

INTEGRATED LEGISLATIVE DRAFT
AMENDMENTS TO NORTH DAKOTA CENTURY CODE CHAPTER 43-11
REPEAL OF NORTH DAKOTA CENTURY CODE CHAPTER 43-04

Incorporating barber licensing and regulation into Chapter 43-11
while maintaining barber and hair design as separate license categories

Prepared for the North Dakota State Board of Cosmetology
August , 14, 2026

PROPOSED AMENDMENTS TO
NORTH DAKOTA CENTURY CODE
CHAPTER 43-11

~~COSMETOLOGISTS~~ COSMETOLOGY, BARBERING, AND RELATED PROFESSIONS

Working legislative draft prepared for review by the North Dakota State Board of Cosmetology

Text of current law shown in standard type. Language proposed for removal shown in
strikethrough. Language proposed for addition shown with underline.

CHAPTER 43-11

~~COSMETOLOGISTS~~ COSMETOLOGY, BARBERING, AND RELATED PROFESSIONS

43-11-01. Definitions.

In this chapter:

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~~ an individual licensee.

2. "Advanced chemical exfoliant" means a chemical exfoliating agent intended to cause controlled injury below the stratum corneum layer of the epidermis for cosmetic skin rejuvenation. An advanced chemical exfoliant may be applied in multiple layers in accordance with the manufacturer's instructions but may not penetrate below the epidermis.

~~2.~~ 3. "Advanced esthetician" means an individual who practices advanced esthetics and esthetics.

~~3.~~ 4. "Advanced esthetics" means the practice of advanced cosmetic preparations or procedures using the hands or a mechanical or electronic apparatus for esthetic purposes. The term applies when the services are performed for compensation or any other thing of value, either directly or indirectly.

a. The term includes:

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

b. The term does not include:

- (1) Procedures to treat a medical, physical, or mental ailment; or
- (2) Ablative esthetic procedures.

~~4.~~ 5. "Apprentice" means an individual who is:

- a. At least sixteen years of age;
- b. Employed in an apprenticeable occupation; and
- c. Registered in North Dakota by the office of apprenticeship of the United States department of labor.

~~5.~~ 6. "Apprentice program" means a program registered with the office of apprenticeship of the United States department of labor, meeting the terms and conditions for qualifications, recruitment, selection, employment, and training of apprentices, including the requirement for a written apprenticeship agreement between an apprentice and an active licensee in an active licensed establishment in accordance with the rules adopted by the board.

~~6.~~ 7. "Apprentice trainer" means an individual who trains an apprentice in an approved apprenticeship program and who is approved by rule of the board.

~~7.~~ 8. "Approved apprenticeship establishment" means an establishment approved by rule of the board.

9. "Barber" means an individual licensed under this chapter to practice barbering.

10. "Barbering" means the practice of providing cosmetic services relating to the hair, scalp, face, and neck. The term applies when the services are performed for compensation or any other thing of value, either directly or indirectly.

a. The term includes:

(1) Hair care services, including shampooing, conditioning, cutting, styling, coloring, chemical restructuring, and other cosmetic services relating to the hair;

(2) Shampooing, scalp care, scalp massage, and scalp treatment;

(3) Shaving, including beard and mustache services;

(4) Singeing and the application of hair tonics; and

(5) Facial and scalp treatment and massage performed by hand or with a hot towel, and the application of topical cosmetic preparations, antiseptics, powders, oils, clays, tonics, or lotions, other than a chemical exfoliant or advanced chemical exfoliant, to the scalp, face, or neck. A service under this paragraph is limited to the nonliving cells of the stratum corneum layer of the epidermis and may not invade living tissue below that layer by any means.

b. The term does not include:

(1) Hair extension services;

(2) Esthetics, except as provided in this section;

(3) Advanced esthetics; or

(4) Nail technology.

~~8.~~ ~~9.~~ 11. "Board" means the state board of cosmetology.

12. "Chemical exfoliant" means a nonprescription, commercially available exfoliating agent that is intended solely to remove nonliving cells from the stratum corneum layer of the epidermis.

13. "Combination device" means an instrument, apparatus, or device that incorporates or is capable of delivering more than one mechanical, laser, light-based, or energy-based technology.

~~9.~~ ~~12.~~ 14. "Cosmetologist" means an individual licensed under this chapter to practice cosmetology.

~~10.~~ ~~13.~~ ~~15.~~ "~~Cosmetology~~" means ~~any one or a combination of practices generally and usually performed by and known as the occupation of beauty culturists or cosmeticians or cosmetologists or hairdressers, or of any other individual holding out as practicing cosmetology by whatever designation and within the meaning under this chapter and in and upon whatever place or premises.~~ "Cosmetology"

means the combined practice of hair technology, esthetics, and nail technology. The term applies when the services are performed for compensation or any other thing of value, either directly or indirectly.

a. The term includes:

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

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

16. "Energy-based device" means an instrument, apparatus, or device, other than a laser device or light-based device, that emits, transfers, delivers, or applies nonionizing energy to living tissue as its primary mechanism of action for cosmetic or esthetic purposes.

17. "Establishment" means a location at which services regulated under this chapter are provided.

a. The term includes a salon or shop or a mobile establishment.

b. The term does not include:

- (1) A school;
- (2) A nursing home, basic care facility, or assisted living center exempt from the establishment license requirement under section 43-11-15.1;

~~11. 16. 18.~~ "Esthetician" means an individual licensed under this chapter to practice esthetics.

~~12. 17. 19.~~ "Esthetics" means the practice of ~~a variety of services~~ providing cosmetic or esthetic services to beautify or improve the appearance of the skin. The term applies when the services are performed for compensation or any other thing of value, either directly or indirectly.

a. The term includes:

- (1) ~~Beautifying, massaging, cleansing, or stimulating the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams;~~ Cleansing, moisturizing, or stimulating the skin, or performing facial, scalp, neck & upper décolleté massage or facial lymphatic drainage of the face and neck, or upper décolleté, lymphatic drainage incidental to facial services, through the use of cosmetic preparations, antiseptics, tonics, lotions, or creams;

- (2) ~~Use of a device to care for the skin, including microdermabrasion, dermaplaning, or high frequency;~~ The use of mechanical esthetic devices within the scope of practice established by rule;
- (3) ~~Cosmetic peels using a concentration of less than;~~ Application of chemical exfoliants intended to affect only the stratum corneum layer of the epidermis, within the scope of practice established by rule. Chemical exfoliation may not be performed in multiple layers or in combination with another exfoliation procedure during the same service;
- (a) ~~Thirty percent alpha hydroxy acid;~~
- (b) ~~Twenty percent beta hydroxy acid;~~
- (c) ~~Fifteen percent resorcinol; or~~
- (d) ~~Fifteen percent trichloroacetic acid;~~
- (4) Application of cosmetics, eyelashes, or eyelash extensions;
- (5) Perming, laminating, tinting, or lightening eyebrows, eyelashes, or other ~~hair on the body; or~~ body hair; and
- (6) Depilating, tweezing, shaving, sugaring, or waxing hair from the body; and
- (7) Photobiomodulation, within the scope of practice established by rule.

b. The term does not include:

- (1) ~~Any procedure invading~~ Procedures invading living tissue below the stratum corneum layer of the epidermis by any means;
- (2) Threading hair removal; ~~or~~
- (3) Advanced esthetic procedures; or
- (4) Hair technology procedures.

20. "Facial lymphatic drainage" means the application of manual techniques to the face and upper decollete for cosmetic or esthetic purposes to temporarily reduce the appearance of puffiness, promote relaxation, or improve the cosmetic appearance of the skin. The term does not include the diagnosis or treatment of lymphedema, lymphatic disorders, edema associated with disease or injury, or any medically indicated lymphatic drainage.

21. "Hair technology" means the practice of providing cosmetic services relating to the hair and scalp. The term applies when the services are performed for compensation or any other thing of value, either directly or indirectly.

a. The term includes:

- (1) Hair care services, including shampooing, conditioning, cutting, styling, coloring, chemical restructuring, and other cosmetic services relating to the hair;
- (2) Hair enhancement services, including extensions, wefts, hairpieces, wigs, toppers, and similar additions
- (3) Shampooing, scalp care, and scalp massage incidental to hair services; and
- (4) Shaving incidental to hair services as outlined under this chapter; and

- 2 (5) Trimming or shaping of the beard and mustache.
- 3 b. The term does not include:
- 4 (1) Barbering;
- 5 (2) Esthetics;
- 6 (3) Nail technology; or
- 7 (4) Natural hair braiding
- 8 22. "Hair technician" means an individual licensed under this chapter to practice hair
- 9 design.
- 10 23. "High-frequency device" means a mechanical esthetic device that produces a low-
- 11 current, high-voltage alternating electrical current through a glass electrode for
- 12 cosmetic or esthetic purposes, including skin care or stimulation. The term does not
- 13 include radiofrequency devices, plasma devices, or other energy-based devices.
- 14 ~~13. 22. 24. "Independent licensee" means a licensed individual who maintains a~~
- 15 ~~separate license and practices cosmetology, manicuring, esthetics, or advanced~~
- 16 ~~esthetics at a location within, but separate, from a cosmetology establishment. The~~
- 17 ~~licensee must abide by the same provisions of this chapter as an establishment.~~
- 18 "Independent licensee" means an individual who holds a license issued under this
- 19 chapter and who practices independently of, while under a workspace agreement
- 20 with, a licensed establishment.
- 21 25. "Individual licensee" means an individual who holds a personal license issued
- 22 under this chapter as a cosmetologist, barber, hair technician, esthetician, advanced
- 23 esthetician, nail technician, master, or instructor. The term does not include an
- 24 independent licensee.
- 25 ~~14. 24. 26. "Instructor" means an individual who is a licensed~~ barber, cosmetologist,
- 26 hair technician, esthetician, advanced esthetician, or ~~manicurist~~ nail technician ~~who~~
- 27 teaches barbering, cosmetology, hair technology, esthetics, advanced esthetics,
- 28 ~~manicuring nail technology, or other practices within the scope of the individual's~~
- 29 license, in a duly registered school of cosmetology, and who has met the
- 30 requirements of section 43-11-27 and has applied for and received an instructor's
- 31 license.
- 32 27. "Laser device" means an instrument, apparatus, or device that emits coherent light
- 33 through stimulated emission of radiation for cosmetic or esthetic purposes.
- 34 28. "Licensee" means a person holding a license issued under this chapter.
- 35 29. "Light-based device" means an instrument, apparatus, or device, other than a laser
- 36 device, that emits optical energy for cosmetic or esthetic purposes.
- 37 ~~15. "Manicuring" means:~~
- 38 ~~a. Cleansing, cutting, shaping, or beautifying nails;~~
- 39 ~~b. Massaging from the elbow to the fingertips or knee to toes of any individual;~~
- 40 ~~c. Caring for and treating the cuticles and nails; and~~
- 41 ~~d. The application and removal of sculptured or otherwise artificial nails by hand or~~
- 42 ~~with mechanical or electrical apparatus or appliances.~~

- ~~16. "Manicurist" means an individual licensed under this chapter to practice manicuring.~~
30. "Master barber" means an individual who has met the requirements of section 43-11-26 and has applied for and received a master barber license.
- ~~17. 28. 31.~~ 31. "Master cosmetologist" means an individual who has met the requirements of section 43-11-26 and has applied for and received a master cosmetologist license.
- ~~18. 29. 32.~~ 32. "Master esthetician" means an individual who has met the requirements of section 43-11-26 and has applied for and received a master esthetician license.
33. "Master hair technician" means an individual who has met the requirements of section 43-11-26 and has applied for and received a master hair technician license.
- ~~19. 30. 34. "Master manicurist"~~ "Master nail technician" means an individual who has met the requirements of section 43-11-26 and has applied for and received a master manicuring nail technician license.
35. "Mechanical esthetic device" means an instrument, apparatus, or device that produces its intended cosmetic or esthetic effect primarily through physical contact, abrasion, suction, pressure, fluid movement, oscillation, vibration, or other predominantly mechanical means and does not rely on laser, light, or nonionizing energy as its primary mechanism of action.
36. "Microneedling" means a procedure that involves the creation of controlled micro-channels in the skin using a device or apparatus consisting of multiple small needles, cones, or similar single-use tips. Microneedling encompasses cosmetic needling and advanced needling as defined by rules adopted by the board.
37. "Mobile establishment" means an establishment operated within a self-contained and enclosed motor vehicle or trailer that is designed or permanently modified for providing, cosmetology, barbering, hair technology, esthetic, or nail technology services and is capable of remaining stable and safely supporting its occupants, equipment, and activities while services are being performed.
- a. The term does not include:
- (1) A tent, booth, kiosk, portable workstation, or temporary structure;
 - (2) A motor vehicle used solely to transport a licensee, equipment, or supplies to a location where regulated services are performed outside the motor vehicle;
 - (3) A licensee providing services outside an establishment as authorized under section 43-11-11 and rules adopted by the board; or
 - (4) A school.
- b. Unless otherwise provided under this chapter or rules adopted by the board, a mobile establishment is subject to every requirement applicable to an establishment.
38. "Nail technician" means an individual licensed under this chapter to practice nail technology.

2 39. "Nail technology" means the practice of providing cosmetic services relating to the
3 fingernails, toenails, hands, and feet. The term applies when the services are
4 performed for compensation or any other thing of value, either directly or
5 indirectly.

6 a. The term includes:

7 (1) Nail care services;

8 (2) Cosmetic care of the forearm, hands, lower leg and feet;

9 (3) Artificial nail enhancement services; and

10 (4) Application of cosmetic preparations and the use of devices within the
11 scope of practice established by rule.

12 b. The term does not include:

13 (1) Procedures intended to alter, cut, puncture, damage, destroy, or otherwise
14 invade living tissue; or

15 (2) Esthetics or advanced esthetic procedures.

16 (3) Hair technology procedures; or

17 (4) Barbering procedures.

18 ~~20. 36.~~ 40. "Natural hair braiding" means hair manipulation that results in tension on
19 hair strands by beading, braiding, cornrowing, extending, lacing, locking, sewing,
20 twisting, weaving, or wrapping human hair, natural fibers, synthetic fibers, and hair
21 extensions into a variety of shapes, patterns, and textures by hand or by using
22 simple hair braiding devices.

23 a. The term includes:

24 (1) The making of wigs from natural hair, natural fibers, synthetic fibers, and
25 hair extensions;

26 (2) The use of topical agents, such as conditioners, gels, moisturizers, oils,
27 pomades, and shampoos; and

28 (3) The maintenance of natural hair braids.

29 b. The term does not include the use of penetrating chemical hair treatments,
30 chemical hair coloring agents, chemical hair straightening agents, chemical hair
31 joining agents, permanent wave styles, or chemical hair bleaching agents
32 applied to growing human hair.

33 c. For purposes of this section, "simple hair braiding devices" means clips, combs,
34 curlers, curling irons, hairpins, rollers, scissors, needles, thread, and hair
35 binders, including adhesives, required for hair braiding.

36 ~~21. 37.~~ 41. "Nonablative esthetic procedure" means the use of a ~~laser, light, or energy~~
37 ~~device~~ laser device, light-based device, or energy-based device for the purpose of
38 skin rejuvenation, body contouring, dyschromia reduction, cellulite reduction, hair
39 removal, hair reduction, or tattoo removal and is not intended to excise, vaporize,
40 disintegrate, or remove living tissue. The term does not include
41 photobiomodulation.

- ~~22. 38.~~ 42. "Noninvasive care" means procedures or services limited to nonliving cells in the stratum corneum layer of the epidermis.
43. "Nonionizing energy" means energy that does not have sufficient energy to remove electrons from atoms or molecules and includes optical, electrical, electromagnetic, magnetic, radiofrequency, acoustic, ultrasonic, plasma, thermal, cryothermal, cryogenic, and other nonionizing forms of energy.
44. "Photobiomodulation" means the application of nonionizing light at an irradiance and radiant dose that does not rely on thermal injury as the intended mechanism of action to alter or modulate biological activity. Photobiomodulation may be delivered through a laser device, light-based device, or other nonionizing light source. The term does not include intense pulsed light or any laser or light-based procedure that relies on selective photothermolysis, coagulation, ablation, vaporization, cutting, tissue destruction, or other intentional thermal injury.
45. "Registrant" means an individual registered with the board under this chapter as a student, student instructor, apprentice, or apprentice trainer.
- ~~23. 42.~~ 46. "Salon or shop" means an establishment, other than a mobile establishment, in a fixed location, not used as sleeping or living quarters, licensed under this chapter where cosmetology, barbering, hair technology, esthetic, advanced esthetic, or nail technology services are provided.
- ~~24. 43.~~ 47. "School" means ~~an establishment~~ a location licensed under this chapter and operated for the purpose of teaching ~~cosmetology, esthetics, advanced esthetics, or manieuring~~ one or more practices regulated under this chapter.
- ~~25. 44.~~ 48. "Student" means ~~any individual who is engaged in the learning or acquiring of any or all the practices of cosmetology and while so learning, performs or assists in any of the practices of cosmetology in any school registered or licensed and under the immediate supervision of an instructor licensed as such under this chapter.~~ an individual enrolled in a school licensed under this chapter who is learning or acquiring proficiency in one or more practices regulated under this chapter and who, performs or assists in performing those practices under the immediate supervision of an instructor licensed under this chapter and employed by the school.
- ~~26. 45.~~ 49. "Student instructor" means a barber, cosmetologist, hair technician, esthetician, advanced esthetician, or manieurist nail technician who is receiving instruction in teacher's training within the scope of the individual's license in a duly registered school of cosmetology.
- ~~27. 46.~~ 50. "Threading" means the method of removing hair from the eyebrows, upper lip, or other body part by using cotton thread to pull hair from follicles.
- a. The term may include the use of an over-the-counter astringent, gel, and powder, tweezers, and scissors, incidental to the removal of hair by threading.
- b. The term does not include the use of chemicals, heat, or any type of wax.
- ~~28. 47.~~ 51. "Tuition" means the total cost of an individual's cosmetology studies, and does not include books or demonstration kits.

2 52. "Workspace agreement" means a written agreement between a licensed
3 establishment and an independent licensee under which the licensee is authorized to
4 use a workspace within the establishment. The agreement need not provide
5 exclusive or continuous use.

6 **43-11-new. Classification of devices and technologies.**

7 1. Technology-neutral classification. The classification of a device or technology under
8 this chapter is determined by its primary mechanism of action and the manner in
9 which it produces its intended cosmetic or esthetic effect, rather than its trade
10 name, marketing description, manufacturer designation, or advertised use.

11 2. Combination devices. A combination device is classified under each category of
12 technology the device is capable of delivering. A combination device may be used
13 within an establishment by individuals authorized to perform different services.
14 Each individual may use only the functions, treatment modes, handpieces,
15 applicators, and settings within the individual's scope of practice. A function or
16 component outside the scope of an advanced esthetician may remain within the
17 establishment if the function or component is used by a licensed health care
18 practitioner authorized to perform the service. The establishment must use
19 reasonable physical or electronic safeguards to prevent the function or component
20 from being activated or used by an individual who is not authorized to perform the
21 service. A procedure that delivers more than one technology is subject to the
22 requirements applicable to each technology delivered and may be performed only
23 by a licensee authorized to use each of them.

24 3. Board authority. In administering this chapter, the board may apply the definitions
25 established by this chapter to devices or technologies. Such application does not
26 expand or modify the scope of practice established by this chapter or rules adopted
27 under this chapter.

28 4. Relationship between definitions and scope. The definitions contained in this chapter
29 classify devices and technologies only and do not independently authorize the
30 performance of any procedure or establish the scope of practice for any license. The
31 scope of practice for each license is established by this chapter and rules adopted
32 under this chapter.

33 5. Scope limitation. The use of any mechanical esthetic device, laser device, light-
34 based device, energy-based device, or combination device is limited to the
35 procedures and anatomical areas authorized within the applicable scope of practice
36 established by this chapter and rules adopted under this chapter.

37 **43-11-02. Exemptions from provisions of chapter.**

38 This chapter does not apply to:

- 39 1. Services provided by individuals practicing ~~cosmetology~~ a practice regulated under
40 this chapter upon members of the individual's immediate families.
- 41 2. Services by ~~nurses~~, undertakers, ~~and~~ morticians, and persons employed by an
42 undertaker or mortician lawfully engaged in the performance of the usual and
43 ordinary duties of their vocation or employment.

3. Educational activities conducted in connection with any regularly scheduled meeting or any educational activities of any bona fide association of ~~licensed cosmetologists, estheticians, advanced estheticians, or manicurists~~ individual licensees from which the general public is excluded. For purposes of this subsection, a "bona fide association of cosmetologists" means any organization whose constitution, bylaws, or membership rules establish within said organization a class of membership consisting of ~~licensed cosmetologists, estheticians, advanced estheticians, or manicurists~~ individual licensees.
4. Services provided by retailers or their sales personnel trained in the demonstration of cosmetics application if no fee, compensation or any other thing of value, either directly or indirectly is charged or received for the application and the cosmetics are applied only with ~~disposable~~ single-use 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, basic care facility, or a nursing home by an individual practicing ~~cosmetology~~ a practice regulated under this chapter on a volunteer basis without compensation or by a facility staff.
6. Advanced esthetic procedures provided by a licensed:
- a. Physician or physician assistant practicing under chapter 43-17;
 - b. Nurse practicing under chapter 43-12.1;
 - c. Dentist or dental surgeon practicing under chapter 43-28;
 - d. Optometrist practicing under chapter 43-13; or
 - e. Chiropractor practicing under chapter 43-06.

An individual exempt under this section may not advertise, hold out to the public, or represent in any manner that the individual is a cosmetologist, barber, hair technician, esthetician, medical esthetician, advanced esthetician, or nail technician.

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

The state board of cosmetology consists of seven members appointed by the governor for three years each, with their terms of office so arranged that no more than 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~~ impairment caused by alcohol or another substance. A vacancy on the board must be filled by appointment by the governor for the unexpired term.

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

Each member of the board must be an eligible voting resident of this state and have at least three years of practical experience in the occupation. The board must consist of at least ~~three~~ two licensed cosmetologists, one licensed barber, and one licensed cosmetology, barber instructor, secondary teacher, or postsecondary educator. Three members may be any of the following:

1. A licensed cosmetologist;

- 2 2. A licensed barber;
3 ~~2.~~ 3. A licensed hair technician;
4 ~~2.~~ ~~3.~~ 4. A licensed esthetician;
5 ~~3.~~ ~~4.~~ 5. A licensed advanced esthetician; or
6 ~~4.~~ ~~5.~~ 6. A licensed ~~manicurist~~ nail technician.

7 **43-11-05. Officers of board - Powers - Rulemaking.**

- 8 1. The members of the board annually shall elect a president and a secretary from the
9 members of the board.
10 2. The president and the secretary may administer oaths.
11 3. The board shall:
12 a. Adopt and enforce rules to administer this chapter after collaborating with
13 affected parties;
14 b. Employ administrative staff and additional staff positions as needed;
15 c. Set fees, manage funds, and authorize expenditures necessary for board
16 operations;
17 d. Collect and analyze data;
18 e. Maintain a registry of licensees and registered individuals;
19 f. Issue licenses for cosmetologists, barbers, hair technicians, estheticians,
20 advanced estheticians, ~~manicurists,~~ nail technicians, instructors, establishments,
21 independent licensees, and schools as provided under this chapter;
22 g. Adopt and enforce rules for continuing competence of licensees and registrants;
23 h. Regulate ~~cosmetology practices; and~~ practices governed by this chapter;
24 i. Issue practice statements regarding the interpretation and application of this
25 chapter; and
26 j. Issue cease and desist orders and immediate temporary cessation orders under
27 section 43-11-new (cease and desist orders - immediate temporary cessation
28 orders - enforcement) and seek judicial enforcement or injunctive relief to halt
29 unlicensed or unauthorized practice.

30 **43-11-06. Compensation of members of board - How paid.**

31 Each appointed member of the board is entitled to receive compensation in an amount
32 determined by the board by rule, for services rendered in the performance of the
33 member's duties under this chapter. Expenses incurred by a board member in the
34 performance of an official function are payable by the board pursuant to sections 44-
35 08-04 and 54-06-09. The compensation and expenses of all members of the board must
36 be paid from the license fees and other sources of income of the board.

37 **43-11-07. Bond of secretary.**

38 Before entering upon the discharge of duties, the secretary of the board must be bonded
39 for the faithful discharge of duties in the amount of five thousand dollars, and the

premium for the bond must be paid out of the funds received by the board. The bond and oath of office must be deposited with the secretary of state.

43-11-08. Meetings of the board.

The board shall meet at least 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.

43-11-09. Fees - Deposited with state treasurer - Expenses - How paid.

Repealed by S.L. 1971, ch. 510, section 15.

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.

43-11-10.1. Material changes to practice act.

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

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~~ An individual licensee may practice outside of a licensed establishment under rules adopted by the board. The board shall inspect establishments and schools to assure compliance with rules of cleaning and disinfecting.

43-11-11.1. Use of brush rollers authorized.

Repealed by S.L. 2025, ch. 386, section 36.

43-11-12. Employees of board.

The board may employ support staff and other individuals knowledgeable in ~~cosmetology~~ the practices regulated under this chapter for conducting examinations, inspections, and investigations of licensees regulated under this chapter. Any individual employed by the board is entitled to receive expenses in the amounts payable under sections 44-08-04 and 54-06-09.

43-11-13. License required.

~~An individual~~ A person may not:

- 2 1. Advertise, engage in, or attempt to engage in ~~the practice of cosmetology, esthetics,~~
3 ~~advanced esthetics, or manicuring~~ a practice regulated under this chapter, or
4 conduct an establishment , mobile establishment, or school ~~of cosmetology~~ unless
5 having first obtained the proper license.
- 6 2. Employ an unlicensed individual to perform ~~cosmetology~~ services regulated under
7 this chapter unless otherwise provided under this chapter.
- 8 3. Operate or advertise a motor vehicle or trailer as a mobile establishment unless the
9 motor vehicle or trailer is licensed by the board as a mobile establishment.
- 10 4. Operate, conduct, or advertise an establishment, mobile establishment, or school
11 without first obtaining the proper license, or provide, offer to provide, permit the
12 provision of, or advertise services regulated under this chapter at a location the
13 person knows or reasonably should know does not hold the license required under
14 this chapter.

15 A person acts knowingly if the person knows or, in the exercise of reasonable
16 diligence, should know the fact in question. Reasonable diligence includes verifying
17 licensure through the registry maintained by the board under section 43-11-05. OR A
18 person acts knowingly if the person knows, or reasonably should know, the fact in
19 question. Reasonable diligence includes, but is not limited to, checking the board's
20 registry under section 43-11-05 to verify licensure

21 A person claiming an exemption or authorization under section 43-11-02, 43-11-11, or
22 43-11-15.1 has the burden of establishing that the exemption or authorization applies.

23 **43-11-13.1. License - Master esthetician and master manicurist.**

24 Repealed by S.L. 2021, ch. 309, section 31.

25 **43-11-13.2. Homebound license.**

26 Repealed by S.L. 2021, ch. 309, section 31.

27 **43-11-14. Licenses - Board to issue - Form - Displayed.**

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

- 30 1. Signed by the secretary of the board;
31 2. Attested by the seal of the board; and
32 3. Displayed in clear view to the public.

33 **43-11-new. Professional titles - Barber pole - Deceptive acts.**

- 34 1. A person may not advertise, hold out to the public, or represent in any manner that
35 the person is authorized to practice cosmetology, barbering, hair technology,
36 esthetics, advanced esthetics, or nail technology unless the person holds the license
37 required under this chapter or is authorized to employ or lease space to an
38 individual who holds the license required under this chapter.
- 39 2. A person not authorized to practice barbering, and not authorized to employ or lease
40 space to a barber, may not place a barber pole in a location that would create or

tend to create the impression to members of the general public that a business located near the barber pole provides barbering services.

3. As used in this section, "barber pole" means a red, white, or blue striped vertical cylinder with a ball located on the top, bottom, or top and bottom of the cylinder, or any object or facsimile of similar nature, regardless of the actual shape or coloring, if the object or facsimile would tend to create an impression to members of the general public that a business located near the object provides barbering services.

43-11-15. Establishment ownership and operation.

1. An establishment or mobile establishment may be owned by any person authorized to do business in this state.
2. The board shall determine ~~the qualifications by rule for licensure and license fees for an establishment~~ by rule the qualifications for licensure and operation of an establishment or mobile establishment.
3. A mobile establishment license must be issued to a specific motor vehicle or trailer and may not be transferred to another motor vehicle or trailer.
4. A change in ownership or replacement of the motor vehicle or trailer requires a new mobile establishment license.
5. An individual may not practice as an independent licensee unless the individual holds an independent licensee license for each establishment with which the individual maintains a workspace agreement. An independent licensee license may be issued only to one person.
6. An independent licensee may provide services within the establishment and, as authorized by rules adopted by the board, at temporary or offsite locations.
7. Except as otherwise provided by rules adopted by the board, an independent licensee is subject to the requirements of this chapter applicable to an establishment.

43-11-15.1. Exemption from licensing requirement - Licensed nursing homes, basic care facilities, and assisted living centers.

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

43-11-new. Mobile establishments.

1. A person may operate a mobile establishment when the motor vehicle or trailer is licensed by the board as a mobile establishment and each individual providing regulated services holds the license required under this chapter.
2. An application for a mobile establishment license must identify the motor vehicle or trailer, identify the categories of services to be offered, provide a permanent mailing address for board correspondence, and include proof that the motor vehicle or trailer is registered and insured as required by law. An applicant must pass a

preoperational inspection. The board may limit approval to the categories of services for which the mobile establishment satisfies the applicable requirements. A limitation of this kind applies to the services authorized within the mobile establishment and does not alter the scope of practice of an individual licensee.

3. A mobile establishment must be stationary and properly secured while regulated services are performed and must have potable water, wastewater capacity, electrical service, ventilation, sanitation facilities, and handwashing facilities adequate for the services offered, as established by rules adopted by the board. Toilet facilities must be located within the mobile establishment or within a reasonable distance of the mobile establishment and must be readily available during all hours of operation. Temporary utility connections, stabilizing or leveling devices, ramps, and removable steps do not constitute permanent attachment to real property.

4. A mobile establishment may not be permanently affixed to real property, be used as living or sleeping quarters, have a client present in the service area while in motion, or operate when a mechanical, electrical, water, wastewater, ventilation, or sanitation failure creates a risk to public health or safety.

5. All regulated services provided under the authority of a mobile establishment license must be performed within the licensed motor vehicle or trailer. This does not prohibit a licensee from providing services outside an establishment as authorized under section 43-11-11 and rules adopted by the board.

6. A mobile establishment license does not supersede or authorize a violation of an applicable state or local law, rule, or ordinance. The board may take disciplinary action for a material violation that directly affects the lawful or safe operation of the mobile establishment.

7. The board or board staff may inspect a mobile establishment at any location where it is operating. If the mobile establishment is not available for inspection at an operating location, the owner shall make it available at a reasonable location and time agreed upon with board staff, or at a reasonable location and time designated by the board if an agreement is not reached promptly. Failure to comply constitutes refusal to allow or interference with an inspection under section 43-11-39.

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

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

a. Is operated and maintained in premises separate from an establishment;

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

(1) One thousand five hundred hours in cosmetology;

(2) Six hundred hours in esthetics;

(3) Three hundred fifty hours in ~~manicuring~~ nail technology; ~~or~~

(4) Eleven hundred hours for advanced esthetics; or

(5) One thousand two hundred hours in hair technology; or

(6) One thousand five hundred hours in barbering.

- 2 c. ~~Employs at least two full-time equivalent licensed instructors and maintains a~~
3 ~~maximum student-to-instructor ratio of twenty-four-to-one based on current~~
4 ~~enrollment, except a school that provides training and instruction limited to~~
5 ~~esthetics, advanced esthetics, or manicuring shall maintain a maximum student-~~
6 ~~to-instructor ratio of twelve-to-one based on current enrollment;~~ Employs at
7 minimum two full-time equivalent licensed instructors to provide instruction
8 and supervision in accordance with the following:
- 9 (1) The required student-to-instructor ratio must be based on the number of
10 students present and the curricula actively being taught during the
11 instructional period.
- 12 (2) Each curriculum with students completing the training required under this
13 chapter must have a licensed instructor present and assigned to that
14 curriculum;
- 15 (3) An instructor assigned under this chapter may not simultaneously be
16 counted as an instructor supervising students on the clinic floor;
- 17 (4) An instructor on the clinic floor may supervise students from more than one
18 curriculum if the instructor is qualified to teach each curriculum and the
19 applicable student-to-instructor ratio is maintained;
- 20 (5) An instructor providing hands-on instruction, demonstrations, or
21 supervision of clinic-floor practice must be physically present with the
22 students at the location where the instruction or supervision occurs. Hands-
23 on instruction, demonstrations, and clinic-floor supervision may not be
24 provided virtually or through distance education; and
- 25 (6) The board shall establish by rule the student-to-instructor ratios applicable
26 to each curriculum and phase of training;
- 27 d. Possesses apparatus and equipment sufficient for the proper and full teaching of
28 all subjects of its curriculum;
- 29 e. Maintains a record of the attendance and performance of each student;
- 30 f. Maintains regular class and instruction hours to include practical demonstrations
31 and theoretical studies supplemented by audiovisual aids, and studies in
32 disinfection, sterilization, infection control, and other safety measures
33 consistent with the practical and theoretical requirements as applicable to all
34 curriculums;
- 35 g. Agrees not to:
- 36 (1) Permit any student to practice on any individual who is not an instructor or
37 registered student of the school until the student has completed at least
38 twenty percent of the total hours of instruction required under this chapter
39 and only if the practice is under the immediate direction and supervision of
40 a licensed instructor; or
- 41 (2) Compensate any of the school's basic students in any way; and
- 42 h. ~~At the time of application for licensure and upon the renewal of a license,~~
43 ~~furnishes to the board, and maintains in force at all times the license is in effect,~~
44 ~~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.~~ At the time of application for licensure and upon each renewal, furnishes to the board and maintains in force at all times while the license is in effect a surety bond:

- (1) Issued by a surety company authorized to do business in this state;
- (2) Payable to the board as agent of the state for the benefit of students enrolled in the school;
- (3) Conditioned upon the school's fulfillment of its contractual obligations to students, including providing the contracted course of instruction, paying any refund due upon the school's default, and providing or arranging an approved teach-out; and
- (4) In an amount equal to ten percent of the school's gross income during the preceding twelve months, but not less than ten thousand dollars or more than one hundred fifty thousand dollars.
- (5) A school that has no gross income from the preceding twelve months shall provide a bond of ten thousand dollars. Each separately licensed school shall maintain a separate bond. The school shall report and verify the gross income used to calculate the bond amount in the form and manner required by the board.
- (6) For purposes of this subdivision, "gross income" means the total amount received by a school from or on behalf of students enrolled in the school for tuition, fees, and other charges required for enrollment in or completion of a program. The term includes amounts received from a student, financial aid program, lender, governmental entity, or other person on behalf of a student. The term does not include:
 - (a) Revenue from services or products provided to the public through a student clinic or other school operation;
 - (b) Optional purchases;
 - (c) Amounts paid directly to an unrelated third party; or
 - (d) Amounts refunded to a student.
- (7) A school shall notify the board within thirty days after a bond is canceled, expires, or is not renewed. Providing notice does not relieve the school of the requirement to maintain continuous bond coverage. Cancellation, expiration, or nonrenewal does not discharge liability for an obligation arising while the bond was in force.
- (8) The board may adopt rules governing verification of gross income, adjustment of bond amounts for new or materially growing schools, claims against a bond, teach-out expenses, and distribution of bond proceeds.

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

- 2 school or who is a holder of an active North Dakota license as a cosmetologist or
3 esthetician license may receive up to six hundred hours credit toward advanced
4 esthetics requirements as allowed by rule.
- 5 3. Any school that enrolls student instructors shall set up a course of training consisting
6 of:
- 7 a. A minimum of two hundred forty hours for student instructors who have held a
8 cosmetology, barbering, hair technology, esthetician, advanced esthetician, or
9 ~~manicure~~ nail technician license for two or more years; or
- 10 b. Four hundred eighty hours for student instructors who have held a cosmetology,
11 barbering, hair technology, esthetician, advanced esthetician, or ~~manicure~~ nail
12 technician license less than two years.
- 13 4. A school may not have at any one time more than two student instructors for each
14 full-time equivalent licensed instructor actively engaged in the school.
- 15 5. The board may adopt rules establishing the credit a student or licensee may receive
16 toward the training required under this chapter for training satisfactorily completed
17 in another curriculum regulated under this chapter, including but not limited to
18 credit between the barbering, hair technician, and cosmetology curricula.

19 **43-11-16.1. Internships and apprenticeship programs.**

- 20 1. The board may establish internships, apprenticeship programs, and rules related to
21 the licensure and discipline of interns and apprentices practicing in programs
22 established under this section. Apprenticeship programs allow for direct entry of
23 individuals into an approved training program under this chapter.
- 24 2. An apprenticeship establishment participating in the apprenticeship program must:
- 25 a. Be an approved apprenticeship program conducted in an approved establishment
26 by the state office of apprenticeship; and
- 27 b. Provide the board with the names of all individuals acting as apprentice trainers.
- 28 3. To act as an apprentice trainer, an individual must be approved by the board. To be
29 approved, the trainer must:
- 30 a. Hold a current license in the practice of which the individual is providing
31 training for a minimum of three consecutive years; ~~and~~
- 32 b. Complete board-approved educator training; and
- 33 c. Submit a registration to the board. The registration must be accompanied by the
34 fee determined under section 43-11-28.
- 35 4. If an approved apprenticeship program or apprenticeship establishment implements
36 changes affecting the information required to be provided to the board under this
37 section or rules adopted under this section, the revised information must be
38 submitted to the board before implementing the changes.
- 39 5. The board or the board's designee shall audit and inspect approved apprenticeship
40 establishments for compliance with this chapter at least annually.

- 2 a. If the board determines that an approved apprenticeship establishment is not
3 maintaining the standards required by this chapter, written notice must be
4 given.
- 5 b. An approved apprenticeship establishment that fails to correct the conditions
6 listed in the notice to the satisfaction of the board within a reasonable time may
7 be subject to penalty.
- 8 6. An approved apprenticeship establishment shall post a notice to consumers in the
9 reception area of the establishment stating that services may be provided by an
10 apprentice. The notice must state: "This establishment is a participant in a state-
11 approved apprenticeship program. Apprentices in this program are in training and
12 have not yet received a license."

13 **43-11-17. Licenses issued for schools of cosmetology and cosmetology salons - Fee for**
14 **registration.**

15 Repealed by S.L. 2025, ch. 386, section 36.

16 **43-11-18. School advertising must disclose work done by students - Violation -**
17 **Cancellation of license.**

18 No person, firm, corporation, or limited liability company operating or conducting a
19 school ~~of cosmetology~~ may advertise to perform any of the practices ~~of cosmetology~~
20 regulated under this chapter without disclosing that the practice offered is to be
21 performed by students under the supervision of a licensed instructor. If any school
22 violates this section, the board, after notice and hearing and a determination of the
23 violation, shall cancel the license granted to the school.

24 **43-11-19. Students - Registration.**

25 1. A student must:

- 26 a. Adhere to the laws and rules regarding the practice of ~~cosmetology~~ the
27 profession for which the student is enrolled;
- 28 b. Be at least sixteen years old;
- 29 c. Complete at least a tenth grade education or equivalent; and
- 30 d. Have enrolled in a board-approved school ~~of cosmetology~~ and complied with the
31 preliminary requirements of the school.
- 32 e. Attend school up to but not exceeding forty-eight hours per week.

33 2. A student registration form for each student must be submitted to the board office by
34 each school of enrollment. The registration form must be accompanied by the fee
35 for each student in an amount determined by the board under section 43-11-28.

36 **43-11-20. Student practice.**

37 Repealed by S.L. 2021, ch. 309, section 31.

38 **43-11-20.1. Refund of student tuition fees upon cancellation of course.**

39 Schools ~~of cosmetology~~ shall refund tuition and other charges paid by or on behalf of a
40 student when written notice of cancellation is given by the student. Refunds must be
41 made in accordance with the following schedule:

2	Tuition Hours Enrolled	Retained By School
3	0.0% - 4.9%	20%
4	5% - 9.9%	30%
5	10% - 14.9%	40%
6	15% - 24.9%	45%
7	25% - 49.9%	70%
8	Over 50%	100%

9
10 Notice of this section and of sections 43-11-20.2 and 43-11-20.3 must be posted in
11 clear view to the public where services are being provided in each school ~~of~~
12 ~~cosmetology~~. The notice must be in a form and contain information as prescribed by
13 the board. The board shall take action necessary to enforce this section and sections 43-
14 11-20.2 and 43-11-20.3, including revocation of the license issued pursuant to ~~section~~
15 ~~43-11-17~~ section 43-11-16. This section does not prejudice the right of any student to
16 commence a civil action against any school ~~of cosmetology~~ for breach of contract or
17 fraud.

18 **43-11-20.2. Negotiation of promissory instruments.**

19 No school ~~of cosmetology~~ may negotiate any promissory instrument received as
20 payment for tuition or other charges prior to the completion of one-half of the course of
21 instruction offered by the school.

22 **43-11-20.3. Cancellation of contract for instruction.**

23 Any person has the unrestricted right to rescind, revoke, or cancel a contract for a
24 course of instruction at any school after entering into the contract without incurring any
25 tort or contract liability.

26 **43-11-20.4. Exemption from postsecondary license requirement - Solicitor's permit**
27 **required.**

28 Schools ~~of cosmetology~~ are exempt from the license requirement of chapter 15-20.4.
29 All individuals who solicit business for a school ~~of cosmetology~~ or who sell any course
30 of instruction shall secure a solicitor's permit and bond in an amount and under
31 conditions as established by the board.

32 **43-11-21. Barber, Cosmetologist, hair technician, esthetician, advanced esthetician,**
33 **~~manicurist~~ nail technician license - Examination required - Application -**
34 **Examination - Fees.**

35 Each individual who desires to secure a cosmetologist, barber, hair technician,
36 esthetician, advanced esthetician, or ~~manicurist~~ nail technician license shall file with
37 the board a written application under oath on a form supplied by the board. The
38 application must be accompanied by:

- 39 1. An examination fee fixed by the board under section 43-11-28;
- 40 2. Satisfactory proof that the applicant has completed the board-approved training
- 41 requirements; and
- 42 3. A fee for original licensure as required by section 43-11-28.

43-11-new. Authorization to work.

An individual applicant for licensure under this chapter must be authorized under federal law to work in the United States. The board may require proof of the applicant's authorization.

43-11-22. Board to determine qualifications of applicants - Delegation of power.

The qualifications of applicants for admission to examination for registration and for certification or licensure to practice under this chapter must be determined by the board. The board may delegate authority under this section to support staff.

43-11-23. Examination.

The examination of applicants for license to practice under this chapter must be conducted under rules adopted by the board and must include practical and theoretical examinations on the practices for which a license is desired, an examination on the laws of this state and the rules adopted by the board, and related studies or subjects as the board may determine necessary for the proper and efficient performance of a practice.

43-11-24. Cosmetologist, barber, hair technician, esthetician, advanced esthetician, or ~~manicurist~~ nail technician license - When issued - Failure to pass examination - Re-examination.

1. A cosmetologist, barber, hair technician, esthetician, advanced esthetician, or ~~manicurist~~ nail technician 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.

43-11-25. Licensure by endorsement.

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, barber, hair technician, esthetician, advanced esthetician, or ~~manicurist~~ nail technician 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:

(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.

43-11-25.1. ~~International applicants~~ Applicants with foreign credentials.

~~1. An applicant with training and credentials outside of the United States shall submit, at the applicant's own expense, qualifications, credentials, and work experience for review to a credentialing agency approved by the board.~~

~~2. Failure to have a review completed by the above credentialing agency may result in the board denying the application. The board may accept or refuse any recommendations made by the credentialing agency.~~

1. For purposes of this section, "United States jurisdiction" means a state, the District of Columbia, or a territory or possession of the United States.

2. Notwithstanding section 43-11-25, an applicant relying on education, training, or licensure obtained outside a United States jurisdiction who does not hold a current license in good standing from a United States jurisdiction shall:

a. Submit, at the applicant's expense, the applicant's education, training, licensure, and work experience for evaluation by a credentialing agency approved by the board; and

b. Pass all examinations required by the board for the license sought.

2. Notwithstanding section 43-11-25, an applicant relying on education, training, or licensure obtained outside a United States jurisdiction who does not hold a current license in good standing from a United States jurisdiction shall:

a. Submit, at the applicant's expense, the applicant's education, training, licensure, and work experience for evaluation by a credentialing agency approved by the board; and

b. Pass all examinations required by the board for the license sought.

3. An applicant who completed the applicant's education or training outside a United States jurisdiction, holds a current license in good standing from a United States jurisdiction, and whose initial license from a United States jurisdiction was issued within the year immediately preceding the application must pass the theory and practical examinations required by the board for initial licensure unless the applicant provides satisfactory proof of having passed the national interstate council of state boards of cosmetology examinations or substantially equivalent examinations accepted by the board.

4. The board may require additional education or training necessary to satisfy the requirements for licensure under this chapter.

43-11-25.2. Applications to practice ~~cosmetology~~ cosmetology, barbering and related professions under this chapter - 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, barbering or a related profession regulated under this chapter 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:

- 2 (a) Proof the applicant is married to an active-duty military member by
3 providing a copy of a marriage certificate; and
- 4 (b) Proof the spouse is assigned to a duty station in this state by providing a
5 copy of the official active-duty military orders or proof the spouse has
6 been assigned to active duty in a foreign country and the applicant is
7 relocating to the state during the spouse's deployment.
- 8 3. A provisional license issued under subsection 2 must be:
- 9 a. Valid for three years from the date of original issuance;
- 10 b. Renewable with proof military orders continue to be active in the state; and
- 11 c. Issued without a fee.
- 12 4. For six months following honorable discharge from active duty, veterans and
13 spouses of veterans are exempt from having to take an examination to practice
14 under this chapter and may be issued a provisional license upon filing the
15 following:
- 16 a. A board approved application;
- 17 b. Proof the applicant holds an active license in good standing, or an equivalent to
18 practice ~~cosmetology~~ cosmetology, barbering or a related profession regulated
19 under this chapter in another state or territory of the United States, for the two
20 years immediately preceding the application, and the applicant's license remains
21 active and in good standing in the original jurisdiction; and
- 22 c. In the case of:
- 23 (1) An application from a veteran, a copy of the members discharge papers.
- 24 (2) An application from a spouse of a veteran, provide the following:
- 25 (a) Proof the applicant is married to the veteran by providing a copy of a
26 marriage certificate; and
- 27 (b) A copy of the spouse's discharge papers.
- 28 5. A provisional license issued under subsection 4 must be:
- 29 a. Valid for three years from the date of original issuance;
- 30 ~~b. Nonrenewable; and~~
- 31 ~~e. b.~~ Issued without a fee; and
- 32 c. Renewable thereafter as a regular license upon payment of the applicable
33 renewal fee.
- 34 6. If discharge of the veteran occurred more than six months prior, veterans and
35 spouses of veterans may be eligible to obtain a license to practice ~~cosmetology~~
36 cosmetology, barbering or a related profession regulated under this chapter in the
37 state under section 43-11-25.
- 38 7. The board shall prioritize and expedite an application received under this section
39 from an active-duty military member, the spouse of an active-duty military
40 member, a veteran, spouse of a veteran, or the surviving spouse of a veteran. The
41 board shall record, track, and monitor applications under this section.

2 **43-11-26. Master cosmetologist, master barber, master hair technician, master**
3 **esthetician, and ~~master-manicurist~~ master nail technician - License - Qualifications.**

4 An individual may obtain a master cosmetologist, master barber, master hair
5 technician, master esthetician, or ~~master-manicurist~~ master nail technician license upon
6 meeting all the following requirements:

- 7 1. Furnishing to the board evidence of having practiced as a cosmetologist, barber, hair
8 technician, esthetician, or ~~manicurist~~ nail technician for at least one thousand hours.
9 Cosmetologists may obtain hours under the direction and control of a master
10 cosmetologist. Barbers may obtain hours under the direction and control of a
11 master barber or master cosmetologist. Hair technicians may obtain hours under the
12 direction and control of a master cosmetologist or master hair technician.
13 Estheticians may obtain hours under the direction and control of a master
14 cosmetologist or master esthetician. ~~Manicurists~~ Nail technicians may obtain hours
15 under the direction and control of a master cosmetologist or ~~master-manicurist~~
16 master nail technician. Cosmetologists and estheticians may obtain a master license
17 under the direction, control, and responsibility of a licensed advanced esthetician, a
18 physician, or a physician assistant practicing within the scope of licensure under
19 chapter 43-17 or a nurse practicing within the scope of the nurse's license under
20 chapter 43-12.1.
- 21 2. Paying an original licensure fee as set forth in section 43-11-28.
- 22 3. Complying with the other requirements under this chapter applicable to a master
23 license.

24 **43-11-26.1. Advanced esthetician license - Grandfather provision.**

- 25 1. A cosmetologist or esthetician licensed in this state with practical experience of at
26 least one year immediately preceding January 1, 2026, may apply for an advanced
27 esthetician license until December 31, 2027, if the applicant:
 - 28 a. Completes a board-approved four-hour safety and infection control training;
 - 29 b. Obtains an active occupational safety and health administration bloodborne
30 pathogens certification;
 - 31 c. Obtains an active board-approved first aid and cardiopulmonary resuscitation
32 certification; and
 - 33 d. Provides:
 - 34 (1) A notarized affidavit from a supervising medical professional certifying the
35 applicant worked under the direct supervision and control of a licensed
36 physician or physician assistant practicing under chapter 43-17, or nurse
37 under chapter 43-12.1, for a minimum of three hundred hours of actual
38 service work within five years immediately preceding application; or
 - 39 (2) Proof of completing one hundred fifty hours of advanced esthetic training
40 approved by the board.
- 41 2. A cosmetologist or esthetician licensed in this state who fails to meet the
42 requirements in subsection 1 or fails to apply by December 31, 2027, must

complete five hundred hours of training in advanced esthetics in a board-approved program.

43-11-26.2. 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 within the five years immediately preceding application for certifications must be made to the board before the use of:

~~1. Microneedling pens, rollers, or devices;~~

2. Nonablative laser devices, light devices; or

~~3. Advanced chemical peels.~~

An advanced esthetician licensed under the grandfather provisions of section 43-11-26.1 must submit proof of completion of board-approved training and certification before performing microneedling or advanced chemical peels.

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. An applicant shall:

a. Possess a current North Dakota license as a cosmetologist, barber, hair technician, esthetician, advanced esthetician, or ~~manicurist~~ nail technician; and

b. Complete the required hours of instructor training in a school ~~of cosmetology~~ or course approved by the board.

2. An instructor or student instructor may not practice ~~cosmetology~~ services regulated under this chapter on a patron at a school other than as part of practical work pertaining directly to the teaching of students.

3. 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, barber, hair technician, esthetician, advanced esthetician, or ~~manicurist~~ nail technician. Upon completion of the course prescribed for student instructors, the student instructor shall make an application 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. Upon successfully passing the theoretical and practical examinations, the board shall issue an instructor's license to the applicant.

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.

2 5. ~~Licensed estheticians and manicurists~~ An individual licensee may only provide
3 instruction within the scope of practice of the ~~respective licenses~~ individual
4 licensee's license determined under this chapter.

5 **43-11-27.1. Esthetician and manicurist licenses - Qualifications - Fees.**

6 Repealed by S.L. 2025, ch. 386, section 36.

7 **43-11-27.2. Scope of practice - Noninvasive care limitation - Advanced esthetic**
8 **exception.**

- 9 1. The practice of cosmetology, barbering, hair technology, manicuring nail
10 technology, or esthetics is limited to noninvasive care. A cosmetologist, barber,
11 hair technician, manicurist nail technician, or esthetician may not alter, cut,
12 puncture, or damage any living cells whether superficially or through the use of
13 ~~laser, light, or energy~~ a laser device, light-based device, energy-based device, or
14 combination device. This subsection does not prohibit photobiomodulation, or
15 other services expressly authorized within the scope of a license issued under this
16 chapter.
- 17 2. Certain advanced esthetic services, as determined by rules adopted by the board,
18 may be limited in scope or required to be performed under the supervision or
19 direction of a physician or physician assistant licensed under chapter 43-17 or an
20 advanced registered nurse licensed under chapter 43-12.1, who is sufficiently
21 trained or certified in the procedure being supervised.

22 **43-11-28. Fees and qualifications.**

- 23 1. The board shall determine the qualifications for licensure ~~of cosmetologists,~~
24 ~~estheticians, advanced estheticians, manicurists, instructors, establishments,~~
25 ~~independent licensees, and schools,~~ and registration under this chapter and may
26 issue licenses and registrations upon approval.
- 27 2. Fees to be paid by applicants as required under this chapter may not exceed the
28 following amounts:
- 29 a. Fees:

Fees	Maximum Fee
Establishment, original license	\$150.00
Establishment, annual renewal	\$100.00 per year
<u>Mobile establishment, original license</u>	<u>\$150.00</u>
<u>Mobile establishment, annual renewal</u>	<u>\$100.00 per year</u>
Independent licensee, original license	\$150.00
Independent licensee, annual renewal	\$100.00 per year
School, original license	\$550.00
School, annual renewal	\$250.00 per year
Advanced esthetician, original license	\$50.00
Advanced esthetician, annual renewal	\$50.00 per year
Cosmetologist, original license	\$50.00
Cosmetologist, annual renewal	\$50.00 per year
Master cosmetologist, original license	\$50.00
Master cosmetologist, annual renewal	\$50.00 per year

2	Esthetician, original license	\$50.00
3	Esthetician, annual renewal	\$50.00 per year
4	Master esthetician, original license	\$50.00
5	Master esthetician, annual renewal	\$50.00 per year
6	Instructor, original license	\$50.00
7	Instructor, renewal	\$50.00 per year
8	Manicurist, original license	\$50.00
9	Manicurist, annual renewal	\$50.00 per year
10	Master manicurist, original license	\$50.00
11	Master manicurist, annual renewal	\$50.00 per year
12	<u>Individual license, original license</u>	<u>\$50.00</u>
13	<u>Individual license, annual renewal</u>	<u>\$50.00 per year</u>
14	Duplicate license	\$20.00
15	Individual or business name change	\$20.00
16	Reciprocity license fee	\$105.00
17	Registration fee for apprentice	\$15.00
18	Registration fee for apprentice trainer	\$25.00
19	Registration fee for student	\$15.00
20	Reinspection fee	\$75.00
21	Transcript fee	\$20.00
22	Verification fee	\$20.00

23
24 b. Late fees

25	Late Fees	Amount
26	Individual late renewal within one year	\$50.00
27	Individual late renewal after one year but before five years	\$150.00
28	Establishment late renewal within one year	\$50.00
29	Independent licensee late renewal within one year	\$50.00
30	Establishment late renewal after one year	\$100.00 per year expired
31	Independent licensee late renewal after one year	\$100.00 per year expired
32	School late renewal within thirty days	\$50.00

33
34 3. The examination administrator shall set and collect examination fees and the
35 applicant shall pay the fee.

36 4. Fees are not prorated or returnable.

37 5. The board may establish continuing education requirements for ~~cosmetologists,~~
38 ~~estheticians, advanced estheticians, manicurists, and instructors~~ individual licensees
39 and registrants. The board may adopt rules related to continuing education hours
40 for each license type under this section.

41 6. The board shall sponsor an educational program for licenseholders to carry out the
42 purposes of protecting the public health and safety and maintaining capable and
43 skilled ~~cosmetologists, estheticians, advanced estheticians, manicurists, and~~
44 ~~instructors~~ individual licensees and registrants. The board shall use such portion of
45 the renewal fees as the board may determine for the purpose of providing the
46 educational program.

- 2 7. A licensee who has maintained an active license issued by this board for forty-five
3 years or more and who is no longer engaged in the active practice of the profession
4 may apply to the board for a legacy status of license not less than ninety days prior
5 to the expiration of their license. Licenses with legacy status expire on December
6 thirty-first of each year and must be renewed annually for a fee of twenty-five
7 dollars. While in legacy status, continuing education hours are not required for
8 renewal. Legacy status does not apply to an instructor license, establishment
9 license, or independent licensee license. A licensee may remove legacy status by:
- 10 a. Applying to the board and paying the applicable renewal fee; and
11 b. Taking the required annual continuing education hours if applicable.

12 8. For purposes of original licensure, annual renewal, late renewal, and reinspection
13 fees, a mobile establishment is considered an establishment.

14 **43-11-29. License renewal - Failure to renew.**

- 15 1. A license issued by the board expires on December thirty-first. If the application for
16 renewal is not received on or before the expiration date, the license expires.
- 17 2. The board may renew a license if:
- 18 a. An application for renewal is submitted as provided by the board;
19 b. The renewal fee is paid; and
20 c. Grounds for denial do not exist under section 43-11-31.
- 21 3. The holder of an expired license, within one year from and after the date of the
22 license's expiration, may obtain a reinstatement of the license upon:
- 23 a. Payment of the required late fee; and
24 b. Payment of the current renewal fee.
- 25 4. The holder of an expired license, one year after the date of expiration but before five
26 years, may obtain a reinstatement of the license upon:
- 27 a. Payment of the required late fee;
28 b. Payment of the current renewal fee; and
29 c. Furnishment to the board of satisfactory proof of passing the North Dakota law,
30 rules, and regulations examination.
- 31 5. The board may not reinstate a license if more than five years has lapsed since the
32 license expired. If a license has not been renewed within five years, the individual
33 may reapply for licensure under the requirements of initial licensure as set forth
34 under this chapter.

35 **43-11-29.1. Establishment, independent licensee license renewal - Failure to renew.**

- 36 1. An establishment license issued by the board expires annually on December thirty-
37 first. If the application for renewal is not received on or before the expiration date,
38 the license expires.
- 39 2. The board may renew a license if:
- 40 a. An application for renewal is submitted as provided by the board;
41 b. The renewal fee is paid; and

- 2 c. Grounds for denial do not exist under section 43-11-31.
- 3 3. The holder of an expired establishment or independent license, within twelve months
- 4 from the date of the license's expiration, may obtain a reinstatement of the
- 5 establishment license upon:
- 6 a. Payment of the required late fee; and
- 7 b. Payment of the current renewal fee.
- 8 4. After twelve months from the date of the license's expiration, the holder of an
- 9 expired establishment or independent license seeking licensure shall ~~pay the~~
- 10 ~~required late penalty fee for each year not renewed and~~ reapply for establishment or
- 11 independent licensure under this chapter.
- 12 5. If the holder continued to operate after the establishment or independent license had
- 13 been expired for more than twelve months, the executive director of the board may
- 14 assess an administrative penalty of five hundred dollars. If the circumstances
- 15 warrant additional disciplinary action, the executive director may refer the matter to
- 16 the board.
- 17 6. A person assessed an administrative penalty under subsection 5 may request review
- 18 by the board by submitting a written request within thirty days after receiving
- 19 notice of the assessment. The board may affirm, reduce, or rescind the penalty. A
- 20 hearing requested after the board's review must be conducted in accordance with
- 21 chapter 28-32.

22 **43-11-29.2. School license renewal - Failure to renew.**

- 23 1. A school license issued by the board expires annually on December thirty-first. If the
- 24 application for renewal is not received on or before the expiration date, the license
- 25 expires.
- 26 2. The board may renew a license if:
- 27 a. An application for renewal is submitted as provided by the board;
- 28 b. The renewal fee is paid; and
- 29 c. Grounds for denial do not exist under section 43-11-31.
- 30 3. A school license not renewed within thirty days of expiration may be cause for
- 31 disciplinary action.

32 **43-11-new. Renewal prohibited - Overdue fine or fee.**

33 The board may not renew a license issued under this chapter if the licensee has an

34 overdue fine or fee owed to the board. A fine or fee is not overdue if the payment

35 period has not expired or the licensee is complying with a payment plan approved by

36 the board.

37 **43-11-30. Revocation or suspension of license.**

38 The board may place on probation, revoke, or suspend a license upon proof of a

39 violation under this chapter or a rule adopted by the board.

2 **43-11-31. License - Refusal to grant - Grounds.**

3 The board may deny an application or discipline a licensee on any of the following
4 grounds:

- 5 1. Fraud in passing the examination.
- 6 2. Conviction of an offense determined by the board to have a direct bearing upon an
7 individual's ability to serve the public in a profession licensed by the board, or,
8 following conviction of any offense, the board determines the individual is not
9 sufficiently rehabilitated under section 12.1-33-02.1.
- 10 3. Grossly unprofessional or dishonest conduct, gross malpractice, or gross
11 incompetency.
- 12 4. Addiction to the use of intoxicating liquor or drugs to such an extent as to render the
13 individual unfit to practice.
- 14 5. Advertising by means of knowingly false or deceptive statements.
- 15 6. Failure to display the license as provided under this chapter.
- 16 7. Violation of ~~the provisions under~~ this chapter or ~~the~~ rules adopted by the board.
- 17 8. Permitting an unlicensed individual to practice ~~cosmetology~~, regulated services
18 under this chapter, or ~~teaching in a cosmetology salon or school of cosmetology to~~
19 teach in an establishment or school.
- 20 9. Advertising or providing services outside ~~of the licensee's scope of practice as~~
21 ~~defined under this chapter~~ the scope authorized by the licensee's license under this
22 chapter.
- 23 10. Failure to comply with a final cease and desist order or an immediate temporary
24 cessation order issued under this chapter.

25 **43-11-new. Cease and desist orders - Immediate temporary cessation orders -**
26 **Enforcement.**

- 27 1. Based on reliable evidence, the board may issue a cease and desist order if the board
28 reasonably determines a person is engaging in, or has engaged in and is reasonably
29 likely to repeat:
 - 30 a. The practice of cosmetology, barbering, hair technology, esthetics, advanced
31 esthetics, or nail technology without the license required under this chapter;
 - 32 b. The operation of an establishment, mobile establishment, independent licensee or
33 school without the license required under this chapter;
 - 34 c. Advertising, offering, or attempting to provide a service regulated under this
35 chapter without the license required to provide the service;
 - 36 d. Employing, permitting, or knowingly facilitating unlicensed practice; or
 - 37 e. Performing or advertising a service beyond the scope authorized by the person's
38 license if the conduct presents a material risk of physical harm to a client or the
39 public.
- 40 2. A cease and desist order must state the factual and legal basis for the order, describe
41 the conduct required to cease, and notify the person of the right to request a
42 hearing. An order must be limited to the person, service, equipment, location, or

- 2 portion of an operation reasonably necessary to stop the unauthorized conduct or
3 protect the public.
- 4 3. A person subject to a cease and desist order may request a hearing by filing a written
5 request with the board within twenty days after service of the order. The hearing
6 must be conducted as an adjudicative proceeding under chapter 28-32. If the person
7 does not timely request a hearing, the order becomes a final order of the board.
- 8 4. An order directing the cessation of unlicensed practice or unlicensed operation is
9 effective upon service and remains effective during an administrative or judicial
10 proceeding unless modified or terminated by the board or a court. A timely request
11 for a hearing stays a nonemergency order issued against a currently licensed person
12 unless the order also directs the cessation of unlicensed practice or unlicensed
13 operation.
- 14 5. The board or executive director may issue an immediate temporary cessation order
15 if, based on verified evidence, the board or executive director determines by clear
16 and convincing evidence that:
- 17 a. A person is engaging in unlicensed practice, unauthorized practice, or practice
18 beyond the scope authorized by the person's license;
- 19 b. Continuation of the conduct presents a significant risk of serious and ongoing
20 physical harm to a client or the public; and
- 21 c. Immediate cessation is necessary to reasonably protect a client or the public from
22 the identified risk.
- 23 6. An immediate temporary cessation order is effective upon service. The board shall
24 provide prompt written notice of the factual and legal basis for the order and shall
25 commence an adjudicative proceeding under chapter 28-32 within thirty days after
26 issuance of the order. The order remains effective until modified or terminated by
27 the board or a court or until a final order is issued. The hearing may be continued at
28 the request of the person subject to the order or for good cause.
- 29 7. After a hearing under this section, the board may affirm, modify, or terminate the
30 order. A final order issued under this section is subject to judicial review under
31 chapter 28-32.
- 32 8. The board may bring an action in district court to enforce an order issued under this
33 section or to obtain temporary or permanent injunctive relief against unlicensed or
34 unauthorized practice. The board is not required to establish actual damages or post
35 a bond unless the court orders otherwise and states the basis for requiring a bond.
- 36 9. If the board obtains judicial enforcement because a person failed to comply with an
37 enforceable order, the court may award the board reasonable investigation costs,
38 court costs, and attorney's fees. Costs and attorney's fees may not be awarded solely
39 because a person requested a hearing or sought judicial review in good faith.
- 40 10. The remedies under this section are cumulative and do not limit any disciplinary,
41 civil, criminal, or other remedy available under law.

43-11-32. Hearings.

All hearings must be conducted pursuant to chapter 28-32. For purposes of a hearing, section 28-32-21 applies only to the licensee.

43-11-33. Board may subpoena witnesses - Fees - How paid.

The board may require the attendance of witnesses and the production of books, records, and papers at any hearing or with reference to any matter which the board has authority to investigate and, for that purpose, may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers. The fees and mileage of witnesses must be the same as may be allowed in the court in criminal cases. Fees and mileage must be paid in the same manner as expenses of the board.

43-11-34. Appeal from actions of the board.

An appeal may be taken from an action of the board under this chapter in refusing to grant or in suspending or revoking a license to the district court of the county of residence of the individual who has been refused a license or whose license has been suspended or revoked. The appeal must be taken in accordance with the provisions under chapter 28-32.

43-11-35. Penalty.

Any ~~individual~~ person who without a license as required under this chapter willfully practices any of the occupations, maintains a school, or acts or advertises in any capacity violates this chapter or rule adopted by the board, is guilty of a class B misdemeanor.

43-11-36. Minimum fees may be established - Conditions - How.

Repealed by S.L. 1981, ch. 435, section 26.

43-11-37. Inspections of establishments, mobile establishments, independent licensees, and schools.

1. Each new establishment, mobile 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~~ this chapter and rules adopted by the board.
2. Each establishment, mobile establishment, independent licensee, and school ~~must be subject~~ is subject to routine inspections as determined by the board.
3. An establishment, mobile establishment, independent licensee, or school may be subject to additional inspections if the establishment, mobile establishment, independent licensee, or school:
 - a. Had a violation ~~in~~ during a previous inspection;
 - b. Changed ownership;
 - c. Did not timely renew the license; or
 - d. Is on probation because of disciplinary action ~~from~~ by the board.

2 4. A reinspection fee , determined by the board , may be charged for additional
3 inspections under subsection 3.

4 5. ~~Inspections must be made during the establishment's regular hours of operation, or~~
5 ~~anytime~~ An inspection must be conducted during regular hours of operation or at
6 any time the instruction or practice ~~of cosmetology, esthetics, advanced esthetics,~~
7 ~~or manieuring~~ of services regulated under this chapter is conducted, unless
8 otherwise agreed by all interested persons.

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

12 7. A mobile establishment must be made available for inspection as required under this
13 chapter and rules adopted by the board.

14 8. An inspection of an independent licensee may include the licensee's service practices
15 and equipment at a location outside the establishment.

16 **43-11-38. Inspection generated by a complaint.**

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

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

23 **43-11-39. Refusal to allow inspection.**

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

26 **43-11-new. Confidentiality of investigative information.**

27 A member of the board, or an officer, agent, or employee of the board, may not divulge
28 the contents of a document, paper, or record examined in the performance of the
29 individual's duties under this chapter, or information obtained in the course of an
30 investigation under this chapter, except as required to carry out this chapter or as
31 otherwise required by law.

33 **SECTION . REPEAL.**

34 Chapter 43-04 of the North Dakota Century Code is repealed.

35 **SECTION . TRANSITION - BOARD OF BARBER EXAMINERS - TRANSFER**
36 **OF AUTHORITY, RECORDS, FUNDS, AND PROCEEDINGS.**

37 1. The board of barber examiners is abolished on the effective date of this Act. All
38 powers, duties, and authority exercised by the board of barber examiners under
39 chapter 43-04 immediately before the effective date of this Act are transferred to
40 the state board of cosmetology.

2. An individual serving as a member of the board of barber examiners immediately before the effective date of this Act does not, by operation of this Act, become a member of the state board of cosmetology. Notwithstanding section 43-11-04, the governor may appoint one individual who is licensed as a barber under this chapter to serve as a temporary member of the state board of cosmetology during the transition resulting from this Act. The temporary member may serve until the governor appoints a barber to fill the first vacancy occurring on the state board of cosmetology after the effective date of this Act, at which time the temporary appointment terminates. Thereafter, appointments to the state board of cosmetology under section 43-11-04 must be made by the governor as terms on the state board of cosmetology expire.
3. All records, registers, files, licensing data, complaint files, investigative files, moneys, funds, accounts, contracts, leases, and other obligations of the board of barber examiners are transferred to the state board of cosmetology on the effective date of this Act. Funds transferred under this section must be deposited and disbursed by the state board of cosmetology in the manner provided under chapter 43-11.
4. A complaint, investigation, examination, contested case, disciplinary proceeding, order, settlement agreement, probationary term, or other proceeding pending or in effect under chapter 43-04 on the effective date of this Act continues under the jurisdiction of the state board of cosmetology and is not abated by this Act. Conduct occurring before the effective date of this Act may be addressed under the grounds for discipline that applied to the conduct when it occurred, and the procedures of chapter 43-11 apply to any step in the proceedings taken on or after the effective date of this Act.
5. An order issued by the board of barber examiners that is in effect on the effective date of this Act remains in effect according to its terms until it expires or is modified, terminated, or superseded by the state board of cosmetology or by a court.

SECTION . TRANSITION - CONTINUATION AND CONVERSION OF LICENSES AND REGISTRATIONS ISSUED UNDER CHAPTER 43-04.

1. A license issued under chapter 43-04 and valid on the effective date of this Act continues in effect and must be converted by the state board of cosmetology to the corresponding license under chapter 43-11 on or before January 1, 2028. Conversion under this section is automatic. A licensee is not required to apply for conversion, submit to an examination, or complete additional education solely because chapter 43-04 is repealed.
2. Licenses convert as follows:
- a. A barber license, including a license or certificate designated as a master barber license or master barber certificate under chapter 43-04, converts to a barber license or a master barber license issued under chapter 43-11. The board shall issue the master barber license without requiring the practice hours otherwise required under section 43-11-26.

- 2 b. A barber instructor license converts to an instructor license issued under chapter
3 43-11, endorsed for instruction in barbering.
- 4 c. A barbershop license converts to an establishment license issued under chapter
5 43-11. A barbershop license held by an individual who practices under a lease
6 or similar arrangement within another licensed establishment converts to an
7 independent licensee license issued under chapter 43-11.
- 8 d. A mobile barbershop registration converts to a mobile establishment license
9 issued under chapter 43-11.
- 10 e. A barber school permit converts to a school license issued under chapter 43-11.
- 11 f. A retired barber license converts to a barber license or a master barber license
12 issued under chapter 43-11 as provided in subdivision a. The holder of a
13 converted retired barber license may apply to the board for legacy status under
14 subsection 7 of section 43-11-28, notwithstanding the period of licensure
15 otherwise required by that subsection, if the application is made within one
16 hundred eighty days after January 1, 2028. A holder who does not apply for
17 legacy status within that period, or whose application is denied, shall hold and
18 renew a barber license to continue providing services regulated under chapter
19 43-11.
- 20 3. On and after the effective date of this Act, the scope of practice of an individual
21 holding a barber license, whether issued under chapter 43-11 or converted under
22 this section, is the scope of barbering established under chapter 43-11 and rules
23 established by the Board.
- 24 4. A converted establishment license, mobile establishment license, or school license
25 does not require a new preoperational inspection as a result of conversion. A
26 converted license is subject to inspection under sections 43-11-37, 43-11-38, and
27 43-11-39 after the effective date of this Act.
- 28 5. After conversion, a license is subject to chapter 43-11 for all purposes, including
29 renewal dates, renewal fees, late fees, reinstatement, continuing education,
30 inspection, and discipline. A license converted under this section expires on the
31 first December thirty-first occurring after conversion and is renewable under
32 section 43-11-29, 43-11-29.1, or 43-11-29.2, as applicable.
- 33 6. A license issued under chapter 43-04 that is expired on the effective date of this Act
34 is governed by section 43-11-29. The date of expiration under chapter 43-04 is the
35 date of expiration for purposes of section 43-11-29.
- 36 7. An application for licensure filed under chapter 43-04 and pending on the effective
37 date of this Act must be processed by the state board of cosmetology under the
38 requirements of chapter 43-04 that applied when the application was filed, and a
39 license issued on the application must be converted under this section. An applicant
40 approved for examination or scheduled for examination under chapter 43-04 before
41 the effective date of this Act may sit for the examination for which the applicant
42 was approved or scheduled.
- 43 8. Education, training, and experience completed under chapter 43-04 before the
44 effective date of this Act must be recognized by the state board of cosmetology for
45 all purposes under chapter 43-11.

2 9. The board shall issue a master barber license, without requiring the practice hours
3 otherwise required under section 43-11-26, to an individual who is first issued a
4 barber license under chapter 43-11 after the effective date of this Act and before
5 January 1, 2028. An individual first issued a barber license on or after January 1,
6 2028, shall satisfy section 43-11-26 to obtain a master barber license.

7 10. A temporary barber license issued under section 43-04-31.3 and valid on the
8 effective date of this Act remains valid according to its terms until it expires. A
9 temporary barber license may not be issued or extended on or after the effective
10 date of this Act.

11 **SECTION . TRANSITION - SCHOOLS - COMPLIANCE PERIOD.**

12 A school whose license is converted under this Act shall comply with subdivision c of
13 subsection 1 of section 43-11-16, relating to licensed instructors and student-to-
14 instructor ratios, and with subdivision h of subsection 1 of section 43-11-16, relating to
15 the surety bond, no later than twelve months after the effective date of this Act. Until
16 that date, the school shall maintain the instructional staffing required under chapter 43-
17 04 as it existed on the day before the effective date of this Act. This section does not
18 delay the application of any other requirement of section 43-11-16 to a converted
19 school license.

20 **SECTION . TRANSITION - ADMINISTRATIVE RULES.**

21 1. Rules adopted by the board of barber examiners and in effect on the effective date of
22 this Act remain in effect, to the extent the rules do not conflict with chapter 43-11
23 as amended by this Act, until the rules are amended, superseded, or repealed by the
24 state board of cosmetology. The state board of cosmetology may enforce those
25 rules during that period.

26 2. A rule described in subsection 1 that conflicts with chapter 43-11 as amended by this
27 Act is void on the effective date of this Act to the extent of the conflict.

28 3. A reference in an administrative rule to chapter 43-04, to the board of barber
29 examiners, to a barbershop, or to a barber school means, respectively, chapter 43-
30 11, the state board of cosmetology, an establishment, and a school.

31 **SECTION . EFFECTIVE DATE.**

32 This Act becomes effective on August 1 following its enactment.