidity shall be maintained at a level that is between 30 to 50 percent.
- C. All ducts, vents or air conditioning units that vent into any procedure areas shall be installed and maintained so as to minimize any dust and to prevent entry by insects. (3)

11-11. Lighting.

- A. Establishments shall be provided with artificial lights able to provide the equivalent of at least 100 foot-candles at a height of three feet off the floor in all parts of the establishment, except as specified in Part B.
- B. There shall be at least 1000 foot-candles of light available at the procedure site in each procedure area, at any work surface in the biohazard room, in any area where equipment is cleaned and/or autoclaved, and in any areas where instruments used for body art or other equipment are handled or assembled.
- C. All lights shall be fitted with approved covers. An approved cover is one that is purpose made for being a light cover for that light fixture and that completely encloses the bulb(s). (3)

11-12. Waste and trash.

- A. Trash receptacles shall be:
 - 1. Emptied at least daily, and more often as necessary to prevent accumulation of trash or waste or development of odors,
 - 2. Lined with a disposable, non-absorbent liner,
 - 3. Covered with foot operated controls, except that the waste receptacle located at the hand washing sink in a toilet room does not have to be covered, and
 - 4. Made of such materials as to be durable, non-absorbent and easily cleanable.
- B. Waste that does not meet the definition of contaminated waste shall be removed from the premises at least once per seven-day period and at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects or rodents. This shall include all recyclables or returnable materials.
- C. Refuse, recyclables, and returnables shall be removed from the premises by way of:
 - 1. Portable receptacles that are constructed and maintained according to law; or
 - 2. A transport vehicle that is constructed, maintained, and operated according to law.
- D. Contaminated waste:
 - 1. As defined in this Code, shall be placed in an approved "red" bag marked with the International Biohazard Symbol and handled using universal precautions.
 - 2. It shall be disposed of by a waste hauler approved by the department or, at a minimum, in compliance with 29 CFR Part 1910.1030, "Occupational Exposure to Bloodborne Pathogens".
 - 3. Storage of contaminated waste on site shall not exceed the period specified by the department or more than a maximum of thirty days, as specified in 29 CFR Part 1910.1030, whichever is less. Waste shall be stored in a way that it is protected from, and is not attractive to, any humans or animals.
- E. Sharps shall be disposed of in an approved sharps container immediately after use.

- F. Sharps containers:
 - 1. Sharps containers shall not be filled more than $\frac{3}{4}$ full or higher than any markings indicating maximum capacity on the container itself indicate, whichever is less.
 - 2. Each procedure area shall be equipped with a dedicated sharps container.
 - 3. Sharps containers shall be wall mounted at a height and in a manner such that any person putting items into the sharps container are able to clearly see the opening to the container.
- G. All wastes generated during a body art procedure or any waste that may be contaminated with ink or body fluids must be disposed of in the procedure area and may not be disposed of in any non-procedure area or restroom. (5)

11-13. Biohazard Room:

- A. All body art facilities that clean and/or sterilize equipment or implements used for body art on premises shall have a room designated as a "Biohazard Room".
- B. The biohazard room shall be equipped with signage that, at a minimum, states:
 - 1. "Biohazard Room",
 - 2. "Danger", and
 - 3. "Authorized Personnel Only".
- C. The biohazard room shall be separated from the rest of the establishment by solid, floor to ceiling walls, and shall have a solid, self-closing door.
- D. All wall, floor, ceiling, and work surfaces, and the surfaces of any other equipment located in the biohazard room shall be smooth, non-absorbent, easily cleanable, and constructed with materials capable of withstanding repeated cleaning and disinfection.
- E. The biohazard room (or in temporary facilities the cleaner and sterilizer) shall be located as far from any procedure areas or other areas where clients would have access to. Clients may not be allowed into the biohazard room.
- F. The biohazard room shall not be used for storage of any equipment or single service items other than those that need cleaning and sterilization and those that are in the process of being cleaned and sterilized.
- G. The biohazard room shall be equipped with at least two sinks.
 - 1. One sink shall be designated as a hand washing sink.
 - 2. One sink shall be designated as an equipment washing sink, and may be used for no other purpose other than the cleaning, rinsing, and decontamination of soiled equipment. This sink shall be located in the decontamination area.
- H. The biohazard room shall be separated into at least the following three areas:
 - 1. The decontamination area.
 - a. This is the place where any breakdown and cleaning of equipment or implements used for body art shall occur.
 - b. The ultrasonic cleaner shall be located in this area.
 - 2. The packaging area.
 - a. Only equipment and implements used for body art that have been cleaned and decontaminated may be brought into the packaging area.
 - b. Equipment and implements used for body art shall be packaged in packaging materials as specified in Section 9-7 only in this area.
 - 3. The sterilization area.
 - a. Only cleaned and packaged equipment that is ready for sterilization shall be brought into the sterilization area.
 - b. The autoclave or sterilizer shall be located in this area. (5)

11-14. Procedure Areas:

- A. Body art and ear piercing procedures shall only be performed in procedure areas that are designated as being procedure areas and that meet all requirements of this Code.
- B. Any procedure area shall be at least 60 square feet, and there shall be at least five feet of space between clients in adjacent procedure areas.
- C. Each body art facility shall have at least one procedure area that is equipped with a means of screening it from view to protect the privacy of those clients that request it.
- D. Procedure areas shall not serve as a path of travel for any other area of the body art facility, including other procedure areas or to the designated hand washing sink for any procedure area.
- E. All procedure surfaces, including client chairs/benches, shall be of such construction and made of such materials so as to be easily cleaned and disinfected after each client and to maintain those characteristics under conditions of use. (5)

11-15. General Facility:

- A. Cleaning.
 - 1. Except for cleaning necessary due to spills or other accident, cleaning shall only be done during times when body art procedures are not being performed.
 - 2. Indoor spaces be maintained free of any items not necessary for the operation of the body art facility and sources of airborne dust and dirt. (3)
- B. Walls, non-carpeted floors, ceilings, surfaces that may be touched/contacted by clients or members of the public shall be nonabsorbent, smooth, free of open holes or cracks, light-colored, easily cleanable, able to be disinfected, and made of materials that are durable under normal use conditions (3).
- C. Coved baseboards of approved material shall be provided at all wall and floor junctures (1).
- D. Carpet is not an acceptable floor covering in any procedure area, restroom, biohazard room, any area where a client could potentially cross or be in during a procedure, or any room where any cleaning or preparation of any equipment or jewelry takes place. (3)
- E. The perimeter walls and roofs of a body art facility shall effectively protect the interior areas from the weather and the entry of insects, rodents, and other animals. (3)
- F. Body art facilities that are located inside a larger structure or that share space with other types of businesses or occupancies (ex. food establishments or room where food is prepared, any hair salon, any retail sales area, any living quarters or private home, or any other area where activity occurs that may cause potential contamination of work surfaces) shall be separated from all other businesses or occupancies by solid, floor to ceiling walls. (5)
- G. All doors connecting a body art facility with any other type of establishment, occupancy, or private home shall be solid and equipped with a self-closing mechanism. Such doors shall be kept closed when not in use. (3)
- H. All body art activities and storage of all equipment, implements used for body art, or chemicals used in a body art facility shall only occur in or be found in areas designated as being part of the body art facility. Such activities and storage may not be conducted in a private home, living quarters or other business or occupancy (41).
- I. Animals:
 - 1. No animals shall be allowed in any part of any body art facility except as follows:
 - a. Service animals used by customers with disabilities are allowed, except that they shall be excluded from areas not open to the general public, such as biohazard rooms.

- b. Service animals used by employees are allowed in any area where the duties of the employee occur.
 - c. Fish in decorative aquariums may be allowed in waiting rooms or reception areas so long as no contamination of procedure areas or equipment may occur. (41)
- 2. All body art facilities shall have an insect, rodent and vermin control plan and shall take all necessary measures to exclude insects, rodents or vermin from the premises (5).
- 3. All openings shall be protected by tight fitting, self-closing doors, closed windows, screening, controlled air currents or other means approved by the Department. All screens on any outside openings shall be tight fitting and free of breaks and shall not be less than 16 mesh to the inch (3).
- 4. No body art or ear piercing procedures may be performed in a body art facility that has insects, vermin or rodents present. Procedures may not be performed until approved pest control procedures have been implemented and approval to resume the performing of procedures has been granted by the Department (41).
- J. Laundry facilities:
 - 1. If a washer is used for washing cloth items or uniforms at a body art facility, then those items shall be dried in a dryer.
 - 2. All mechanical clothes dryers shall be vented to the outside of the structure. (1)

Section 12. Ear Piercing Establishments. The following are special considerations for ear piercing:

- 12-1. The only procedure that may be performed at an ear piercing establishment is to pierce the non-cartilaginous lobe of the ear using a stud and clasp system. (41)
- 12-2. Ear piercers shall:
 - A. Be at least 18 years of age (10).
 - B. Receive at least one hour of approved training per each of the following topics:
 - 1. Proper use of the stud and clasp system used at the ear piercing establishment.
 - 2. Industry specific, OSHA approved bloodborne pathogens course.
 - 3. Proper hand hygiene and the safe, sanitary use of all equipment including but not limited to gloves, towels and disinfectants. (5)
- 12-3. Clients under the age of 18 may not have an ear piercing procedure performed without the written consent of their parent or legal guardian. (41)
- 12-4. Each client shall complete an ear piercing client form prior to the ear piercing procedure.
 - A. The form shall be completed in the presence of the ear piercing facility license holder, or their designate, or the ear piercer (5).
 - B. The form shall be signed by both the ear piercer and the person getting the ear piercing, and by the parent or legal guardian of the person getting the ear piercing if that person is a minor. If the person getting the ear piercing is unable to sign the form due to age, then that signature may be omitted (10).
 - C. A copy shall be given to the person getting the ear piercing or their parent or legal guardian, and a copy shall be retained at the ear piercing establishment (5).
 - D. This form can be physical media or a digital form.
 - E. The form for each client shall be available for review by the Department for a period of no less than three years after the date of the procedure (10).

F. The form shall be submitted to the Department for approval prior to use (5).

12-5. The ear piercing client form shall include the following:

- A. The name, address, date of birth and phone number of the client. If the client is a minor, then it shall also include the name, address, date of birth and phone number for the parent or legal guardian giving consent for the ear piercing procedure.
 - 1. The last name of the minor shall match the last name of the parent or legal guardian;
 - 2. If the last name of the minor is different from the last name of the parent or legal guardian, the parent or legal guardian shall also provide legal documentation detailing the reason for the difference in last names and proving that the person is legally the parent or guardian;
 - 3. If the potential client is a minor married to someone over the age of 18, the consent form shall contain a photocopy of the marriage certificate or other proof of marriage,
- B. The name of the ear piercer that performed the ear piercing procedure, as well as the names of any other employees that assisted in performing the procedure,
- C. The date and time of the procedure,
- D. A description of the stud and clasp used,
- E. The following statements:
 - 1. If you have certain medical conditions, you should speak to a physician about the risks of ear piercing. These conditions are those that may cause an increased level of risk to your health and safety up to and possibly including death, if you undergo an ear piercing. These conditions include, but are not limited to:
 - a. Diabetes.
 - b. Hemophilia.
 - c. A history of any skin diseases, skin lesions, or skin sensitivities to soaps, disinfectant, etc.
 - d. A history of allergies or adverse reactions to pigments, dyes, metals, or any other skin sensitivities.
 - e. A history of epilepsy, seizures, narcolepsy, or fainting.
 - f. The use of any medications that may affect bleeding or blood clotting.
 - g. Hepatitis infection (A, B or C).
 - h. HIV or AIDS.
 - i. High blood pressure or heart disease.
 - j. Pregnancy.
 - k. Any communicable diseases.
 - l. Any immune system disorders.
 - m. Any serious physical or mental health problems.
 - n. MRSA,
 - 2. The client or their parent or legal guardian gives permission for the ear piercing establishment to perform the ear piercing procedure.
 - 3. A piercing is an invasive procedure that may result in complications that may include: scarring, infection, allergic reaction/metal sensitivity, inflammation, embedding or possible other medical problems or complications.
 - 4. A successful piercing partially depends on actions taken by the client. Certain actions or a failure to perform certain actions by the client may result in an unsuccessful piercing so it is important that the client follow the aftercare instructions completely.
 - 5. The name and contact information for the health department is:

First District Health Unit
801 11th Ave SW
Minot ND 58701
701-852-1376

- 6. If you have any difficulties/problems with the piercing you should contact the ear piercing establishment for advice or to resolve the situation.
- 7. If you have any signs that could indicate an infection of the ear piercing or signs of illness possibly resulting from the ear piercing, you should contact a physician immediately.
- 8. You or anyone else must wash their hands before performing any aftercare or touching your ear piercing,
- F. The name, address and phone number of the ear piercing establishment,
- G. The client must attest that they have been given the opportunity to ask questions and that they understand the items listed above, and
- H. Include information on potential reactions in susceptible individuals stemming from the presence of nickel in jewelry. (5)

12-6. Stud and clasp systems:

- A. Critical or semi-critical parts shall be single use (41).
- B. Non-critical parts shall be cleaned and disinfected after each use. Non-critical parts and parts that are not intended to be semi-critical or non-critical but that contact blood or OPIM shall be discarded or cleaned as per Section 9-6 and sterilized as per Section 9-7 and 9-8 (15).
- C. The ear piercing instrument shall be designed and operated in such a way so that the operator does not contact any critical or semi-critical item, including during the process of loading the ear piercing instrument (15).

12-7. The critical and semi-critical parts of the ear piercing system shall be prepackaged and presterilized.

- A. Documentation from the manufacturer shall be obtained and available on site for review detailing the specifics of the sterilization process used including all validations, except for packaging marked as per B.
- B. Packaging marked to indicate that the stud and clasp system has been sterilized in compliance with 21 CFR part 820 and International Standardization Organization standard 13485 shall be acceptable documentation of sterility.
- C. The documentation specified in A shall be kept on hand for at least three years after the date of use. (15)

12-8. Jewelry used shall meet the requirements of Section 10-10h. (15)

12-9. Latex is prohibited as a material in any object that will come into contact with the client. (5)

- 12-10. A. The area within any ear piercing establishment where the ear piercing procedure is performed shall be safe and sanitary and shall not constitute a threat to public health and safety as determined by the Department.
- B. This area shall not be located in any location that serves as a path of travel.
- C. Those persons not involved in the ear piercing procedure shall be excluded from the area during the ear piercing procedure. (5)

- 12-11. Those ear piercing establishments in operation prior to July 1, 2021 that are not in compliance with Section 11-8(C) shall install all necessary hand sinks so as to be in compliance by July 1, 2022.

Section 13. Variances. The Department may grant a variance by modifying or waiving the requirements of this Code if in the opinion of the Department there is a scientific or documented reason that modifying or waiving the requirements of this Code will not result in a health hazard or risk to public safety.

- 13-1. A variance request shall be made in writing, and shall be signed and dated by the license holder requesting the variance. The variance request shall be addressed to the Director of Environmental Health and shall be submitted to the Department. The variance request shall include the following information:
- A. A statement of the proposed variance detailing specifically what aspect of the Code a variance is being requested for, including all relevant Code section numbers;
 - B. A statement detailing the reason for which the variance is being requested; and
 - C. An analysis of the rationale for how the potential public health hazards addressed by the relevant Code sections will be alternatively addressed by the person requesting the variance.
- 13-2. The Department shall review this information, and shall make a determination within 10 days of receiving the variance request. If there is any reason that the determination cannot be made within 10 days, the Department shall notify the license holder making the request within 10 days of receiving the request of the reasons for the delay in processing the variance request and of the expected timetable for completing the review of the variance request.
- 13-3. The Department shall notify the license holder requesting the variance in writing with the results of the Department's review of the variance request.
- 13-4. If the variance request has been denied by the Department, the written notification shall include the reasons for the denial of the request.
- 13-5. In the event of denial of a variance request, the license holder requesting the variance may appeal the denial by requesting an appeal. A request for an appeal shall be in writing and shall be signed and dated by the license holder requesting the appeal. The written request shall be addressed to the Executive Officer and shall be submitted to the FDHU office located in Minot. Within 10 days of receiving the request, the FDHU shall notify the license holder requesting the appeal of the date and time of the hearing for the appeal.
- 13-6. If the variance is approved, the Department shall provide a written variance request approval to the license holder. The license holder shall keep the variance request approval on hand during the duration of time that the variance is in effect, and then for three years after the date that the variance request approval expires. The variance request approval shall detail the length of time for which the variance shall be in effect and shall detail the criteria for renewal of the variance, if applicable. (5)
- 13-7. The Department is not obligated under any circumstances to approve a request for a variance, and may deny such request for any reason.

Section 14. Compliance and Enforcement.

- 14-1. If any part of this Code is found to be or held invalid; that invalidity shall not affect the other parts of this Code.
- 14-2. Falsification of information.
- A. If any person attempts to obtain a license with falsified information or provides any falsified information to the Department while applying for a license, that person may not be issued a license and shall be thereafter ineligible for licensure.
 - B. If any license holder provides falsified information to the Department or is found to have falsified any records, or documentation required herein, the license held by that person shall be immediately suspended. The suspension shall remain in effect until such time as it is lifted as a result of a determination made during a hearing conducted as specified in this section. Nothing in this section shall mandate that a license suspension has to be lifted, and such suspension may be changed to revocation if such revocation is determined to be justified during a hearing conducted as specified in this section. (41)
- 14-3. If any license is suspended by the Department, no activities requiring licensure may occur in a body art facility and no operator may engage in any activities requiring licensure until such time as written notification is issued in writing by the Department notifying the license holder that the suspension has been lifted.
- 14-4. Violation of Section 14-3 shall result in immediate revocation of any license. The revocation shall remain in effect until such time as the license revocation is reversed as a result of a determination made during a hearing conducted as specified in this section. Nothing in this section shall mandate that a license revocation has to be reversed and such revocation may be deemed permanent if so determined by the results of a hearing conducted as specified in this section.
- 14-5. Closure.
- A. Certain conditions may result in immediate suspension of the license for a body art establishment and closure. Such conditions include:
 - 1. The facility does not have a body art facility license.
 - 2. Any body art operator performing body art procedures without a valid operator's license.
 - 3. Evidence of malfunction of the sewer system.
 - 4. Lack of an adequate supply of approved, hot and cold water under pressure to the facility or to the fixtures therein.
 - 5. Lack of electrical or gas service to the extent that hand washing, lighting, heating, or toilet facilities are not operational.
 - 6. Significant damage to the body art facility due to tornado, fire, flood or other disaster.
 - 7. Evidence of rodent or vermin infestation.
 - 8. Documented use of non-sterile critical or semi-critical items.
 - 9. Documented failure to use gloves.
 - 10. Failure to maintain adequate and complete records including:
 - a. All items required under Section 6-4,
 - b. An operating plan,
 - c. Water test results, or
 - d. Autoclave test results.

11. Failure to properly dispose of sharps, blood or body fluids or contaminated waste.
12. Failure to properly report complaints of bloodborne pathogen transmission or other suspect illness of clients to the Department.
13. Evidence of contamination, filthy conditions, untrained staff, or poor personal hygiene of the staff.
14. Documentation of an apprentice operator performing body art procedures without supervision by a body art operator being present.
15. Any time a public health nuisance exists. (41)

B. Emergency occurrences.

1. Include the following:
 - a. Loss of water service,
 - b. Interruption or loss of electrical service,
 - c. Malfunctioning sewer system,
 - d. Fire, flood, tornado, or natural disaster, or
 - e. Outbreak of bloodborne or other disease linked to the body art establishment or any body art operator on record as performing procedures at the establishment. (41)
2. If any conditions specified in Part 1 occur, the license holder shall:
 - a. Immediately stop all body art operations and close the body art establishment,
 - b. Report the occurrence to the Department, and
 - c. Not resume operations until given clearance to do so by the Department.

14-6. Certain conditions may result in immediate suspension of the license for a body art operator. Such conditions include:

- A. An operator license that is not current,
- B. Documented use of non-sterile critical or semi-critical items.
- C. Documented failure to use gloves.
- D. Failure to maintain adequate and complete records.
- E. Failure to properly dispose of sharps, blood or body fluids or contaminated waste.
- F. Failure to properly report complaints of bloodborne pathogen transmission or other suspect illness of clients to the Department.
- G. Documentation of an apprentice operator performing body art procedures without a body art operator being present.
- H. Performing body art procedures in any location other than a licensed body art establishment.
- I. Violation of Section 6-1.
- J. Documented history of repeated non-compliance with provisions contained herein.
- K. Any other action or condition that is or can create a public health nuisance exists. (41)

14-7. The Department may summarily suspend a license to operate a body art facility, or an operator license, if it determines through inspection, or examination of employees, or other means as specified in this Code that an imminent health hazard not specified in 14-5 or 14-6 exists. (41)

14-8. The Department may summarily suspend a license as specified in Section 14-2, 14-5, 14-6 or 14-7 by providing written notice as specified in Section 14-9 of the summary suspension to the license holder or their designate without prior warning, notice of hearing, or a hearing.

- 14-9. A summary suspension notice shall state:
- A. That the body art facility or operator license is immediately suspended and that all body art operations shall immediately cease;
 - B. The reasons for summary suspension with reference to the provisions of this Code that are in violation;
 - C. The name and address of the Department representative to whom a written request for reinspection may be made and who may certify that reasons for the suspension are eliminated; and
 - D. That the license holder may request an appeal hearing by submitting a timely request.
- 14-10. After receiving a written request from the license holder stating that the conditions cited in the summary suspension order no longer exist, the Department shall conduct a reinspection of the body art facility or of the operator for which the license was summarily suspended within 5 business days, which means 5 days during which the Department's office is open to the public.
- 14-11. A summary suspension shall remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the Department through reinspection and other means as appropriate. The suspended license shall be reinstated immediately if the Department determines that the public health hazard or nuisance no longer exists. A notice of reinstatement shall be provided to the license holder or their designate.
- 14-12. A person who receives a notice of hearing for an administrative remedy and elects to respond to the notice shall file a response to notice as specified in Section 14-16 within 7 calendar days after receiving the notice.
- 14-13. A license applicant may request a hearing regarding the disposition of an application for a new or revised license if the Department does not issue or deny the license within the time frame specified in law.
- 14-14. A license holder may request a hearing to address concerns about the Department's denial of application for a license or request for a variance, or compliance actions, except that a hearing request does not stay the Department's imposition of a summary suspension as specified in Section 14-2(B), 14-5, 14-6, or 14-7.
- 14-15. A person desiring a hearing in response to a denial of an application for a license or an adverse administrative determination shall submit a hearing request to the Department within 10 calendar days of the date of the denial, inspection, or compliance action, unless the Department specifies in certain situations that the request shall be submitted within a shorter period of time.
- 14-16. A hearing notice, response to a hearing notice or a request for hearing shall be in written form and shall contain the following:
- A. The name and license number for the license involved in the potential hearing,
 - B. The name, address, phone number and signature of the person requesting a hearing or to whom a hearing notice was addressed,
 - C. If a response to notice of hearing,
 1. An admission or denial of each allegation of fact;
 2. A statement as to whether the respondent waives the right to a hearing; and may also contain

3. A statement of defense, mitigation, or explanation concerning any allegation of fact; and
 4. A request to the Department for a settlement of the proceeding by consent agreement, if the Department will provide this opportunity.
- D. If a request for a hearing,
1. A statement of the issue of fact for which the hearing is requested; and
 2. A statement of defense, mitigation, denial, or explanation concerning each allegation of fact.
- E. If either a response to notice of hearing or a request for a hearing,
1. A statement indicating whether the presence of witnesses for the Department is required; and
 2. The name and address of the respondent's or requester's legal counsel, if any.

14-17. A person may be charged with a misdemeanor under Section 23-35-13 of the North Dakota Century Code if they:

- A. Violate these regulations.
- B. Permit a violation to exist on the premises under their control.
- C. Fail to take action to abate the existence of the violation(s) of this Code within a specified time period when notified to do so by the Department.

14-18. Inspection Scoring.

- A. Each body art inspection shall start an inspection with 100 points. Each code requirement has been assigned a point value. During an inspection, each documented occurrence of any one violation of a code requirement shall result in that point value being deducted from the starting point value. Once the point values for all violations have been subtracted from 100, the resulting number shall be the inspection score.
- B. If an inspection results in a score of 59 or lower, the license shall be suspended until such time as the Department determines that the violations have been corrected and that the body art establishment or operator is no longer a threat to public health and safety.
- C. Any body art inspection that results in a score of 69 or below shall have a mandatory re-inspection. The license holder shall correct all specified violations before the date specified by the Department. Failure to correct all specified violations may result in suspension of the body art license.

Body Art Licensure Requirements:

All the requirements for body art can be found in the First District Health Unit (FDHU) Rules and Regulations for Body Art Establishments. Tattooing (either body tattooing or cosmetic tattooing) and piercing are the two types of body art procedures that are allowed in FDHU. In order to become completely licensed to perform any type of body art procedures, the following license types are required:

1. Facility license.

- A. Facility licenses are good for one calendar year, and always expire on December 31.
- B. Applications are available on the FDHU website (www.fdhuh.org).
- C. To begin the licensure process, a complete application packet must be submitted to FDHU that contains:
 - a. A completed application,
 - b. The license fee,
 - c. A copy of the exposure control plan for the facility, and
 - d. A copy of the plan mandated in Section 2-3 (B) of the code detailing the procedures and steps that the license holder will follow to meet all code requirements.
- D. Facility license application packets will not be processed until there is at least one person that has obtained an operator's license (see #2 below) and that has committed to working in the facility.**

2. Operator license.

- A. Each person that performs body art procedures is considered to be a body art operator. Each body art operator is required to have a body art operator license issued in their name.
- B. These licenses are good for one calendar year and always expire on December 31.
- C. There are two ways a person can qualify for a body art operator's license
 - 1. Apprenticeship. Complete an apprenticeship as detailed in Section 2-5 of the code under an operator licensed in FDHU.
 - 1. 100 hours of training,
 - 2. 1000 hours of practical experience,
 - 3. 400 completed procedures.
 - 2. Experience. Provide acceptable documentation showing that:
 - 1. They are currently licensed to perform body art by the regulatory authority in another jurisdiction,
 - 2. Their license is in good standing and they have not been involved in any outbreaks or implicated for any major code violations,
 - 3. They have been practicing body art as a profession under their license for at least three years,
 - 4. They have completed at least 400 procedures, and
 - 5. They completed an apprenticeship that is fundamentally equivalent to that mandated under Section 2-5.
- D. Once a person meets Part C above, they become eligible to apply to take the FDHU Body Art Operator's Exam.
 - a. To take the exam, they must submit an application packet, including:
 - 1. A completed application along with the application fee,
 - 2. Documentation that they have completed the Hepatitis B vaccination series,

3. Documentation that they have completed an OSHA approved, body art specific blood borne pathogens training course,
 4. Complete an approved CPR certification course.
- b. The exam is intended to test the applicant's knowledge of the OSHA blood borne pathogens standard (29 CFR 1910.1030) and the FDHU body art regulations (2013 Edition of the FDHU Rules and Regulations for Body Art Establishments). Both documents are available online for review, and it is highly recommended that the applicant study both, and be very familiar with both prior to attempting the exam.
 - c. An applicant must score 70 percent or higher on the exam in order to pass.
 - d. If an applicant fails the exam, they must wait 30 days before attempting the exam again.
 - e. If an applicant fails the exam 4 times, they become ineligible for licensure.

House Bill No. 1126 Senate Workforce Development March 6, 2025 2:00pm Fort Lincoln ND State Capital Committee Members, I appreciate the opportunity to provide testimony on the proposed changes to the statutes relating to the practice of cosmetology and esthetics. While I support most of the proposed changes, there is one in particular that directly impacts my career and business model: the proposed update regarding the verbiage restricting what I am permitted to do within my business in relation to invasive procedures. I am a licensed master esthetician and a licensed tattoo artist. My company employs seven other estheticians and tattoo artists, a professionally licensed piercer, and we have a contracted nurse practitioner who operates out of our space and serves as our medical director. Most of us hold dual licenses in both esthetics or cosmetology and tattooing. Our establishment is required to uphold the standards set not only by the Board of Cosmetology but also by the local health department. Additionally, our nurse practitioner follows guidelines provided by the Board of Nursing. Both our esthetic and tattooing licenses require extensive training and testing to obtain. We follow universal precautions and maintain certifications in bloodborne pathogens, first aid, and CPR in order to remain actively licensed. However, according to the current statutes, invasive procedures are explicitly prohibited in any establishment licensed by the Board of Cosmetology. This restriction is a direct infringement on the economic liberty of my team and seems unsubstantiated by any logical rationale. In order to comply with these regulations and continue operating my business, I was forced to invest significant time, energy, and financial resources into establishing my business as a medspa under the medical direction of our nurse practitioner. This decision was not made out of choice but rather out of necessity in order to operate within the legal framework set in 2022. The current restrictions are both unnecessary and unreasonable when considering the training, certification, and regulatory requirements that both estheticians and tattoo artists must meet. These regulations have placed undue financial strain on my business. In North Dakota, we take pride in maintaining a balance that keeps government interference in small businesses to a minimum, while ensuring consumer protection. It is crucial that the statutes be amended to reflect a more logical and fair approach, recognizing trades that naturally complement each other when performed within one business. Removing the restrictions on invasive procedures is essential to ensuring that small businesses can operate legally without unnecessary government interference. Services such as cosmetic esthetics provided by nurses and doctors are complementary to those performed by estheticians and cosmetologists. It is illogical to require a business to operate under medical direction simply to perform tattooing. Additionally, cosmetic tattooing is often requested by clients at esthetic studios and day spas, further illustrating the need for such services to be recognized as part of the broader esthetic industry. As the industry evolves, more trades are uniting to offer comprehensive services under one roof. It is imperative that state statutes evolve to support this progression, ensuring that small businesses can thrive and provide the best possible service to their clients without unnecessary restrictions. Thank you for taking the time to consider my testimony. Sincerely, Miranda Nichols

House Bill No. 1126 Senate Workforce Development March 6, 2025 2:00pm Fort Lincoln ND State Capital Committee Members, Thank you for taking the time to read my thoughts on the proposed changes to the cosmetology and esthetics practices. I do support most of the proposed changes but there is one that doesn't align with my career. The changed verbiage of invasive procedures. I am a licensed master esthetician of six years and a licensed tattoo apprentice. I work in a studio with many other estheticians and tattoo artists, a professional licensed piercer, and a nurse practitioner that serves as our medical director. Almost all of us hold dual licenses in both esthetics or cosmetology and tattooing. With that being said, our work place has always met the highest standards for rules and regulations set by the State Board of Cosmetology, and our local health department. The nurse practitioner also safely follows guidelines provided by the Board of Nursing. Both esthetic and tattooing licenses require extensive training and testing to obtain. We follow certain precautions and maintain certifications in bloodborne pathogens, first aid, and CPR in order to remain safely and properly licensed. However, according to the current statutes, invasive procedures are explicitly prohibited in any establishment licensed by the Board of Cosmetology. This restriction takes possible revenue or income away from me because we would be unable to perform higher ticketed services to get my clients the results they want and deserve without having to go elsewhere. Our clients trust us. Us as master estheticians know the skin. We deserve to have the opportunity to safely provide these services. The current restrictions are not desirable considering the training, certificates, and regulatory requirements that I have met as an esthetician and tattoo artist. The knowledge I have with the training and money that the company has invested in me, should be enough for me to eventually perform these advanced invasive procedures. All while being under the scope of our medical director. By removing the restrictions on invasive procedures while having strict guidelines and inspections done by both State Board of Cosmetology and health board. Services such as cosmetic esthetics provided by nurses and doctors are complementary to those performed by estheticians and cosmetologists. But it does not make sense for the requirement of an esthetics business to operate under a medical direction to perform cosmetic tattooing. The extensive training and testing a cosmetic tattoo artist goes through is enough to simply be able to operate on its own. As our industry evolves, more trades are coming together to offer comprehensive services done in the same building. I think if done correctly, safely, and with certified knowledge and testing, legally we should have the opportunity to further our career paths by performing these invasive services. Thank you for taking the time to consider my testimony. Sincerely, Josie Schlosser

Hello Committee Members,

I am Hilari Dittus, a licensed Master Esthetician. I am also the owner of a small business here in Mandan offering Esthetic services. I have been an Esthetician and have been serving the community for 8 years.

Regarding Bill #1126 – there is definitely the need to clarify some of the terms and definitions as many of them are not clear. I think the Board of Cosmetology is doing their best to keep the best interest of all of us in the industry and the community safe. With that being said, I would like to add my professional opinion to some of the amendments.

An “ Esthetician “ per the Boards definition, should be allowed to offer all of the services they have listed with the addition of microneedling. Microneedling to a depth of .25 mm is still considered within the top dead layer of the skin or the Stratum Corneum. Which is in our scope of practice. Microneedling devices are able to be set at a controlled depth. Meaning the devices used to microneedle are only allowed so deep into the skin. This is a controlled procedure where the needles can only go so deep, keeping it a safe and controlled treatment.

Section 31 – Advanced Esthetician License Grandfather Provision

First off, I do find this amendment not quite clear. As an esthetician who has been in the industry for 8 years, I don't feel we need extra hours to be offering some of these services. Many of us have already had extra training along with the schooling and hours we have already accomplished. Taking time off of work to do any extra schooling , would negatively affect my business and other esthetician businesses. I don't see the need to be under a medical director to be offering some of the services that we are already able to offer. If the “ Advanced Esthetician” license is what we need to offer Microneedling and the use of lancets, I would like to see the board accept proof of training from the esthetician and not having us to be under a medical director or have us do any extra schooling for those of us that have had the training or have been in the industry long enough to be “grandfathered in”.

When it comes to the members on the Board, I would agree that it would be great to have an Esthetician have a seat there.

There is so much room for growth in this industry. With the advancements of treatments and trainings, us as professionals have the knowledge and expertise to be offering our clients these services. Along with the oversight on cleanliness and appropriate settings/locations from the Board, I'm excited to see where this industry can go.

Thank you for your time. I hope to see this go in a direction that all of us in the industry are able to grow in our field and not back track.

Thank you,

Hilari Dittus

House Industry, Business and Labor

Hello and good afternoon. My name is Stacy Todorovic, and I am a social work student aspiring to work in hospice care after my graduation next year. I am testifying today in support of House Bill 1126, specifically Section 20, Chapter 43-11, Subsections 15-22.

This section of the bill ensures that licensed cosmetologists would no longer be required to obtain an establishment license to perform services for residents in elderly care facilities. This change reduces barriers to entry by eliminating unnecessary paperwork, reducing financial burdens from licensing fees, and facilitating greater access for cosmetologists to provide personal care services to elderly residents.

Additionally, nursing homes are not traditional businesses but rather care facilities for individuals with dementia and those experiencing the challenges of aging. They should not be treated the same as commercial salons, which require an establishment license. By removing this licensing requirement, more cosmetologists may be encouraged to offer their services in these settings, benefiting both professionals and the elderly individuals who rely on them for personal care.

For these reasons, I support the passing of Section 20, Chapter 43-11, Subsections 15-22, and I stand for questions.

2025 SENATE STANDING COMMITTEE MINUTES

Workforce Development Committee Fort Lincoln Room, State Capitol

HB 1126
4/3/2025

Relating to the use of brush rollers, licenses issued for schools and salons, and esthetician and manicurist licensing qualifications and fees; to provide a penalty; and to provide an effective date.

10:19 a.m. Chairman Wobbema called the meeting to order.

Members Present: Chairman Wobbema, Vice-Chairman Axtman, Senator Boschee, Senator Larson, Senator Powers.

Discussion Topics:

- Esthetician license requirements
- Salon ownership eligibility

10:19 a.m. Chairman Wobbema opened discussion on previous testimony #38436 and #38502.

10:27 a.m. Senator Axtman moved Amendment LC#25.8014.02001.

10:27 a.m. Senator Powers seconded the motion.

Senators	Vote
Senator Mike Wobbema	Y
Senator Michelle Axtman	Y
Senator Josh Boschee	Y
Senator Diane Larson	Y
Senator Michelle Powers	Y

Motion passed 5-0-0.

10:29 a.m. Senator Axtman moved Do Pass as Amended.

10:29 a.m. Senator Boschee seconded the motion.

Senators	Vote
Senator Mike Wobbema	Y
Senator Michelle Axtman	Y
Senator Josh Boschee	Y
Senator Diane Larson	Y
Senator Michelle Powers	Y

Motion passed 5-0-0.

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Senator Axtman will carry the bill.

10:30 a.m. Chairman Wobbema closed the hearing.

Andrew Ficek, Committee Clerk

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED HOUSE BILL NO. 1126

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Cosmetology)

CO
4/3/25
1 of 30

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

43-11-01. Definitions.

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

1. "Ablative esthetic procedure" means an esthetic procedure to excise, vaporize, disintegrate, or remove living tissue. Ablative procedures may not be performed by cosmetologists, estheticians, advanced estheticians, or manicurists.

- 1 2. "Advanced esthetician" means an individual who practices advanced esthetics and
2 esthetics.
- 3 3. "Advanced esthetics" means the practice of advanced cosmetic preparations or
4 procedures using the hands or a mechanical or electronic apparatus for esthetic
5 purposes.
- 6 a. The term includes:
- 7 (1) Advanced chemical peels;
- 8 (2) Microneedling; and
- 9 (3) Nonablative procedures; and
- 10 (4) Extractions using lancets.
- 11 b. The term does not include:
- 12 (1) Procedures to treat a medical, physical, or mental ailment; or
- 13 (2) Ablative esthetic procedures.
- 14 4. "Apprentice" means an individual who is:
- 15 a. At least sixteen years of age;
- 16 b. Employed in an apprenticeable occupation; and
- 17 c. Registered in North Dakota by the office of apprenticeship of the United States
18 department of labor.
- 19 5. "Apprentice program" means a program registered with the office of apprenticeship of
20 the United States department of labor, meeting the terms and conditions for
21 qualifications, recruitment, selection, employment, and training of apprentices,
22 including the requirement for a written apprenticeship agreement between an
23 apprentice and an active licensee in an active licensed establishment in accordance
24 with the rules adopted by the board.
- 25 6. "Apprentice trainer" means an individual who trains an apprentice in an approved
26 apprenticeship program and who is approved by rule of the board.
- 27 7. "Approved apprenticeship establishment" means an establishment approved by rule of
28 the board.
- 29 8. "Board" means the state board of cosmetology.
- 30 2-9. "Cosmetologist" means an individual licensed under this chapter to practice
31 cosmetology.

- 1 ~~3.10.~~ "Cosmetology" means any one or a combination of practices generally and usually
2 performed by and known as the occupation of beauty culturists or cosmeticians or
3 cosmetologists or hairdressers, or of any other individual holding out as practicing
4 cosmetology by whatever designation and within the meaning under this chapter and
5 in and upon whatever place or premises.
- 6 a. The term includes:
- 7 (1) Hair care, including arranging, dressing, curling, waving, permanent waving,
8 cleansing, cutting, shaving, trimming, singeing, bleaching, coloring,
9 straightening, or similar work, upon the hair of any individual by any means
10 or with hands or mechanical or electrical apparatus or appliances;
- 11 (2) ~~Skin care~~ Esthetics;
- 12 (3) Manipulation and application of product to eyelashes and eyebrows,
13 including extensions, design, treatment, tinting, and lightening;
- 14 (4) Hair extensions using chemical hair joint agents, such as synthetic tape,
15 keratin bonds, or fusion bonds; and
- 16 (5) Manicuring.
- 17 b. The term does not include natural hair braiding or threading.
- 18 ~~4.11.~~ "Esthetician" means an individual licensed under this chapter to practice esthetics and
19 ~~skin care.~~
- 20 ~~5.12.~~ "Esthetics" means ~~manipulation and application of product to eyelashes and~~
21 ~~eyebrows, including extensions, design, treatment, tinting, and lightening and skin~~
22 ~~care.~~ the practice of a variety of services to beautify or improve the appearance of the
23 skin.
- 24 a. The term includes:
- 25 (1) Beautifying, massaging, cleansing, or stimulating the skin of the human
26 body by the use of cosmetic preparations, antiseptics, tonics, lotions, or
27 creams;
- 28 (2) Use of a device to care for the skin, including microdermabrasion,
29 dermaplaning, or high frequency;
- 30 (3) Cosmetic peels using a concentration of less than:
- 31 (a) Thirty percent alpha hydroxy acid;

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- 1 (b) Twenty percent beta hydroxy acid;
- 2 (c) Fifteen percent resorcinol; or
- 3 (d) Fifteen percent trichloroacetic acid;
- 4 (4) Application of cosmetics, eyelashes, or eyelash extensions;
- 5 (5) Perming, laminating, tinting, or lightening eyebrows, eyelashes, or other hair
- 6 on the body; or
- 7 (6) Depilating, tweezing, shaving, sugaring, or waxing hair from the body.
- 8 b. The term does not include:
- 9 (1) Any procedure invading living tissue below the stratum corneum layer of the
- 10 epidermis by any means;
- 11 (2) Threading hair removal; or
- 12 (3) Advanced esthetic procedures.
- 13 6.13. "Independent licensee" ismeans a licensed individual who maintains a separate salon
- 14 license and operates independently from the establishment owner in which the
- 15 individual's suite or chair is locatedpractices cosmetology, manicuring, esthetics, or
- 16 advanced esthetics at a location within, but separate, from a cosmetology
- 17 establishment. The licensee must abide by the same provisions of this chapter as an
- 18 establishment.
- 19 7.14. "Instructor" means an individual who is a licensed cosmetologist, esthetician,
- 20 advanced esthetician, or manicurist who teaches cosmetology, esthetics, manicuring,
- 21 or other practices within the scope of the individual's license, in a duly registered
- 22 school of cosmetology, and who has met the requirements of section 43-11-27 and
- 23 has applied for and received an instructor's license.
- 24 8. "Invasive care" means any procedure that invades the live tissue of the dermis by any
- 25 means, including cutting, puncturing, burning, insertion of instruments, and includes:
- 26 a. Laser use; and
- 27 b. Chemical peels using:
- 28 (1) Thirty percent or higher concentration of alpha hydroxy acid;
- 29 (2) Twenty percent or higher concentration of beta hydroxy acid;
- 30 (3) Two percent or higher concentration of resorcinol;
- 31 (4) Fifteen percent or higher concentration of trichloroacetic acid (TCA); or

- 1 ~~(5)~~ Fifteen percent or higher concentration of phenol.
- 2 9.15. "Manicuring" means:
- 3 a. Cleansing, cutting, shaping, or beautifying nails;
- 4 b. Massaging from the elbow to the fingertips or knee to toes of any individual;
- 5 c. Caring for and treating the cuticles and nails; and
- 6 d. The application and removal of sculptured or otherwise artificial nails by hand or
- 7 with mechanical or electrical apparatus or appliances.
- 8 ~~10.16.~~ "Manicurist" means an individual licensed under this chapter to practice manicuring.
- 9 ~~11.17.~~ "Master cosmetologist" means an individual who has met the requirements of section
- 10 43-11-26 and has applied for and received a master cosmetologist license.
- 11 ~~12.18.~~ "Master esthetician" means an individual who has met the requirements of section
- 12 43-11-26 and has applied for and received a master esthetician license.
- 13 ~~13.19.~~ "Master manicurist" means an individual who has met the requirements of section
- 14 43-11-26 and has applied for and received a master manicuring license.
- 15 ~~14.~~ "Mechanical device" means a clip, comb, crochet hook, curler, curling iron, hairpin,
- 16 roller, scissors, blunt-tipped needle, thread, and hair binder.
- 17 ~~15.20.~~ "Natural hair braiding" means the service of twisting, wrapping, weaving, extending,
- 18 locking, or braiding hair by hand or with a mechanical device. Natural hair braiding is
- 19 commonly known as "African-style hair braiding" but is not limited to any particular
- 20 cultural, ethnic, racial, or religious forms of hairstyles hair manipulation that results in
- 21 tension on hair strands by beading, braiding, cornrowing, extending, lacing, locking,
- 22 sewing, twisting, weaving, or wrapping human hair, natural fibers, synthetic fibers, and
- 23 hair extensions into a variety of shapes, patterns, and textures by hand or by using
- 24 simple hair braiding devices.
- 25 a. The term includes:
- 26 ~~(1)~~ The use of natural or synthetic hair extensions, natural or synthetic hair and
- 27 fibers, and decorative beads and other hair accessories;
- 28 ~~(2)~~ Minor trimming of natural hair or hair extensions incidental to twisting,
- 29 wrapping, weaving, extending, locking, or braiding hair;
- 30 ~~(3)~~(1) The making of wigs from natural hair, natural fibers, synthetic fibers, and
- 31 hair extensions; and

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1 noninvasive care and work on the body of any individual. The term does not include
2 invasive care or threading.

3 ~~20-25.~~ "Student" means any individual who is engaged in the learning or acquiring of any or
4 all the practices of cosmetology and while so learning, performs or assists in any of
5 the practices of cosmetology in any school registered or licensed and under the
6 immediate supervision of an instructor licensed as such under this chapter.

7 ~~21-26.~~ "Student instructor" means a cosmetologist, esthetician, advanced esthetician, or
8 manicurist who is receiving instruction in teacher's training within the scope of the
9 individual's license in a duly registered school of cosmetology.

10 ~~22-27.~~ "Threading" means the method of removing hair from the eyebrows, upper lip, or other
11 body part by using cotton thread to pull hair from follicles.

12 a. The term may include the use of an over-the-counter astringent, gel, and powder,
13 tweezers, and scissors, incidental to the removal of hair by threading.

14 b. The term does not include the use of chemicals, heat, or any type of wax.

15 ~~23-28.~~ "Tuition" means the total cost of an individual's cosmetology studies, and does not
16 include 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 provided by individuals practicing cosmetology upon members of the
22 individual's immediate families.
- 23 2. Services by nurses, undertakers, and morticians lawfully engaged in the performance
24 of the usual and ordinary duties of their vocation.
- 25 3. Educational activities conducted in connection with any regularly scheduled meeting or
26 any educational activities of any bona fide association of licensed cosmetologists,
27 estheticians, advanced esthetician, or manicurists from which the general public is
28 excluded. For purposes of this subsection, a "bona fide association of cosmetologists"
29 means any organization whose constitution, bylaws, or membership rules establish
30 within said organization a class of membership consisting of licensed cosmetologists,
31 estheticians, advanced estheticians, or manicurists.

- 1 4. 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 5. Services provided in a licensed hospital, basic care facility, or a nursing home by an
- 6 individual practicing cosmetology on a volunteer basis without compensation or by a
- 7 ~~nurse's assistant~~ facility staff.
- 8 6. ~~Skin care~~ Advanced esthetic procedures provided by a licensed cosmetologist or
- 9 ~~esthetician outside of a licensed salon if the services are being provided under the~~
- 10 ~~supervision, control, and responsibility of a physician;~~
- 11 a. Physician or physician assistant practicing ~~within the scope of the physician's or~~
- 12 ~~physician assistant's license under chapter 43-17; or nurse;~~
- 13 b. Nurse practicing ~~within the scope of the nurse's license under chapter 43-12.1;~~
- 14 c. Dentist or dental surgeon practicing under chapter 43-28;
- 15 d. Optometrist practicing under chapter 43-13; or
- 16 e. Chiropractor practicing under chapter 43-06.

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

19 **43-11-03. State board of cosmetology - Appointment - Term - Removal.**

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

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

29 **43-11-04. Members of board - Qualifications.**

30 Each member of the board must be a ~~citizen~~ an eligible voting resident of this state and
31 have at least three years of practical experience in the occupation. ~~Three of the members of the~~

~~board must each be a licensed cosmetologist who has had at least three years' practical experience in the occupation. One member of the board must have professional experience as a secondary teacher or as a postsecondary educator. One member of the board must be a licensed health care provider.~~ The board must consist of at least three licensed cosmetologists, and one licensed cosmetology instructor, and a secondary teacher or a, or postsecondary educator. The remaining three Three members may be any of the following:

1. A licensed cosmetologist;
2. A licensed esthetician;
3. A licensed advanced esthetician; or
4. A licensed manicurist.

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

Material changes.

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

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

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

1. The members of the board annually shall elect a president and a secretary from the members of the board.
2. The president and the secretary may administer oaths.
3. The board may adopt rules necessary to implement this chapter shall:
 - a. Adopt and enforce rules to administer this chapter after collaborating with affected parties;
 - b. Employ administrative staff and additional staff positions as needed;
 - c. Set fees, manage funds, and authorize expenditures necessary for board operations;
 - d. Collect and analyze data;
 - e. Maintain a registry of licensees and registered individuals;
 - f. Issue licenses for cosmetologists, estheticians, advanced estheticians, manicurists, instructors, establishments, independent licensees, and schools;
 - g. Adopt and enforce rules for continuing competence of licensees and registrants;

- 1 h. Regulate cosmetology practices; and
- 2 i. Issue practice statements regarding the interpretation and application of this
- 3 chapter.

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

6 **43-11-06. Compensation of members of board - How paid.**

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

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

16 **43-11-08. Meetings of the board.**

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

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

22 **43-11-10. Records of board - Fees - Expenses - How paid.**

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

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

3 **43-11-11. Rules of cleaning and disinfecting - Practice outside salon.**

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

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

12 **43-11-13. License required.**

13 An individual may not:

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

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

23 **Noninvasive care limitation - Advanced esthetic exception.**

- 24 1. The practice of cosmetology, manicuring, or esthetics is limited to noninvasive care. A
25 cosmetologist, manicurist, or esthetician may not alter, cut, puncture, or damage any
26 living cells whether superficially or through the use of laser, light, or energy.
- 27 2. Certain advanced esthetic services, as determined by rule adopted by the board, may
28 be limited in scope or required to be performed under the supervision or direction of a
29 physician or physician assistant licensed under chapter 43-17 or an advanced
30 registered nurse licensed under chapter 43-12.1, who is sufficiently trained or certified
31 in the procedure being supervised.

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

3 **43-11-14. Licenses - Board to issue - Form - Displayed.**

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

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

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

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

- 12 1. ~~A salon~~An establishment may be owned by any person authorized to do business in
13 this state.
 - 14 a. ~~A cosmetology salon must be supervised by a master cosmetologist.~~
 - 15 b. ~~A salon providing only skin care or esthetics must be supervised by a master~~
16 ~~cosmetologist or master esthetician.~~
 - 17 c. ~~A manicuring salon must be supervised by a master cosmetologist or master~~
18 ~~manicurist.~~
- 19 2. The board shall determine the qualifications by rule for licensure and license fees for a
20 ~~salon license~~an establishment.

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

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

- 24 1. Each new establishment, independent licensee, and school must be inspected by the
25 board or the board's designee to determine compliance with the laws, rules, and
26 regulations of this chapter as determined by the board.
- 27 2. Each establishment, independent licensee, and school must be subject to routine
28 inspections as determined by the board.
- 29 3. An establishment, independent licensee, or school may be subject to additional
30 inspections if the establishment, independent licensee, or school:
 - 31 a. Had a violation in a previous inspection;

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- 1 b. Changed ownership;
- 2 c. Did not timely renew the license; or
- 3 d. Is on probation because of disciplinary action from the board.
- 4 4. A reinspection fee, determined by the board, may be charged for additional
- 5 inspections under subsection 3.
- 6 5. Inspections must be made during the establishment's regular hours of operation, or
- 7 anytime the instruction or practice of cosmetology, esthetics, advanced esthetics, or
- 8 manicuring is conducted, unless otherwise agreed by all interested persons.
- 9 6. Inspections may be authorized by the board or its executive director and the
- 10 authorized inspection may be conducted with or without notice to the licensee.

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

13 **Inspection generated by a complaint.**

- 14 1. Each establishment, independent licensee, and school may be subject to inspection
- 15 by the board or its designee, in response to a specific complaint filed with the board for
- 16 a violation of a law, rule, or regulation under this chapter.
- 17 2. Any inspection generated by a complaint may be authorized by the board or the
- 18 board's executive director at any time.

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

21 **Refusal to allow inspection.**

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

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

26 **43-11-16. Schools of cosmetology - Qualifications for licensure.**

- 27 1. A license must be granted to a school of cosmetology upon an application to the board
- 28 and the payment of the license fee if the school:
- 29 a. Is operated and maintained in premises separate from ~~any cosmetology salon~~ an
- 30 establishment;
- 31 b. Requires training and instruction to be a minimum of ~~one~~;

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- 1 (1) ~~One~~ thousand five hundred hours of training and instruction in cosmetology,
 - 2 ~~six;~~
 - 3 (2) ~~Six~~ hundred hours of training and instruction in esthetics, or three;
 - 4 (3) ~~Three~~ hundred fifty hours of training and instruction in manicuring, not to
 - 5 ~~exceed eight hours per day; or~~
 - 6 (4) Eleven hundred hours for advanced esthetics;
- 7 c. Employs at least two full-time equivalent licensed instructors and maintains a
- 8 maximum student-to-instructor ratio of twenty-four-to-one based on current
- 9 enrollment, except a school that provides training and instruction limited to
- 10 esthetics, advanced esthetics, or manicuring shall maintain a maximum
- 11 student-to-instructor ratio of twelve-to-one based on current enrollment;
- 12 d. Possesses apparatus and equipment sufficient for the proper and full teaching of
- 13 all subjects of its curriculum;
- 14 e. Maintains a record of the attendance and performance of each student;
- 15 f. Maintains regular class and instruction hours to include practical demonstrations
- 16 and theoretical studies supplemented by audiovisual aids, and studies in
- 17 ~~sanitation~~disinfection, sterilization, infection control, and other safety measures
- 18 ~~and the use of antiseptics, cosmetics, and electrical appliances~~ consistent with
- 19 the practical and theoretical requirements as applicable to ~~cosmetology~~all
- 20 curriculums;
- 21 g. Agrees not to:
- 22 (1) Permit any student to practice on any individual who is not an instructor or
- 23 registered student of the school until the student has completed at least
- 24 twenty percent of the total hours of instruction required under this chapter
- 25 and only if the practice is under the immediate direction and supervision of a
- 26 licensed instructor; or
- 27 (2) Compensate any of the school's basic students in any way; and
- 28 h. At the time of application for licensure and upon the renewal of a license,
- 29 furnishes to the board, and maintains in force at all times the license is in effect, a
- 30 bond in the penal sum of ten thousand dollars. The bond must run in favor of the
- 31 board, as agent of the state, and must be furnished by a surety company

1 authorized to do business in this state. It must be conditioned upon the bonded
2 school's providing its registered students with the full course of instruction
3 required under this chapter and must provide for a refund of a proportionate
4 amount of each student's tuition fee upon default.

5 2. A student enrolled in the training or who has completed the training of the esthetician
6 or cosmetologist curriculum in part or as a whole at a board-licensed school or who is
7 a holder of an active North Dakota license as a cosmetologist or esthetician license
8 will may receive up to six hundred hours credit toward advanced esthetics requirement
9 as allowed by rule.

10 2-3. Any school that enrolls student instructors shall set up an adequate course of training
11 with the approval of the board and consisting of:

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

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

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

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

21 **43-11-16.1. Internships and apprenticeship programs.**

22 1. The board may establish internships with the schools of cosmetology and may
23 establish apprenticeship programs. The board may adopt, and rules related to the
24 licensure and discipline of interns and apprentices practicing in programs established
25 under this section. Apprenticeship programs allow for direct entry of individuals into an
26 approved training program under this chapter.

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

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

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

3. To act as an apprentice trainer, an individual must be approved by the board. To be approved, the trainer must:
 - a. Hold a current license in the practice of which the individual is providing training for a minimum of three consecutive years; and
 - b. Complete board-approved educator training.
4. If an approved apprenticeship program or apprenticeship establishment implements changes affecting the information required to be provided to the board under this section or rules adopted under this section, the revised information must be submitted to the board before implementing the changes.
5. The board or the board's designee shall audit and inspect approved apprenticeship establishments for compliance with this chapter at least annually.
 - a. If the board determines that an approved apprenticeship establishment is not maintaining the standards required by this chapter, written notice must be given.
 - b. An approved apprenticeship establishment that fails to correct the conditions listed in the notice to the satisfaction of the board within a reasonable time may be subject to penalty.
6. An approved apprenticeship establishment shall post a notice to consumers in the reception area of the establishment stating that services may be provided by an apprentice. The notice must state: "This establishment is a participant in a state-approved apprenticeship program. Apprentices in this program are in training and have not yet received a license."

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

Licensed nursing facilities, homes, basic care facilities, and assisted living centers.

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

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

1 **43-11-19. Students - Registration.**

2 1. A student must:

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

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

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

7 e.d. Have enrolled in a school of cosmetology and complied with the preliminary
8 requirements ~~thereof~~ of the school.

9 2. ~~The names and qualifications of all students~~ A student registration form for each
10 student must be ~~certified~~ submitted to the board office by each school of
11 cosmetology enrollment. The ~~certification~~ registration form must be accompanied by a
12 processing the fee for each student in an amount ~~as may be~~ determined by the board
13 under section 43-11-28.

14 **SECTION 22. AMENDMENT.** Section 43-11-20.3 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-11-20.3. Cancellation of contract for instruction.**

17 Any person has the unrestricted right to rescind, revoke, or cancel a contract for a course of
18 instruction at any school of cosmetology after entering into the contract without incurring any
19 tort or contract liability.

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

22 **43-11-21. Cosmetologist, esthetician, advanced esthetician, manicurist license -**

23 **Examination required - Application - Examination - Fees.**

24 Each individual who desires to secure a cosmetologist, esthetician, advanced esthetician,
25 or manicurist license shall file with the board a written application under oath on a form supplied
26 by the board. The application must be accompanied by ~~all of the following~~:

27 1. An examination fee ~~as may be~~ fixed by the board ~~pursuant to~~ under section 43-11-28.;

28 2. Satisfactory proof that the applicant has completed the ~~required training in a school of~~
29 cosmetology board-approved training requirements; and

30 3. A fee for original licensure as required by section 43-11-28.

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

3 **43-11-23. Examination.**

4 The examination of applicants for license to practice under this chapter must be conducted
5 under rules adopted by the board and must include both practical demonstrations and written or
6 oral tests in reference to theoretical examinations on the practices for which a license is desired
7 and in reference to related studies or subjects as the board may determine necessary for the
8 proper and efficient performance of a practice. The board may require the practical portion of
9 the examination be conducted by schools of cosmetology as part of graduation requirements.
10 The examination may not be confined to any specific system or method and must be consistent
11 with the practical and theoretical requirements of cosmetology.

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

14 **43-11-24. Cosmetologist, esthetician, advanced esthetician, or manicurist license -**
15 **When issued - Failure to pass examination - Re-examination.**

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

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

26 **43-11-25. Licensure by reciprocity endorsement.**

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

- 29 1. The applicant has:
- 30 a. Provided satisfactory proof of a license in good standing with the District of
31 Columbia, or any other state, territory, foreign country, or province where the

- 1 requirements are equally substantial to those in force in this state at the time the
2 application for the license is filed; or
- 3 b. ~~Provided satisfactory proof:~~
- 4 (1) ~~The applicant is licensed in good standing in any other state, territory, or~~
5 ~~jurisdiction of the United States to practice cosmetology;~~
- 6 (2) ~~The applicant worked in the licensed profession for at least three of the past~~
7 ~~five years; and~~
- 8 (3) ~~A license granted to the applicant in any other state, territory, or jurisdiction~~
9 ~~of the United States is not subject to suspension or revocation, or otherwise~~
10 ~~restricted in any manner for disciplinary purposes.~~
- 11 2. ~~The applicant passes to the satisfaction of the board an examination on North Dakota~~
12 ~~laws, rules, and regulations.~~
- 13 1. As used in this section, "issuing jurisdiction" means the duly constituted authority in
14 another state, territory, foreign country or province that issued a license to an
15 individual.
- 16 2. The board shall issue a license to a cosmetologist, esthetician, advanced esthetician,
17 or manicurist applicant:
- 18 a. Without an examination if the out-of-state applicant:
- 19 (1) Is licensed by another jurisdiction with similar scope of work through
20 substantially similar or equivalent licensure standards of examination; the
21 other jurisdiction verifies the out-of-state applicant met minimum education
22 requirements to be licensed in that jurisdiction; the out-of-state applicant has
23 maintained good standing in all jurisdictions in which the person holds a
24 license for at least one year before making application to the North Dakota
25 state board of cosmetology;
- 26 (2) Has not had a license revoked and has not voluntarily surrendered a license
27 in any other issuing jurisdiction or country while under investigation;
- 28 (3) Pays all applicable fees; and
- 29 (4) Has not had discipline imposed by any other regulating entity in this state or
30 another issuing jurisdiction or country. If another jurisdiction has taken
31 disciplinary action against the applicant, the board shall determine if the

1 cause for the action was corrected and the matter resolved. If the board
2 determines the matter has not been resolved by the jurisdiction imposing
3 discipline, the board shall not issue or deny a license to the person until the
4 matter is resolved.

5 b. If the following conditions are met:

6 (1) The out-of-state applicant is currently licensed by another jurisdiction and
7 the jurisdiction verifies the applicant met the requirements of that
8 jurisdiction;

9 (2) Any out-of-state license held by the applicant, is and has been maintained in
10 good standing;

11 (3) The applicant provides satisfactory proof of completing the course
12 curriculum by:

13 (a) Completion of the hours required by the board; or

14 (b) Substantially equal work experience, determined at a rate of one
15 thousand hours as equivalent to one hundred course curriculum
16 hours, capped at five hundred hours if gained in the three years
17 immediately preceding the application;

18 (4) The applicant's license has not been revoked or voluntarily surrendered in
19 any other issuing jurisdiction while under investigation;

20 (5) The applicant has not been disciplined by any other regulating entity in this
21 state or another issuing jurisdiction, or the board determined the cause for
22 the action was corrected and the matter resolved; and

23 (6) The applicant pays all applicable fees.

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

26 **Applications to practice cosmetology - Active-duty military members - Veterans -**
27 **Spouses.**

28 1. Active-duty military members, spouses of active-duty military members, veterans and
29 spouses of veterans, are eligible for provisional licensure under this chapter.

- 1 2. Active-duty military members and spouses of active-duty military members are exempt
2 from having to take an examination to practice under this chapter while on active-duty
3 status, upon filing the following:
 - 4 a. A board-approved application;
 - 5 b. Proof the applicant holds an active license in good standing, or an equivalent, to
6 practice cosmetology in another state, or territory of the United States, for the two
7 years immediately preceding the application, and the applicant's license remains
8 active and in good standing in the original jurisdiction; and
 - 9 c. In the case of:
 - 10 (1) An application from an active-duty military member, a copy of the member's
11 current military orders or current military identification card; or
 - 12 (2) An application from a spouse of an active-duty military member, provide the
13 following:
 - 14 (a) Proof the applicant is married to an active-duty military member by
15 providing a copy of a marriage certificate; and
 - 16 (b) Proof the spouse is assigned to a duty station in this state by
17 providing a copy of the official active-duty military orders or proof the
18 spouse has been assigned to active duty in a foreign country and the
19 applicant is relocating to the state during the spouse's deployment.
- 20 3. A provisional license issued under subsection 2 must be:
 - 21 a. Valid for three years from the date of original issuance;
 - 22 b. Renewable with proof military orders continue to be active in the state; and
 - 23 c. Issued without a fee.
- 24 4. For six months following honorable discharge from active duty, veterans and spouses
25 of veterans are exempt from having to take an examination to practice under this
26 chapter and may be issued a provisional license upon filing the following:
 - 27 a. A board approved application;
 - 28 b. Proof the applicant holds an active license in good standing, or an equivalent to
29 practice cosmetology in another state or territory of the United States, for the two
30 years immediately preceding the application, and the applicant's license remains
31 active and in good standing in the original jurisdiction; and

- 1 c. In the case of:
- 2 (1) An application from a veteran, a copy of the members discharge papers.
- 3 (2) An application from a spouse of a veteran, provide the following:
- 4 (a) Proof the applicant is married to the veteran by providing a copy of a
- 5 marriage certificate; and
- 6 (b) A copy of the spouse's discharge papers.
- 7 5. A provisional license issued under subsection 4 must be:
- 8 a. Valid for three years from the date of original issuance;
- 9 b. Nonrenewable; and
- 10 c. Issued without a fee.
- 11 6. If discharge of the veteran occurred more than six months prior, veterans and spouses
- 12 of veterans may be eligible to obtain a license to practice cosmetology in the state
- 13 under section 43-11-25.
- 14 7. The board shall prioritize and expedite an application received under this section from
- 15 an active-duty military member, the spouse of an active-duty military member, a
- 16 veteran, spouse of a veteran, or the surviving spouse of a veteran. The board shall
- 17 record, track, and monitor applications under this section.

18 **SECTION 28. AMENDMENT.** Section 43-11-26 of the North Dakota Century Code is

19 amended and reenacted as follows:

20 **43-11-26. Master cosmetologist, master esthetician, and master manicurist - License -**

21 **Qualifications.**

22 An individual may obtain a master cosmetologist, master esthetician, or master manicurist

23 license upon meeting all the following requirements:

- 24 1. Furnishing to the board evidence of having practiced as a cosmetologist, esthetician,
- 25 or manicurist for at least one thousand hours. Cosmetologists may obtain hours under
- 26 the direction and control of a master cosmetologist. Estheticians may obtain hours
- 27 under the direction and control of a master cosmetologist or master esthetician.
- 28 Manicurists may obtain hours under the direction and control of a master
- 29 cosmetologist or master manicurist. Cosmetologists and estheticians may obtain a
- 30 master license under the direction, control, and responsibility of a licensed advanced
- 31 esthetician, a physician, or a physician assistant practicing within the scope of

1 licensure under chapter 43-17 or a nurse practicing within the scope of the nurse's
2 license under chapter 43-12.1.

3 2. Paying an original licensure fee as set forth in section 43-11-28.

4 3. Complying with the other requirements under this chapter applicable to a master
5 license.

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

8 **43-11-27. Instructor's license - Student instructor's license - Registration -**
9 **Qualifications.**

- 10 1. No individual may be licensed as an instructor of cosmetology unless the individual
11 passes a theory and a practical examination required by the board after paying the
12 examination fee set forth in section 43-11-28 and provides evidence of having a
13 general education equivalent to the completion of four years in high school. An
14 applicant:
- 15 a. Shall possess a current North Dakota license as a cosmetologist, esthetician,
16 advanced esthetician, or manicurist; and must
 - 17 b. Must have at least nine hundred sixty hours instructor's training in cosmetology in
18 a school of cosmetology;
 - 19 b. Shall possess a current North Dakota license as a cosmetologist, esthetician, or
20 manicurist and must have been actively engaged in the practice under the scope
21 of the applicant's license for at least one year before application for an
22 instructor's license, supplemented by not less than four hundred eighty hours
23 instructor's training in a school of cosmetology or course of training approved by
24 the board; or
 - 25 e. Shall possess a current North Dakota license as a cosmetologist, esthetician, or
26 manicurist and shall have been actively engaged in the practice of cosmetology
27 for at least three years prior to application for an instructor's license
28 supplemented by not less than one hundred sixty hours instructor's training in a
29 school of cosmetology or course of training approved by the board. No instructor
30 or student instructor may be permitted to practice cosmetology on a patron other
31 than that part of practical work which pertains directly to the teaching of practical

1 ~~operations to students~~ completed the required hours of instructor's training in a
2 school of cosmetology or course approved by the board.

3 2. An instructor or student instructor may not practice cosmetology on a patron at a
4 school other than as part of practical work pertaining directly to the teaching of
5 students.

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

21 3.4. ~~No individual is entitled to renew an instructor's license unless the instructor has~~
22 ~~furnished to the board evidence of completion of the continuing education established~~
23 ~~by the board by rule.~~

24 4.5. ~~Licensed estheticians and manicurists may only provide instruction within the scope of~~
25 ~~practice of the respective licenses determined under this chapter.~~

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

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

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

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

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

6 **Advanced esthetician license - Grandfather provision.**

- 7 1. A cosmetologist or esthetician licensed in this state with practical experience of at
8 least one year immediately preceding the enactment date of this Act, may apply for an
9 advanced esthetician license until December 31, 2027, if the applicant:
 - 10 a. Completes a board-approved four-hour safety and infection control training;
 - 11 b. Obtains an active occupational safety and health administration bloodborne
12 pathogens certification;
 - 13 c. Obtains an active ~~red cross~~board-approved first aid and cardiopulmonary
14 resuscitation certification; and
 - 15 d. Provides:
 - 16 (1) A notarized affidavit from a supervising medical professional certifying the
17 applicant worked under the direct supervision and control of a licensed
18 physician or physician assistant practicing under chapter 43-17, or nurse
19 under chapter 43-12.1, for a minimum of three hundred hours of actual
20 service work within five years immediately preceding application; or
 - 21 (2) Proof of completing one hundred fifty hours of advanced esthetic training
22 approved by the board.
- 23 2. A cosmetologist or esthetician licensed in this state who fails to meet the requirements
24 in subsection 1 or fails to apply by December 31, 2027, ~~will be required to~~must
25 complete five hundred hours of training in advanced esthetics in a board-approved
26 program.

27 **SECTION 32. AMENDMENT.** Section 43-11-28 of the North Dakota Century Code is
28 amended and reenacted as follows:

43-11-28. Fees and qualifications.

1. The board shall determine the qualifications for licensure of cosmetologists, estheticians, advanced estheticians, manicurists, instructors, establishments, independent licensees, and schools, and may issue licenses upon approval.

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

a. Original registrations, licenses, and annual renewals:		MAXIMUM FEE:
(1)	Salons, original registration	\$80.00 per year
(2)	Salons, renewal	\$30.00 per year
(3)	School of cosmetology, original registration	\$505.00 per year
(4)	School of cosmetology, annual renewal	\$205.00 per year
(5)	Cosmetologist, original license	\$15.00 per year
(6)	Cosmetologist, annual renewal	\$15.00 per year
(7)	Master cosmetologist, original license	\$25.00 per year
(8)	Master cosmetologist, annual renewal	\$20.00 per year
(9)	Instructor, original license	\$35.00 per year
(10)	Instructor, renewal	\$20.00 per year
(11)	Reciprocity license fee	\$105.00 per year
(12)	Registration fee for student	\$15.00 per year
(13)	Duplicate license	\$10.00 per year
(14)	Certification fee	\$20.00 per year
b. Late fees:		
(1)	Late renewal within one year	\$50.00
(2)	Late renewal after one year but before five years	\$150.00
c. Examinations:		
(1)	Cosmetology practical examination	\$25.00
(2)	Instructors practical examination	\$55.00
(3)	Written examination fees are set and collected by the administrator of the examination and payment is the responsibility of the applicant.	

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1	<u>a. Fees:</u>	<u>MAXIMUM FEE:</u>
2	(1) <u>Establishment, original license</u>	<u>\$150.00</u>
3	(2) <u>Establishment, annual renewal</u>	<u>\$100.00 per year</u>
4	(3) <u>Independent licensee, original license</u>	<u>\$150.00</u>
5	(4) <u>Independent licensee, annual renewal</u>	<u>\$100.00 per year</u>
6	(5) <u>School, original license</u>	<u>\$550.00</u>
7	(6) <u>School, annual renewal</u>	<u>\$250.00 per year</u>
8	(7) <u>Advanced esthetician, original license</u>	<u>\$50.00</u>
9	(8) <u>Advanced esthetician, annual renewal</u>	<u>\$50.00 per year</u>
10	(9) <u>Cosmetologist, original license</u>	<u>\$50.00</u>
11	(10) <u>Cosmetologist, annual renewal</u>	<u>\$50.00 per year</u>
12	(11) <u>Master cosmetologist, original license</u>	<u>\$50.00</u>
13	(12) <u>Master cosmetologist, annual renewal</u>	<u>\$50.00 per year</u>
14	(13) <u>Esthetician, original license</u>	<u>\$50.00</u>
15	(14) <u>Esthetician, annual renewal</u>	<u>\$50.00 per year</u>
16	(15) <u>Master esthetician, original license</u>	<u>\$50.00</u>
17	(16) <u>Master esthetician, annual renewal</u>	<u>\$50.00 per year</u>
18	(17) <u>Instructor, original license</u>	<u>\$50.00</u>
19	(18) <u>Instructor, renewal</u>	<u>\$50.00 per year</u>
20	(19) <u>Manicurist, original license</u>	<u>\$50.00</u>
21	(20) <u>Manicurist, annual renewal</u>	<u>\$50.00 per year</u>
22	(21) <u>Master manicurist, original license</u>	<u>\$50.00</u>
23	(22) <u>Master manicurist, annual renewal</u>	<u>\$50.00 per year</u>
24	(23) <u>Duplicate license</u>	<u>\$20.00</u>
25	(24) <u>Individual or business name change</u>	<u>\$20.00</u>
26	(25) <u>Reciprocity license fee</u>	<u>\$105.00</u>
27	(26) <u>Registration fee for apprentice</u>	<u>\$15.00</u>
28	(27) <u>Registration fee for apprentice trainer</u>	<u>\$25.00</u>
29	(28) <u>Registration fee for student</u>	<u>\$15.00</u>
30	(29) <u>Re-inspection fee</u>	<u>\$75.00</u>
31	(30) <u>Transcript fee</u>	<u>\$20.00</u>

- 1 a. Applying to the board and paying the applicable renewal fee; and
- 2 b. Taking the required annual continuing education hours if applicable.

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

5 **43-11-29. License renewal - Failure to renew.**

- 6 1. A license issued by the board expires on December thirty-first. If the application for
7 renewal is not received on or before the expiration date, the license expires.
- 8 2. The board may renew a license if:
 - 9 a. An application for renewal is submitted as provided by the board;
 - 10 b. The renewal fee is paid; and
 - 11 c. Grounds for denial do not exist under section 43-11-31.
- 12 3. The holder of an expired license, within one year from and after the date of the
13 license's expiration, may obtain a reinstatement of the license upon:
 - 14 a. Payment of the required late fee; and
 - 15 b. Payment of the current renewal fee.
- 16 4. The holder of an expired license, one year after the date of expiration but before five
17 years, may obtain a reinstatement of the license upon:
 - 18 a. Payment of the required late fee; and
 - 19 b. Payment of the current renewal fee; and
 - 20 ~~b-c.~~ FurnishingFurnishment to the board of satisfactory proof of passing the North
21 Dakota law, rules, and regulations examination.
- 22 5. The board may not reinstate a license if more than five years has lapsed since the
23 license expired. If a license has not been renewed within five years, the individual may
24 reapply for licensure under the requirements of initial licensure as set forth under this
25 chapter.

26 **SECTION 34.** A new section to chapter 43-11 of the North Dakota Century Code is created
27 and enacted as follows:

28 **Establishment, independent licensee license renewal - Failure to renew.**

- 29 1. An establishment license issued by the board expires annually on December thirty-
30 first. If the application for renewal is not received on or before the expiration date, the
31 license expires.

- 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. The holder of an expired establishment or independent license, within twelve months
- 6 from the date of the license's expiration, may obtain a reinstatement of the
- 7 establishment license upon:
- 8 a. Payment of the required late fee; and
- 9 b. Payment of the current renewal fee.
- 10 4. After twelve months from the date of the license's expiration, the holder of an expired
- 11 establishment or independent license seeking licensure shall pay the required late
- 12 penalty fee for each year not renewed and reapply for establishment or independent
- 13 licensure under this chapter.

14 **SECTION 35.** A new section to chapter 43-11 of the North Dakota Century Code is created
15 and enacted as follows:

16 **School license renewal - Failure to renew.**

- 17 1. A school license issued by the board expires annually on December thirty-first. If the
- 18 application for renewal is not received on or before the expiration date, the license
- 19 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. A school license not renewed within thirty days of expiration may be cause for
- 25 disciplinary action.

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

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

**REPORT OF STANDING COMMITTEE
ENGROSSED HB 1126**

Workforce Development Committee (Sen. Wobbema, Chairman) recommends **AMENDMENTS** ([25.8014.02001](#)) and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). Engrossed HB 1126 was placed on the Sixth order on the calendar. This bill does not affect workforce development.