

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2371
(Senators Espegard, Lee)
(Representatives Kasper, Nottestad)

AN ACT to amend and reenact sections 43-11-01, 43-11-16, and subdivisions b and c of subsection 1 of section 43-11-27 of the North Dakota Century Code, relating to skin care, cosmetology schools, and cosmetology instructors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-11-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-11-01. Definitions. In this chapter, unless the context or subject matter ~~thereof~~ otherwise requires:

1. "Board" means the state board of cosmetology.
2. "Cosmetology" means any one or combination of practices generally and usually ~~heretofore and hereafter~~ performed by and known as the occupation of beauty culturists or cosmeticians or cosmetologists or hairdressers, or of any other person holding ~~him or herself~~ oneself out as practicing cosmetology by whatever designation and within the meaning of this chapter and in and upon whatever place or premises; and in particular cosmetology ~~is defined and includes, but otherwise is not limited thereby,~~ the following or any one or a combination of practices: arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work, upon the hair of any person by any means or with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, exercising, beautifying or similar work on the scalp, face, neck, arms, hands, bust or upper part of the body, or manicuring the nails of any person.
3. "Cosmetology salon" includes that part of any building ~~wherein~~ in which the occupation of a cosmetologist is practiced.
4. "Esthetician" means a person who is licensed by the board to engage in the practice of skin care. An esthetician does not include a professional make-up artist trained in facial make-up application by a cosmetics company.
5. "Homebound" means any person who is ill, disabled, or otherwise unable to travel to a salon.
6. "Instructor" means any person of the age of eighteen years or more, who is a licensed cosmetologist, who teaches cosmetology or any practices taught in a duly registered school of cosmetology, and who has met the requirements of section 43-11-27 and has applied for and received an instructor's license.
7. "Invasive care" means any procedure that invades the live tissue of the dermis, including:
 - a. Laser use, except the use of cold laser technology using nonlinear, pulsed light application for the purpose of biostimulation without the generation of heat; and
 - b. Chemical peels, except for chemical peels using:
 - (1) Thirty percent alpha hydroxy acid, which includes glycolic acid with a pH of 3.0 or higher;

- (2) Twenty percent beta hydroxy acid, which includes salicylic acid with a pH of 3.0 or higher; or
- (3) Two percent resorcinol with a pH of 3.0 or higher.
- 8. "Manager-operator" means any person who has met the requirements of section 43-11-26 and has applied for and received a managing cosmetologist license.
- ~~8.~~ 9. "Manicuring" means the cleansing, cutting, shaping, beautifying, or massaging of the hands, feet, or nails of any person.
- 9. ~~10.~~ "Manicurist" means a person who is licensed by the board to engage in the practice of manicuring.
- ~~10.~~ 11. "Operator" means a person, not a student, who is licensed under the provisions of this chapter to engage in and follow any of the practices of a hairdresser or cosmetologist.
- ~~11.~~ 12. "School of cosmetology" means an establishment operated for the purpose of teaching cosmetology.
- ~~12.~~ 13. "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, beautifying, or similar work on the scalp, face, neck, arms, hands, bust, or upper part of the body of any person. The term does not include invasive care.
- ~~13.~~ 14. "Student" means any person 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.
- ~~14.~~ 15. "Student instructor" means a cosmetologist who is receiving instruction in teacher's training in a duly registered school of cosmetology.
- ~~15.~~ 16. "Tuition" means the total cost of a person's cosmetology studies, and does not include books or demonstration kits.

SECTION 2. AMENDMENT. Section 43-11-16 of the North Dakota Century Code is amended and reenacted as follows:

43-11-16. Schools of cosmetology - Qualifications for licensure. A license must be granted to a school of cosmetology upon an application to the board and the payment of the annual license fee, if the school:

1. Is operated and maintained in premises separate from any cosmetology salon;
2. Requires one thousand eight hundred hours of training and instruction in cosmetology, six hundred hours of training and instruction in esthetics, or three hundred fifty hours of training and instruction in manicure, not to exceed eight hours per day;
3. Employs at least two full-time licensed instructors for the first twenty-five students enrolled and one additional instructor for each additional twenty-five students enrolled or fraction thereof ~~after the school's enrollment has reached fifty students,~~ except a school that provides training and instruction limited to esthetics or manicure shall employ at least one full-time instructor for the first twelve students enrolled and one additional instructor for each additional twelve students enrolled or fraction thereof;
4. Possesses apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum;
5. Maintains a record of the attendance and performance of each student;

6. Maintains regular class and instruction hours to include practical demonstrations and theoretical studies supplemented by audiovisual aids, and studies in sanitation, sterilization, and other safety measures and the use of antiseptics, cosmetics, and electrical appliances consistent with the practical and theoretical requirements as applicable to cosmetology;
7. Agrees not to:
 - a. Conduct a clinical department for fees after licensure by the board, until the school has been operating for a period of at least twenty percent of the total hours of instruction required by this chapter;
 - b. Permit any student to practice on any person not an instructor or registered student of the school until the student has completed at least twenty percent of the total hours of instruction required by this chapter;
 - c. Compensate any of its basic students in any way; and
8. At the time of application for licensure and upon the renewal of a license, furnishes to the board, and maintains in force at all times the license is in effect, a bond in the penal sum of ten thousand dollars. The bond must run in favor of the board, as agent of the state, and must be furnished by a surety company authorized to do business in this state. It must be conditioned upon the bonded school's providing its registered students with the full course of instruction required under this chapter and must provide for a refund of a proportionate amount of each student's tuition fee upon default.

Any school that enrolls student instructors shall set up an adequate course of training, with the approval of the board, and may not have at any one time more than ~~one~~ two student ~~instructor~~ instructors for each licensed instructor actively engaged in the school.

SECTION 3. AMENDMENT. Subdivisions b and c of subsection 1 of section 43-11-27 of the 1999 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- b. ~~Shall have at least one year's experience as an active practicing cosmetologist~~ possess a current North Dakota license as a cosmetologist and must have been actively engaged in the practice of cosmetology for at least one year before application for an instructor's license, supplemented by not less than four hundred eighty hours instructor's training in ~~cosmetology~~ in a school of cosmetology. ~~In no event may more than six hundred hours instructor's training be requisite for admission for examination under this subdivision~~ or course of training approved by the board; or
- c. Shall possess a current North Dakota license as a cosmetologist and shall have been actively engaged in the practice of cosmetology for at least three years prior to application for an instructor's license supplemented by not less than one hundred sixty hours instructor's training in ~~cosmetology~~ in a school of cosmetology or course of training approved by the board. ~~In no event may more than six hundred hours instructor's training be requisite for admission for examination under this subdivision.~~ No instructor or student instructor may be permitted to practice cosmetology on a patron other than that part of practical work which pertains directly to the teaching of practical operations to students.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2371.

Senate Vote: Yeas 47 Nays 0 Absent 2

House Vote: Yeas 92 Nays 0 Absent 6

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,

at _____ o'clock _____ M.

Secretary of State