

2021 HOUSE HUMAN SERVICES

HB 1426

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1426
1/27/2021

Relating to exemptions to regulation by the state board of cosmetology and definitions relating to the regulation of cosmetology.

Chairman Weisz opened the hearing at 10:11 a.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Booth space
- Cosmetic application
- Niche beauty services certification

Rep. Mike Nathe, District 30 (10:11) introduced the bill and submitted testimony #3794.

Abigail Christensen, Engagement Director Americans for Prosperity North Dakota (10:14) testified in favor and submitted testimony #3712.

Meagan Forbes, Legislative Council Institute for Justice (10:26) testified in favor and submitted testimony #3625.

Maureen Wanner, President State Board of Cosmetology (10:29) testified in opposition and submitted testimony #3791.

Additional written testimony: #2390, #3617, #3639, #3692, #3699, #3711

Chairman Weisz adjourned at 10:31 a.m.

Tamara Krause, Committee Clerk

21.0960.01001

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1426

Introduced by

Representatives Nathe, O'Brien

Senator Meyer

1 A BILL for an Act to ~~create and enact section 43-11-02.1 of the North Dakota Century Code,~~
2 ~~relating to certification of niche beauty services providers; and to~~ amend and reenact sections
3 43-11-01 and 43-11-02 of the North Dakota Century Code, relating to exemptions to regulation
4 by the state board of cosmetology and definitions relating to the regulation of cosmetology.

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

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

8 **43-11-01. Definitions.**

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

- 10 1. "Board" means the state board of cosmetology.
- 11 2. "Booth space" means that part of a licensed salon operated independently by an
- 12 individual licensed under this chapter.
- 13 3. "Cosmetic application" means the application of a cosmetic to enhance the
- 14 appearance of the face or skin, including powder, foundation, rouge, eyeshadow,
- 15 eyeliner, mascara, and lipstick. The term includes the application of makeup applied
- 16 using an airbrush. The term does not include the application of permanent makeup or
- 17 tattooing.
- 18 4. "Cosmetologist" means an individual licensed under this chapter to practice
- 19 cosmetology.
- 20 4.5. "Cosmetology" means any one or a combination of practices generally and usually
- 21 performed by and known as the occupation of beauty culturists or cosmeticians or
- 22 cosmetologists or hairdressers, or of any other person holding out as practicing
- 23 cosmetology by whatever designation and within the meaning of this chapter and in
- 24 and upon whatever place or premises.

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1 a. The term includes the following or any one or a combination of these practices:
2 arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching,
3 coloring, or similar work, upon the hair of any individual by any means or with
4 hands or mechanical or electrical apparatus or appliances, or by the use of
5 cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise,
6 massaging, cleansing, stimulating, manipulating, exercising, performing
7 noninvasive hair removal, beautifying, or similar work on the body, manipulation
8 of eyelashes, or manicuring the nails of any individual.

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

10 ~~5-6.~~ "Cosmetology salon" includes that part of any building in which the occupation of a
11 cosmetologist is practiced.

12 ~~6-7.~~ "Esthetician" means an individual who is licensed by the board to engage in the
13 practice of skin care.

14 ~~7-8~~ "Eyelash extension application" means the application, removal, and trimming of
15 threadlike natural or synthetic fibers to an eyelash and includes the cleansing of the
16 eye area and lashes. Eyelash extensions do not include color agents, straightening
17 agents, permanent wave solutions, bleaching agents, or any other cosmetology
18 service.

19 ~~9.~~ "Hairstyling" means the practice of shampooing, conditioning, drying, arranging,
20 curling, straightening, or styling hair using only mechanical devices, hair sprays, and
21 topical agents, such as balms, oils, and serums. The term includes the use and styling
22 of hair extensions, hair pieces, and wigs. The term does not include cutting hair or the
23 application of dyes, bleach, reactive chemicals, keratin treatments, or other
24 preparations to color or alter the structure of hair.

25 ~~10.~~ "Homebound" means an individual who is ill, disabled, or otherwise unable to travel to
26 a salon.

27 ~~8-11.~~ "Instructor" means an individual who is at least eighteen years old, who is a licensed
28 cosmetologist, who teaches cosmetology or any practices taught in a duly registered
29 school of cosmetology, and who has met the requirements of section 43-11-27 and
30 has applied for and received an instructor's license.

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- 1 ~~9-12.~~ "Invasive care" means any procedure that invades the live tissue of the dermis,
2 including:
3 a. Laser use; and
4 b. Chemical peels using:
5 (1) Thirty percent or higher concentration of alpha hydroxy acid;
6 (2) Twenty percent or higher concentration of beta hydroxy acid;
7 (3) Two percent or higher concentration of resorcinol;
8 (4) Fifteen percent or higher concentration of trichloroacetic acid (TCA); or
9 (5) Fifteen percent or higher concentration of phenol.
- 10 ~~40-13.~~ "Manicuring" means the cleansing, cutting, shaping, beautifying, or massaging of the
11 hands, feet, or nails of any individual.
- 12 ~~41-14.~~ "Manicurist" means an individual who is licensed by the board to engage in the
13 practice of manicuring.
- 14 ~~42-15.~~ "Master cosmetologist" means an individual who has met the requirements of section
15 43-11-26 and has applied for and received a managing cosmetologist license.
- 16 ~~43-16.~~ "Mechanical device" means a brush, clip, comb, crochet hook, curler, curling iron, flat
17 iron, hairpin, roller, scissors, blunt-tipped needle, thread, tweezers, and hair binder.
- 18 ~~44-17.~~ "Natural hair braiding" means the service of twisting, wrapping, weaving, extending,
19 locking, or braiding hair by hand or with a mechanical device. Natural hair braiding is
20 commonly known as "African-style hair braiding" but is not limited to any particular
21 cultural, ethnic, racial, or religious forms of hairstyles.
- 22 a. The term includes:
23 (1) The use of natural or synthetic hair extensions, natural or synthetic hair and
24 fibers, and decorative beads and other hair accessories;
25 (2) Minor trimming of natural hair or hair extensions incidental to twisting,
26 wrapping, weaving, extending, locking, or braiding hair;
27 (3) The making of wigs from natural hair, natural fibers, synthetic fibers, and
28 hair extensions; and
29 (4) The use of topical agents, such as conditioners, gels, moisturizers, oils,
30 pomades, and shampoos, in conjunction with performing services under
31 paragraph 1 or 2.

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1 b. The term does not include:

2 (1) The application of dyes, reactive chemicals, or other preparations to alter
3 the color of the hair or to straighten, curl, or alter the structure of the hair; or

4 (2) The use of chemical hair joining agents, such as synthetic tape, keratin
5 bonds, or fusion bonds.

6 ~~45-18.~~ "School of cosmetology" means an establishment operated for the purpose of teaching
7 cosmetology.

8 ~~46-19.~~ "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions,
9 creams, or otherwise, massaging, cleansing, stimulating, manipulating, performing
10 noninvasive hair removal, beautifying, or similar work on the body of any person. The
11 term does not include invasive care or threading.

12 ~~47-20.~~ "Student" means any person who is engaged in the learning or acquiring of any or all
13 the practices of cosmetology and while so learning, performs or assists in any of the
14 practices of cosmetology in any school registered or licensed and under the immediate
15 supervision of an instructor licensed as such under this chapter.

16 ~~48-21.~~ "Student instructor" means a cosmetologist who is receiving instruction in teacher's
17 training in a duly registered school of cosmetology.

18 ~~49-22.~~ "Threading" means the method of removing hair from the eyebrows, upper lip, or other
19 body part by using cotton thread to pull hair from follicles.

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

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

23 ~~20-23.~~ "Tuition" means the total cost of a person's cosmetology studies, and does not include
24 books or demonstration kits.

25 **SECTION 2. AMENDMENT.** Section 43-11-02 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **43-11-02. Exemptions from provisions of chapter.**

28 This chapter does not apply to:

29 1. Services in case of emergency.

30 2. Services provided by persons practicing cosmetology upon members of their
31 immediate families.

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- 1 3. Services by a person licensed by the state and working within the standards and
2 ethics of that person's profession, if that person does not represent to the public that
3 the person is a cosmetologist or manicurist.
- 4 4. Services by nurses, undertakers, and morticians lawfully engaged in the performance
5 of the usual and ordinary duties of their vocation.
- 6 5. Educational activities conducted in connection with any regularly scheduled meeting or
7 any educational activities of any bona fide association of licensed cosmetologists, from
8 which the general public is excluded. For purposes of this subsection a "bona fide
9 association of cosmetologists" means any organization whose constitution, bylaws, or
10 membership rules establish within said organization a class of membership consisting
11 of licensed cosmetologists.
- 12 6. ~~Services provided by retailers or their sales personnel trained in the demonstration~~
13 of An individual providing cosmetics application, ~~beauty aid, or equipment,~~ if the
14 ~~cosmetics are applied only with disposable applicators that are discarded after each~~
15 ~~customer demonstration.~~ The board may adopt rules to ensure sanitary conditions for
16 ~~services provided under this exemption~~ individual has completed a board-approved
17 course in health, safety, and infection control and state law.
- 18 7. Services provided in a licensed hospital or a nursing home by a person practicing
19 cosmetology on a volunteer basis without compensation or by a nurse's assistant.
- 20 8. Skin care provided under the supervision, control, and responsibility of a physician
21 practicing within the scope of the physician's license under chapter 43-17 or nurse
22 practicing within the scope of the nurse's license under chapter 43-12.1.
- 23 9. ~~Providing dry~~ An individual providing hairstyling if the individual has completed a
24 board-approved course in health, safety, and infection control and state law.
- 25 10. ~~Providing~~ An individual providing eyelash extension application if the individual has
26 completed a board-approved course in health, safety, and infection control and state
27 law.

28 ~~SECTION 3. Section 43-11-02.1 of the North Dakota Century Code is created and enacted~~
29 ~~as follows:~~

- 1 ~~43-11-02.1. Certification for niche beauty services.~~
- 2 ~~The board shall certify an individual who performs only hairstyling and cosmetic application~~
- 3 ~~as a niche beauty services provider. The board may require a certificate holder to complete a~~
- 4 ~~board-approved four-hour course in health, safety, and infection control and state law. A~~
- 5 ~~certificate holder is not licensed under this chapter as a cosmetologist, esthetician, or~~
- 6 ~~manicurist. A facility at which a niche beauty services provider provides hairstyling and cosmetic~~
- 7 ~~services is not subject to regulation under this chapter.~~

House Bill 1345

Presented by: Abigail Christiansen
Americans for Prosperity North Dakota

Before: House Human Services
The Honorable Robin Weisz, Chairman

Date: January 27th, 2021

Chairman Weisz and members of the committee, thank you for the opportunity to testify in support of House Bill 1426. My name is Abigail Christiansen. I am with Americans for Prosperity North Dakota. We are a policy advocate group that aims to create opportunity for hard working North Dakotans and fight for good policy. We support House Bill 1426 because it removes barriers to earning a living in the beauty industry and adds value to our economy.

HB 1426 exempts hair styling and make up application, including lashes from the current licensing requirements. Contrary to the stock emails that are being distributed by the board, HB 1426, **does not**, under any circumstances affect the ability for cosmetologist to do their jobs as they currently are. This bill will directly affect freelance make-up artists and hair stylists, many of whom are

currently operating underground or in other states, like Minnesota, with more welcoming laws. Considering the curriculum weighted towards other services, and the amount of income generated plus operating cost, requiring a cosmetology license makes hair and makeup specialty services unviable in North Dakota.

We believe safety and sanitation is important which is why HB 1426 includes a requirement of a board approved sanitation component in order to qualify for the exemption. According to the North Dakota Board of Cosmetology's inspection reports, there have been no disciplinary actions taken against make-up and styling of hair. It was also brought to our attention that photos of infected eyes have been shared with legislators, none of which are from North Dakota situations and many can be found in a simple google stock photo search.

There are already people applying makeup and styling hair legally without a license in North Dakota when they fall under one of the several carve outs. Beauty counters (Sephora, Ulta and Mary Kay) and nurses are two groups currently exempt from this requirement.

Like any other business, freelance businesses work on their reputation and the quality of their work. As a rural bride in Delamere, ND, I want to hire someone who is the best and most importantly can come to me on location. It's unrealistic and outdated to think that all brides and bridal parties are traveling hours to a salon for hair and makeup on the big day. Freelance is already happening and it's time to recognize these businesses as legitimate.

This is not a change to anything that licensed cosmetologist can currently do or how they operate. HB 1426 is a lifeline to small businesses in rural North Dakota and an opportunity for economic growth.



INSTITUTE FOR JUSTICE

**Institute for Justice's Written Testimony in Support of House Bill 1426
North Dakota House Human Services Committee**

January 26, 2021

Chairman Weisz and Members of the House Human Services Committee:

Thank you for the opportunity to testify in support of House Bill 1426. My name is Meagan Forbes. I am an attorney at the Institute for Justice. We are a nonprofit public interest law firm that works to protect civil liberties, including economic liberty. We support House Bill 1426 because it removes unnecessary barriers to earning a living in the beauty industry.

Simple hairstyling and makeup application are safe techniques that women do every day. These services offer opportunities for entrepreneurship and employment, but burdensome occupational licensing laws are preventing North Dakotans from providing them.

To style hair and apply makeup at a wedding or special event in North Dakota, an artist must complete 1,800 hours of cosmetology training, which costs as much as \$15,000, and complete an additional 1,000 hours of experience. A good portion of the cosmetology training— such as cuts, color, hair removal, facials and nails— is not relevant to styling hair and applying makeup. This one-size-fits-all approach to licensing benefits beauty schools, which charge tuition and have their students work for free while offering services to paying customers. But it hurts students, who often graduate with a debt that swallows their earnings.¹ This is especially true if a student does not plan to work as a cosmetologist upon graduation.

To address this problem, many states are exempting safe niche beauty services from cosmetology licensing laws. And by doing so, they are creating jobs and opportunities, especially for women, immigrants, and lower-income workers. For example, last year, the Institute for Justice supported a bipartisan bill in Minnesota that exempted hairstyling and makeup artistry from cosmetology licensing.² The bill helped more than 1,000 freelance hair and makeup artists who were working underground and created opportunities for hundreds of people to work in the beauty industry. Some of these artists live right across

¹ Meredith Kolodner, Sarah Butrymowicz, A \$21,000 Cosmetology-School Debt and a \$9-an-hour job, NY Times, Dec. 26, 2018, <https://www.nytimes.com/2018/12/26/business/cosmetology-school-debt-iowa.html>.

² Torey Van Oot, "Ready to Go": Minnesota Lawmakers Exempt Freelance Hair and Makeup Artists from Cosmetology Licensing, Star Tribune, May 17, 2020, <https://www.startribune.com/minnesota-lawmakers-exempt-freelance-hair-and-makeup-artists-from-licensing/570547592/#:~:text=Local-,%22Ready%20to%20go%22%3A%20Minnesota%20lawmakers%20exempt%20freelance%20hair%20and%20women%20of%20their%20livelihoods.%22>.

the border from Fargo. They can work legally now in Minnesota but risk criminal penalties if they take a job across state lines.

Like Minnesota, Arizona and Virginia also exempt simple hairstyling from cosmetology licensing. North Dakota and 29 other states exempt hair braiding, another form of hairstyling, from cosmetology licensing. At least ten states exempt makeup application from cosmetology licensing. North Dakota also already exempts from licensing makeup application at retail makeup counters. Finally, many states have never regulated eyelash extensions. There is no evidence that hairstyling, makeup application or eyelash extension services are any less safe in these states.

Niche beauty providers add value to our economy and our communities. North Dakota should be encouraging their entrepreneurship, not standing in their way. We ask that you please support this important bill that will create jobs and opportunities for North Dakotans.

Sincerely,

Meagan Forbes
Legislative Counsel
Institute for Justice
520 Nicollet Mall, Suite 550
Minneapolis, MN 55402
Phone: (612) 435-3451
mforbes@ij.org

Chairman Weisz, committee members,

I Maureen Wanner. My dad was Hurdsfield, I am related to the Mueller and the Reinbold families from Hillsboro, I spent 15 years a CNA, working night in a care center, while working days in a salon. I grew up on a farm. I am married to a man who spent 26 years in the military (thank you for your service Representatives Ruby, Tveit, Westlind, and all who served). And I am from District 31.

Now that we know each other better, let's get down to business.

I am the President of the State Board of Cosmetology. We, as a board, serve: 1942 Salons and/or renter, 6926 Cosmetologist, 535 Estheticians, 789 Manicurist, 85 Instructors, 3 schools with a 4th opening in Williston in February, and 233 students. The instructors need to complete 8 hours of continuing education per year. There is no continuing education required for other licensees.

We are opposing HB 1426. We are asking that it would be killed. We have SB 2092 is in the works on the other side that will cross over with a possible amendment added to it with the similar verbiage here. Same ideas. Same concept. So why have two bills crossing over. We need SB 2092 to cross-over with our changes and additions to update Chapter 43-11.

- Students who fail twice need to go back to school now. We are taking that out.
- If a licensee fails to renew for several years, they must retake the tests set forth by the board. We are making it easier to renew.
- Lowering cosmetology school from 1800 hours to 1500 hours
- Updating reciprocity
- Updated verbiage

But if I need to go on as to why this needs to be killed:

HB 1426 is creating definitions for "hairstyling," "eyelash extension application," and "cosmetic application." This bill is wanting to exempt "hairstyling," "eyelash extension application," and "cosmetic application" with a board-approved course in health, safety, and infection control and state law.

As any trained professional can tell you, things can go wrong. "Hairstyling," as simple as it may sound, if you do not know how to properly heat hair, especially chemically treated hair, it can be burnt. Modern hot tools heat up fast and can get extremely hot. With the professional products, a properly trained stylist can work very quickly with hot tools, so not to burn the hair. Education will train a cosmetologist in the proper care of the hair and what types of products to use when. Infection control training will teach them how to best disinfect their tools before using them on the next client. We have not even begun to talk about headlice. And Covid is on all our minds. The ND beauty industry did a fantastic job, in what our inspectors can see, through Covid. The salons and technicians step up and went beyond to protect their clients coming into salons. The board did their best to serve salons and technicians with information from the governor and the health department. If we break free components of cosmetology and education, there will be a huge gap in safety to our ND consumers. With annual inspections, our inspectors are checking to make sure salons and technicians are compliment with infection control. They also serve as educators. Since we do not have continuing education, our inspectors are frontline educators. If we do not have jurisdiction to inspect these technicians, we don't have a way to keep them updated and educated. Our cosmetology

schools also teach business management; how to manage a business, how to get trade names if needed, how to get insurance. These are important things a technician needs to be successful.

“The use and styling of hair extensions, hair pieces, and wigs.” These “hairstylist” will be able to work with extensions, hair pieces, and wigs and also be able to use “mechanical devices” to install or bind them into the hair. From my knowledge, extensions, hair pieces, and wigs most times they need to be color matched and cut to desired length. And again, there is the education needed to install or bind them to the hair. Reputable training courses require each participant to show their cosmetology license before enrolling. It is an advanced training class put on by the hair extension companies and then technicians will be able purchase extensions, hair pieces, and wigs from the companies. If these “hairstylists” are unlicensed therefore unable to get proper training and then to buy quality product, they will have to purchase lower grade hair. One example of lower grade, hair strands with cuticles going in opposite directions can leave the hair in a more matted mess. Unlicensed technicians will not be able to get high quality products for the safety and protection of the consumers. Formaldehyde is used in low grade hair extensions. I could also talk about binding agents, glue, and the needles used. How do they disinfect tools and space for their clients? We will never know.

“Cosmetic application,” again seems simple and mindlessly done every day by millions of people around the world. So, what could go wrong here? Bacterial infections, herps, MRSA, staph infection, e coli. All in unclean brushes, powders, and mascaras.

“Eyelash extension application.” We, the board, feel there is too much risk to have “eyelash extension application” free from cosmetology and esthetics. Licensing help professionals stay trustworthy to clients and insurance companies. There is a liability. Most people will not let just anyone near their eyes. Building professionalism starts with great qualifications and training. Reputable eyelash training courses require each participant to show their cosmetology or esthetics license before enrolling. It is an advanced training class put on by the eyelash companies. To use their product, you need to go through their training. We would do a disservice to our state’s technicians wanting eyelash training. There are too many things that can go wrong without proper training. I have included a list of the states that require a license either in cosmetology and/or esthetics to do lash extensions. This comes from The Lash Professional website.

Our board agrees to stand with our board’s mission which it to ensure the health and safety of the North Dakota consumers by promoting ethical standards and by enforcing the law of the beauty industry.

The possible issues that could arise from uneducated technicians could be detrimental. We must, for the sake of the public, teach technicians the good, bad, and ugly. They need to know the worst-case scenario; the worst harm they could do to a consumer and then be taught how to be the best without harm. Deregulation is unsatisfactory to us due to the health and safety of the North Dakota consumers. It is not that we want more regulations, we want education so technicians can be as safe as possible for the public.

Submitted by Maureen Wanner

State	Which License is Required?	More information
Arizona	Cosmetologist, Aesthetician	http://boc.az.gov
Arkansas	Cosmetologist, Aestheticians, Barber, medical license in a medical facility	http://healthy.arkansas.gov
California	Cosmetologist, Esthetician, those working under physicians	http://barbercosmo.ca.gov
Colorado	Cosmetologist, Esthetician	http://cdn.colorado.gov
DC	Cosmetologist, Esthetician, Medical License	http://dcregs.dc.gov
Florida	Cosmetologist, Esthetician, Full Specialist, Facial Specialist, Medical License	http://myfloridalicense.com
Hawaii	Cosmetologist, Esthetician, Barber	http://hawaii.gov
Illinois	Cosmetologist, Esthetician	http://ilga.gov
Indiana	Cosmetologist, Esthetician	https://in.gov/pla/cosmo.htm
Iowa	Cosmetologist, Esthetician, Must be performed in licensed salon	http://law.justia.com
Kansas	Cosmetologist, Esthetician	http://accesskansas.org
Kentucky	Cosmetologist, Esthetician	https://kbc.ky.gov
Louisiana	Cosmetologist, Esthetician	http://lsbc.louisiana.gov/
Maine	Cosmetologist, Aesthetician	http://mainelegislature.org
Massachusetts	Cosmetologist, Esthetician	http://malegislature.gov
Michigan	Cosmetologist, Esthetician	http://legislature.mi.gov
Minnesota	Cosmetologist, Esthetician	https://mn.gov/elicense/
Mississippi	Cosmetologist, Esthetician	http://msbc.state.ms.us
Montana	Cosmetologist, Esthetician	http://leg.mt.gov
Nebraska	Cosmetologist, Esthetician	http://dhhs.ne.gov
Nevada	Cosmetologist, Aesthetician	http://leg.state.nv.us
New Hampshire	Cosmetologist, Esthetician	http://gencourt.state.nh.us
New Jersey	Cosmetologist (must be working in a salon). Medical license under a doctor	http://www.njconsumeraffairs.gov/
New York	Cosmetologist, Esthetician	http://dos.ny.gov
North Carolina	Cosmetologist, Esthetician	http://ncga.state.nc.us
North Dakota	Cosmetologist, Esthetician	http://legis.nd.gov
Ohio	Cosmetologist or Esthetician	http://codes.ohio.gov
Oklahoma	Cosmetologist, Esthetician	http://ok.gov
Oregon	Cosmetologist, Esthetician, Medical License	http://www.oregon.gov/oha/
Pennsylvania	Cosmetologist, Esthetician	http://dos.state.pa.us
Rhode Island	Cosmetologist, Esthetician	http://health.ri.gov
South Carolina	Cosmetologist, Esthetician	http://scstatehouse.gov
South Dakota	Cosmetologist, Esthetician, Must be performed in a licensed salon	http://dlr.sd.gov
Tennessee	Cosmetologist, Aesthetician	https://www.tn.gov
Texas	Cosmetologist, Esthetician, or Eyelash Extension Specialist	https://www.tdlr.texas.gov/
Utah	Cosmetologist, Barber, Esthetician	https://le.utah.gov/
Vermont	Cosmetology, Esthetician	https://legislature.vermont.gov/
Virginia	Cosmetologist, Esthetician	http://www.dpor.virginia.gov/
Washington	Cosmetologists, Esthetician	https://www.dol.wa.gov/business/cosmetology
West Virginia	Cosmetologists, Esthetician	http://wvbbc.com
Wyoming	Cosmetologists, Esthetician	http://cosmetology.wy.gov
Alaska	Hair stylist, Estheticians, Medical License	https://www.commerce.alaska.gov/
Georgia	Master Cosmetologist, Esthetician, medical license in medical facility	http://sos.ga.gov
New Mexico	Esthetician	http://www.rld.state.nm.us/
Delaware	No Licence Required	http://delcode.delaware.gov
Wisconsin	No Licence Required	http://wisconsin.gov
Alabama	Not clear, consult state board	http://aboc.state.al.us
Connecticut	Not clear, consult state board	http://ct.gov
Idaho	Not clear, consult state board	http://ibol.idaho.gov
Maryland	Not clear, consult state board	http://dlslibrary.state.md.us
Missouri	Not clear, consult state board	http://pr.mo.gov

As a North Dakota resident and a licensed Master Cosmetologist, I oppose HB 1426.

Salon sanitation has a great impact on the health of both the client and the professional. We must be educated about proper sanitation in order to prevent the transmission of any communicable disease. Each client or employee has the potential of carrying a type of bacterial, fungal, parasite, or viral infection. It is necessary to correctly take the proper steps to disinfect implements, linens, products and surfaces in a salon. Proper training and sanitation isn't just a concern, it is a responsibility to the public.

Stephanie Henderson
License #7418 since 1993

January 26, 2021

#3617

North Dakota House Human Services Committee
North Dakota Legislative Assembly
State Capitol
600 East Boulevard
Bismarck, ND 58505-0360

RE: Opposition to HB 1426

Dear Human Services Committee Members,

On behalf of our licensed beauty professionals in the state of North Dakota, I respectfully urge you to oppose House Bill 1426, which will allow individuals to provide blow-dry and styling services without a license or training. I would like to share information and data regarding the importance of licensing and regulations during this time of COVID-19 where safety and sanitation is key to stopping the spread of the virus. Extra measures are required by the state for licensed beauty professionals to continue to provide services for clients due to physical contact.

The Professional Beauty Association (PBA), a national non-profit membership association, provides business education, government advocacy, and events to ensure career success with integrity. Part of our mission is to share knowledge regarding consumer safety and professional accountability.

Legislation and regulations establish mandatory educational requirements to ensure competency, which are verified by state testing. Accountability and the requirement for training is established through licensing. Proper sanitation procedures are necessary to minimize the threat of viral and bacterial infections, such as COVID-19, influenzas, severe acute respiratory syndrome (SARS), herpes simplex virus/human papillomavirus (HSV/HPV), methicillin-resistant staphylococcus aureus (MRSA), ringworm and folliculitis.

Trained in the areas of skin and scalp care, anatomy, biology, chemistry, and science-based infection control, licensed professionals care about the health and safety of their clients. As we learn to work with the COVID pandemic, high safety and sanitation standards are a requirement and serious considerations must be made to ensure beauty services are safe due to skin to skin contact.

As elected representatives for the state of North Dakota you create laws to protect consumers. Regulating the professional beauty industry provides for the requirements necessary to ensure proper training and education of beauty professionals that will have physical contact with constituents in your district.

With the continuing spread of COVID-19, your support of the current regulations for licensed beauty professionals will allow your constituents to receive services in North Dakota from licensed individuals that are properly trained in safety and sanitation. I ask you to please oppose House Bill 1426.

Sincerely,



Steve Sleeper, Executive Director
Professional Beauty Association

Testimony in Support of HB1426

Debbie Carlson, Faces Etc. of MN

Submitted: January 27, 2021

Dear Chairman Weisz and Members of the House Human Services Committee:

Thank you for the opportunity to speak. I am here today to give my testimony and ask for your support in passing House Bill 1426

My name is Debbie Carlson. I am the founder of Faces Etc. of MN, a licensed post-secondary multimedia makeup school in Minneapolis, Minnesota. I have spent my 40-year career as both an on-site freelance media makeup artist and a licensed beauty professional. I have held all five beauty-related licenses in Minnesota, including cosmetologist, manager, salon owner, school manager and instructor.

I opened Faces Etc in 2007 in response to cosmetology students asking how to have a makeup career. Students come to our school to have their own businesses and receive a diploma in multimedia makeup. This is a real career path for makeup artists. My school also offers a board-approved safety and sanitation course in Minnesota for both licensed cosmetologists and estheticians and unlicensed makeup artists.

Unfortunately, cosmetology schools offer very little training that is relevant to the hairstyling and makeup work we do as freelance hair and makeup artists. Makeup has never been the focus of cosmetology schools. The focus has always been haircuts, color, skincare and nails. The scant makeup curriculum, along with the reality that many instructors are uncomfortable teaching makeup, is generally the reason many salons do not offer makeup as a service.

I have had students attend Faces Etc of MN from all across the country and world. Some of my students come to my school dissatisfied after completing cosmetology school. We have trained hundreds of makeup artists and many from North Dakota. Most of our alumni are unlicensed beauty professionals.

In my early years in the industry, brides and clients looking for special event hair and makeup brought their wedding parties to the salon. But in the last twenty years, a new "consumer-driven" trend emerged: clients now want artists to come to them for special events. The client created the demand and entrepreneurial and dedicated artists like my alumni have filled that need.

Often times beauty boards say that licensing freelance hair and makeup artists is about sanitation. The artists I have worked with over my decades in the industry are more conscious of their sanitation and safety protocols than most other industries I've seen, including people working in salons. This bill also requires sanitation training, which further protects sanitation. This is the approach Minnesota has taken and hundreds of artists are safely working in the state without a license.

In today's world, reputation is a powerful force. Any entrepreneur knows that nothing will shut down their business faster than a 1-star review.

We all know that just because a person “holds a license” doesn’t mean that sanitation protocols are being followed. There are horror stories in any industry, but customers themselves are the best judge of safety and sanitation and will hold the artist accountable.

Freelance hair and makeup artists are self-employed. They bring a huge contribution to any state in paying taxes. They generate careers for young entrepreneurs, minorities, and additional income opportunities for young families. And if they are exempt from licensing, they are able to do this without having to go into debt to get started.

Thank you for allowing me to share. I ask that you please support House Bill 1426 to exempt freelance makeup and hairstyling from needless licensing.

House Bill 1426

Presented by: Raven Dybedahl

Before: House Human Services
The Honorable Robin Weisz, Chairman

Date: January 27th, 2021

Chairman Weisz and members of the committee, thank you for your time today to discuss HB 1426 and how it affects me personally. I'm currently a freelance makeup artist, licensed Esthetician, and am employed full time as a product consultant at the retail store Sephora. I attended a cosmetology school in North Dakota to obtain my esthetician education. After obtaining the 600-hour esthetician license in ND, I still needed to complete 1000 hours of supervised training to be able to freelance on location. Which I am fully legal to do freelance work in the state of Minnesota without a license. I know a lot of people who, like me, don't do any freelancing in North Dakota because it's not worth the time and cost of entry to try.

I previously had gone to Faces, etc. in Minnesota that provided a quality makeup artistry education that covered all the sanitary requirements needed and give me the accreditation to work. My time in school for esthetics did not prepare me to

be a professional makeup artist. In fact, we covered makeup in only a day or two of my entire program requirements.

I also have worked in Sephora for 3 years in ND where I was able to apply makeup while working to many people day in and day out without a license prior to school. There was nothing illegal about it, due to a special exemption for retail, but yet if I wanted to take my skills and expertise to my clients' location for their wedding day or another event I would be viewed as criminal because I haven't paid the board of cosmetology to do so.

The cosmetology board is trying to monopolize an area of beauty industry that they are not even educating for success in, and requiring hundreds of hours and thousands of dollars to learn other skills that I don't care to specialize in. My clients recognize my skill and frequently recommend me. However, if I get recommended to a client on the wrong side of the river, I'm forced to decide between getting another client or risk losing my business. I feel like I'm on the black market to do a job that I love, a job that does help others. It is time to decriminalize makeup artists and hairstylists in North Dakota so people like me can earn an honest living without fear.

Thank you and I will stand for any questions.

Testimony in opposition to House Bill 1426
Amber Hill, Bismarck ND
Feathered Beauty Studio

As a stylist and owner/operator of a small independent salon, I feel an obligation and responsibility to stand opposed to House Bill 1426. In the cosmetology industry, the health and safety of our clients are at the top of the priority list. To provide hair care and cosmetic services, such as hair preparation, styling, and eyelash extensions, a professional should be held to the highest standards. To maintain these high standards and the safety of the public, the proper education and training is necessary. A professional with this understanding and the appropriate certification should be the only individuals allowed to provide these services. By opening up and deregulating the industry, the standard of care and safety will be greatly reduced.

Industry professionals, such as myself, have invested the time, energy and money necessary to receive the certifications and pass the appropriate inspections so that clients are guaranteed services that meet quality standards. As a licensed professional, it is disheartening to learn that elected leaders are looking to lower the standards of these services- and at a time when health and safety should be in the forefront of our interests- as we are still in the middle of a global health crisis.

The cosmetology industry, like many others, has struggled the past year because of the pandemic. With temporary closure, limited capacity, and not qualifying for the majority of financial assistance programs, the income and profit for many stylists has been greatly reduced.

This proposed change to the industry is bad, and the timing is worse. I encourage a "no" vote on this bill.

House Bill 1426

Presented by: Mia Pietruszewski
Misfit Mia Makeup

Before: House Human Services
The Honorable Robin Weisz, Chairman

Date: January 27th, 2021

Chairman Weisz and committee members, my name is Mia Pietruszewski, I began my journey as a professional makeup artist in 2016 upon graduating college with a degree in Sales Management and Marketing. It quickly became apparent to me that makeup artistry was going to take my life by the reigns at full force. I was sitting in the financial aid office about to finalize my financial aid to attend school in pursuit of a cosmetology degree while I shared my dream of being the best makeup artists in the country with the aid officer. She told me not to pursue the cosmetology degree if makeup was my dream due to the limited amount of education offered in the curriculum of the license. It was the best advice I've ever been given and this woman saved me countless hours and tens of thousands of dollars that wouldn't have gotten me any closer to my dream.

When I attended Faces Etc. of MN, I was able to study makeup and operate in MN with proper certification as a freelancer there. Over the past few years I've worked towards furthering my skill set and career and have built up my business to where it is today. Being from Grand Forks, I often get called back home by friends to provide makeup services for their weddings and other major milestones as well as style shoots for photographers and marketing groups. After seeing freelance colleague get charged outrageous fines for doing weddings in ND without a full cosmetology degree, I've been working in fear. Fear of missing out on business even though I'm qualified in several other states, fear of getting fined and lose my career for wanting to offer my expertise for friends' important days.

There are currently a limited amount of makeup artists due to the huge entry barrier of this license requirement. A fellow makeup artist in my

hometown is booked through 2022 and continues to turn folks away due to overscheduling. It's time for people like me to stop being afraid to pursue a profitable careers with our passions because we're being silenced and over regulated in North Dakota.

2021 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

HB 1426
2/10/2021

Relating to exemptions to regulation by the state board of cosmetology and definitions relating to the regulation of cosmetology.

Chairman Weisz opened the committee meeting at 10:55 a.m.

Representatives	Attendance
Representative Robin Weisz	P
Representative Karen M. Rohr	P
Representative Mike Beltz	P
Representative Chuck Damschen	P
Representative Bill Devlin	P
Representative Gretchen Dobervich	P
Representative Clayton Fegley	P
Representative Dwight Kiefert	P
Representative Todd Porter	P
Representative Matthew Ruby	P
Representative Mary Schneider	P
Representative Kathy Skroch	P
Representative Bill Tveit	P
Representative Greg Westlind	P

Discussion Topics:

- Eyelash extension application

Rep. Kathy Skroch (10:57) moved to amend by removing lines 14-18 and anywhere else eyelash extension application is referenced.

Rep. Gretchen Dobervich (10:58) second

Voice Vote – Motion Carried

Rep. Gretchen Dobervich (10:59) moved **Do Pass As Amended**

Rep. Clayton Fegley (10:59) second

Representatives	Vote
Representative Robin Weisz	Y
Representative Karen M. Rohr	Y
Representative Mike Beltz	Y
Representative Chuck Damschen	Y
Representative Bill Devlin	Y
Representative Gretchen Dobervich	Y

Representative Clayton Fegley	Y
Representative Dwight Kiefert	Y
Representative Todd Porter	Y
Representative Matthew Ruby	Y
Representative Mary Schneider	Y
Representative Kathy Skroch	Y
Representative Bill Tveit	N
Representative Greg Westlind	N

Motion Carried Do Pass As Amended 12-2-0

Bill Carrier: Rep. Kathy Skroch

Chairman Weisz adjourned at 11:06 p.m.

Tamara Krause, Committee Clerk

February 10, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1426

Page 2, line 14, after "8" insert an underscored period

Page 2, line 14, remove """Eyelash extension application" means the application, removal, and trimming of"

Page 2, remove lines 15 through 18

Page 2, line 19, remove "9."

Page 2, line 25, replace "10." with "9."

Page 2, line 27, replace "11." with "10."

Page 3, line 1, replace "12." with "11."

Page 3, line 10, replace "13." with "12."

Page 3, line 12, replace "14." with "13."

Page 3, line 14, replace "15." with "14."

Page 3, line 16, replace "16." with "15."

Page 3, line 18, replace "17." with "16."

Page 4, line 6, replace "18." with "17."

Page 4, line 8, replace "19." with "18."

Page 4, line 12, replace "20." with "19."

Page 4, line 16, replace "21." with "20."

Page 4, line 18, replace "22." with "21."

Page 4, line 23, replace "23." with "22."

Page 5, remove line 23

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1426: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1426 was placed on the Sixth order on the calendar.

Page 2, line 14, after "8" insert an underscored period

Page 2, line 14, remove "\"Eyelash extension application\" means the application, removal, and trimming of"

Page 2, remove lines 15 through 18

Page 2, line 19, remove "9."

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Page 4, line 23, replace "23." with "22."

Page 5, remove line 23

ReNUMBER accordingly

2021 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1426

2021 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Fort Union Room, State Capitol

HB 1426
3/23/2021 AM

relating to exemptions to regulation by the state board of cosmetology and definitions relating to the regulation of cosmetology
--

Chair Klein opened the meeting at 9:00. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

Discussion Topics:

- Small businesses
- Sanitization course
- Professional products

Representative Nathe introduced the bill [9:00].

Abigail Christiansen, Americans for Prosperity testified in favor and submitted testimony #10427 [9:02].

Meagan Forbes, Institute for Justice testified in support and submitted testimony #10262 [9:12].

Raven Dybedahl, Aesthetician testified in favor and submitted testimony #10366 [9:25].

Maureen Wanner, President of the State Board of Cosmetology testified in opposition and submitted testimony #10500 [9:29].

Rebecca Wood, salon owner testified in opposition.

Vickie Bailie, salon owner testified in opposition [10:01].

Jill Krahn, President of The Salon Professional Academy testified in opposition and submitted testimony #10092 [10:07].

Kristen Pierre, Master Cosmetologist testified in opposition [10:19].

Deborah Schwan Hagney, Cosmetologist testified in opposition [10:25].

Teresa Felch, salon owner testified in opposition [10:36].

Todd Anderson, Josef's School of Hair, Skin, and Body testified in opposition and submitted testimony #10183 [10:38].

Additional written testimony:

10236, 10418, 10438, 10456, 10466, and 10469.

Senate Industry, Business and Labor Committee
HB 1426
3/23/21
Page 2

Chair Klein closed the hearing at 10:49 a.m.

Isabella Grotberg, Committee Clerk

House Bill 1345

Presented by: Abigail Christiansen
Americans for Prosperity North Dakota

Before: Senate Industry, Business, & Labor
The Honorable Jerry Klein, Chairman

Date: March 23rd, 2021

Chairman Klein and members of the committee, thank you for the opportunity to testify in support of House Bill 1426. My name is Abigail Christiansen. I am with Americans for Prosperity North Dakota. We are a policy advocate group working to create opportunity for hard working North Dakotans and fight for good policy. We support House Bill 1426 because it removes barriers to earning a living in the beauty industry and adds value to our economy.

HB 1426 exempts hair styling and make up application from the current licensing requirements. Contrary to the stock emails that are being distributed by the board, HB 1426, **does not**, under any circumstances affect the ability for cosmetologist to do their jobs as they currently are. This bill will directly affect freelance make-up artists and hair styler, many of whom are currently operating

unlicensed in other states, like Minnesota, with more welcoming laws.

Considering the curriculum weighted towards other services, and the amount of income generated plus operating cost, requiring a cosmetology license makes hair and makeup specialty services unviable in North Dakota.

We believe safety and sanitation is important which is why HB 1426 includes a requirement of a board approved sanitation component in order to qualify for the exemption. According to the North Dakota Board of Cosmetology's inspection reports, there have been no disciplinary actions taken against make-up and styling of hair. In an effort to meet in the middle with the cosmetology board regarding safety and sanitation, we have agreed to remove the exemption of eyelash extensions from the original bill and are only aiming to exempt simple hair styling and make up application with passage of House Bill 1426.

Like any other business, freelance businesses work on their reputation and the quality of their work. As a rural bride this summer in Delamere, ND, I want to hire someone for hair and make-up that has a good reputation and most importantly can come to me on location. It's unrealistic and outdated to think that all brides and bridal parties are traveling hours to a salon for hair and

makeup on the big day. Freelance is already happening and it's time to recognize these businesses as legitimate and allow them to contribute to our economy. By allowing freelancers in North Dakota, we are allowing the creation of businesses in North Dakota, which means an increase in tax revenue and accountability.

This is not a change to anything that cosmetologist can currently do or how they operate. House Bill 1426 is a lifeline to job creation, small businesses in rural North Dakota and an opportunity for economic growth.

Thank you and I will stand for any questions.

Abigail Christiansen

Americans for Prosperity North Dakota

Grassroots Engagement Director



INSTITUTE FOR JUSTICE

**Institute for Justice's Written Testimony in Support of House Bill 1426
North Dakota Senate Industry, Business and Labor Committee**

March 22, 2021

Dear Chairman Klein and Members of the Senate Industry, Business and Labor Committee:

Thank you for the opportunity to testify in support of House Bill 1426. My name is Meagan Forbes. I am an attorney at the Institute for Justice. We are a nonprofit public interest law firm that works to protect civil liberties, including economic liberty. We support House Bill 1426 because it removes unnecessary barriers to earning a living in the beauty industry.

Simple hairstyling and makeup application are safe techniques that women do every day. These services offer opportunities for entrepreneurship and employment, but burdensome occupational licensing laws are preventing North Dakotans from providing them.

To style hair and apply makeup at a wedding or special event in North Dakota, an artist must complete 1,800 hours of cosmetology training, which costs as much as \$15,000, and complete an additional 1,000 hours of experience. A good portion of the cosmetology training— such as cuts, color, hair removal, facials and nails— is not relevant to styling hair and applying makeup. This one-size-fits-all approach to licensing benefits beauty schools, which charge tuition and have their students work for free while offering services to paying customers. But it hurts students, who often graduate with a debt that swallows their earnings.¹ This is especially true if a student does not plan to work as a cosmetologist upon graduation.

To address this problem, many states are exempting safe niche beauty services from cosmetology licensing laws. And by doing so, they are creating jobs and opportunities, especially for women, immigrants, and lower-income workers. For example, last year, the Institute for Justice supported a bipartisan bill in Minnesota that exempted hairstyling and makeup artistry from cosmetology licensing.² The bill helped more than 1,000 freelance hair and makeup artists who were working underground and created opportunities for hundreds of people to work in the beauty industry. Some of these artists live right across

¹ Meredith Kolodner, Sarah Butrymowicz, A \$21,000 Cosmetology-School Debt and a \$9-an-hour job, NY Times, Dec. 26, 2018, <https://www.nytimes.com/2018/12/26/business/cosmetology-school-debt-iowa.html>.

² Torey Van Oot, "Ready to Go": Minnesota Lawmakers Exempt Freelance Hair and Makeup Artists from Cosmetology Licensing, Star Tribune, May 17, 2020, <https://www.startribune.com/minnesota-lawmakers-exempt-freelance-hair-and-makeup-artists-from-licensing/570547592/#:~:text=Local-,%22Ready%20to%20go%22%3A%20Minnesota%20lawmakers%20exempt%20freelance%20hair%20and%20women%20of%20their%20livelihoods.%22>.

the border from Fargo. They can work legally now in Minnesota but risk criminal penalties if they take a job across state lines.

Like Minnesota, Arizona and Virginia also exempt simple hairstyling from cosmetology licensing. North Dakota and 29 other states exempt hair braiding, another form of hairstyling, from cosmetology licensing. At least ten states exempt makeup application from cosmetology licensing. North Dakota also already exempts from licensing makeup application at retail makeup counters. There is no evidence that hairstyling and makeup application are any less safe in these states.

Niche beauty providers add value to our economy and our communities. North Dakota should be encouraging their entrepreneurship, not standing in their way. We ask that you please support this important bill that will create jobs and opportunities for North Dakotans.

Sincerely,

Meagan Forbes
Legislative Counsel
Institute for Justice
520 Nicollet Mall, Suite 550
Minneapolis, MN 55402
Phone: (612) 435-3451
mforbes@ij.org

House Bill 1426

Presented by: Raven Dybedahl

Before: Senate Industry, Business, & Labor Committee
The Honorable Jerry Klein, Chairman

Date: March 23rd, 2021

Chairman Klein and members of the committee, thank you for your time today to discuss HB 1426 and how it affects me personally. I'm currently a freelance makeup artist, licensed Esthetician, and am employed full time as a product consultant at the retail store Sephora. I attended a cosmetology school in North Dakota to obtain my esthetician education. After obtaining the 600-hour esthetician license in ND, I still needed to complete 1000 hours of supervised training to be able to freelance on location. Which I am fully legal to do freelance work in the state of Minnesota without a license. I know a lot of people who, like me, don't do any freelancing in North Dakota because it's not worth the time and cost of entry to try.

I previously had gone to Faces, etc. in Minnesota that provided a quality makeup artistry education that covered all the sanitary requirements needed and give me the accreditation to work. My time in school for esthetics did not prepare me to

be a professional makeup artist. In fact, we covered makeup in only a day or two of my entire program requirements.

I also have worked in Sephora for 3 years in ND where I was able to apply makeup while working to many people day in and day out without a license prior to school. There was nothing illegal about it, due to a special exemption for retail, but yet if I wanted to take my skills and expertise to my clients' location for their wedding day or another event I would be viewed as criminal because I haven't paid the board of cosmetology to do so.

The cosmetology board is trying to monopolize an area of beauty industry that they are not even educating for success in, and requiring hundreds of hours and thousands of dollars to learn other skills that I don't care to specialize in. My clients recognize my skill and frequently recommend me. However, if I get recommended to a client on the wrong side of the river, I'm forced to turn down income for my business. I feel like I'm on the black market to do a job that I love, a job that does help others. It is time to decriminalize makeup artists and hairstylists in North Dakota so people like me can earn an honest living without fear.

Thank you and I will stand for any questions.



NORTH DAKOTA STATE BOARD OF COSMETOLOGY

4719 SHELburnE ST. SUITE 1
BISMARCK, ND 58503
TELEPHONE (701) 224-9800

Chairman Klein, Senator Larsen, Committee Members,
I am Maureen Wanner, the President of the State Board of Cosmetology.

We, as a board, serve:

- 1942 Salons and/or renter,
- 6926 Cosmetologist,
- 535 Estheticians,
- 789 Manicurist,
- 85 Instructors,
- 4 schools (2 in Fargo, 1 in Grand Forks, 1 in Bismarck) with a 5th opening soon in Williston,
- along with 233 students.

The instructors need to complete 8 hours of continuing education per year. There is no continuing education required for other licensees.

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

We are opposing HB 1426 as it is presented and offer an amendment.

Page 1. Lines 13-17.

"Cosmetic application" is mentioned in 43-11-02 #6 (page 5, line 7-11) and we agree that it does need to be defined. In our amendment, we want to add "topical" to cosmetics application to clearly define the exemption. We ask that the term "rouge" be changed to "blush," an updated term. We are asking to strike "The term includes the application of makeup applied using an airbrush." In this same exemption it states, "if the cosmetics are applied only with disposable applicators that are discarded after each customer demonstration." We need to continue with consistency. Having it defined in this manner will keep with national standards.

Page 2. Lines 14-19.

"Hairstyling" is already defined in the definition of cosmetology. Hairstyling is a part of cosmetology.

Very few states have a separate definition for hairstyling, hairstylist, hairdressing, or hairdresser. It is not a trend. It is not consistent. In these very few states, it is happening because the state has been pushed to except a definition presented, surprised by amendments and unprepared to fight against them. And those definitions for hairstyling in those state varies to include chemical services such as coloring, perming, or chemical straightening, or not, or to include esthetics, skin care, and waxing, or not. They are not consistent enough to follow or mimic. Cosmetology is consistent. We are asking your to leave hairstyling a part of cosmetology.

Due to reciprocity, we would be unfair to our licensees by granting them a license that did not transfer to another state. We need keep consistent with the national standards and verbiage. We stand with the National Interstate Council of State Boards (NIC) to keep the definition of cosmetology intact. NIC has a national test for cosmetology which makes reciprocity easier for those moving across the states.

“Hairstyling,” as simple as it may sound, if you do not know how to properly heat hair, especially chemically treated hair, it can be burnt. With education, a cosmetologist will know:

- Modern hot tools heat up fast and can get extremely hot. With the professional products, a professionally trained stylist can work very quickly with hot tools, so not to burn the hair or that maybe should work with rollers instead of hot tools.
- The proper care of the hair and what types of products to use when.
- Infection control, how to best disinfect their tools after each use and before using them on the next client.
- Scalp analysis.
- We have not even begun to talk about headlice. Could you identify headlice?

“The term would include the use and styling of hair extensions, hair pieces, and wigs.”

These “hairstylist” will be potentially able to work with extensions, hair pieces, and wigs and also be able to use “mechanical devices” to install or bind them into the hair. From my knowledge, extensions, hair pieces, and wigs most times they need to be color matched and cut to desired length. And again, there is the education needed to install or bind them to the hair. Reputable training courses require each participant to show proof of their cosmetology license before enrolling. It is an advanced training class put on by the hair extension companies and then technicians will be able purchase extensions, hair pieces, and wigs from these companies. If these “hairstylists” are unlicensed therefore unable to get proper training and therefore unable to buy quality product, they will have to purchase lower grade hair. One example of lower grade hair is hair strands with cuticles going in opposite directions which can leave the hair in a more matted mess. Unlicensed technicians will not be able to get high quality products for the safety and protection of the consumers. Formaldehyde is often used in low grade hair extensions. I could also talk about binding agents, glue, and the needles used. Needles also need to be disinfected. How will they disinfect tools and space for their clients? We will never know.

Page 5. Line 8.

We are asking to strike out the term “beauty aid, or equipment.” What beauty aid or piece of equipment would you allow to be used by an unlicensed person on yourself or family member?

- A piece of equipment that was bought online with no training?
- Laser hair removal machine?
- Micro needling?
- Maybe a high percentage acid?
- Makeup brushes that no one disinfects that would easily harbor bacterial infections such as herps, MRSA, staph infection, e coli.? I know this exemption says “applied only with disposable applicators” but “beauty aid or equipment” creates a loophole.

“Cosmetic application,” again seems simple and mindlessly done every day by millions of people around the world. So, what could go wrong with unclean beauty aids aka makeup

brushes, powders, and mascaras? That is why we stand firm on the use of disposable applicators.

We are asking to keep this exemption clear: "Services provided by retailers or sales personnel trained in the *demonstration* of cosmetics application, if the cosmetics are applied only with disposable applicators that are discarded after each customer demonstration."

We cannot open this up for a loophole for the public, or our licensees alike, to use any beauty aid or piece of equipment they want to use.

Page 5. Line 9-11.

We need to keep the statement "The board may adopt rules to ensure sanitary conditions for services provided under this exemption." We again, are to ensure the health and safety of North Dakota consumers by promoting ethical standards and by enforcing the laws of the beauty industry. It is the duty of the board to protect the public health, welfare, and safety through the prevention of the creating and the spreading of infectious and contagious diseases.

Page 5, line 17.

"Dry hairstyling." What is "dry hairstyling?" If dry hairstyling is what they wish for, then shampooing, conditioning, drying, and the use of product would not be needed. And they would have to style with hands only, without mechanical tools. Mechanical tools fall under cosmetology. Cosmetologist are taught how to disinfect these tools, including cords, after each person to prevent the creating and spreading of infectious and contagious diseases. "Dry hairstyling" is not a nationally recognized term.

Page 5. Line 20-26. Niche Beauty Services

The definition for Niche is denoting products, services, or interests that appeal to a small, specialized section of the population. Why would we add verbiage, terms, and definitions like this into our law? The board works hard on striving and maintaining verbiage that is nationally recognized, therefore, licensees can easily move from state to state. We would be doing a disservice to everyone we possible would issue this license or certification to. They would never be able to move from state to state. We utilize the NIC tests and there is no test for "niche beauty services." We would not license or certify someone and then not regulate them under 41-11.

Again, our board agrees to stand with the board's mission which is to ensure the health and safety of the North Dakota consumers by promoting ethical standards and by enforcing the law of the beauty industry.

Thank you for your time.

Submitted by Maureen Wanner,
President, State Board of Cosmetology

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1426

A BILL for an Act to ~~create and enact section 43-11-02.1 of the North Dakota Century Code, relating to certification of niche beauty services providers; and to~~ amend and reenact sections 43-11-01 and 43-11-02 of the North Dakota Century Code, relating to exemptions to regulation by the state board of cosmetology and definitions relating to the regulation of cosmetology.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

~~43-11-01. Definitions.~~

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

1. "Board" means the state board of cosmetology.
2. "Booth space" means that part of a licensed salon operated independently by an individual licensed under this chapter.
3. "Cosmetic application" means the application of a topical cosmetic to enhance the appearance of the face or skin, including powder, foundation, rougeblush, eyeshadow, eyeliner, mascara, and lipstick. ~~The term includes the application of makeup applied using an airbrush.~~ The term does not include the application of permanent makeup or tattooing.
4. "Cosmetologist" means an individual licensed under this chapter to practice cosmetology.
- 4.5. "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 person holding out as practicing cosmetology by whatever designation and within the meaning of this chapter and in and upon whatever place or premises.

a. The term includes the following or any one or a combination of these practices:

arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work, upon the hair of any individual 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, performing noninvasive hair removal, beautifying, or similar work on the body, manipulation of eyelashes, or manicuring the nails of any individual.

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

~~5.6.~~ "Cosmetology salon" includes that part of any building in which the occupation of a cosmetologist is practiced.

~~6.7.~~ "Esthetician" means an individual who is licensed by the board to engage in the practice of skin care.

~~7.8. "Hairstyling" means the practice of shampooing, conditioning, drying, arranging, curling, straightening, or styling hair using only mechanical devices, hair sprays, and topical agents, such as balms, oils, and serums. The term includes the use and styling of hair extensions, hair pieces, and wigs. The term does not include cutting hair or the application of dyes, bleach, reactive chemicals, keratin treatments, or other preparations to color or alter the structure of hair.~~

~~9.8.~~ "Homebound" means an individual who is ill, disabled, or otherwise unable to travel to a salon.

~~8.10.9.~~ "Instructor" means an individual who is at least eighteen years old, 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.

~~9.11.10.~~ "Invasive care" means any procedure that invades the live tissue of the dermis,

including:

a. Laser use; and

b. Chemical peels using:

(1) Thirty percent or higher concentration of alpha hydroxy acid;

(2) Twenty percent or higher concentration of beta hydroxy acid;

(3) Two percent or higher concentration of resorcinol;

(4) Fifteen percent or higher concentration of trichloroacetic acid (TCA); or

(5) Fifteen percent or higher concentration of phenol.

~~10.12.11~~. "Manicuring" means the cleansing, cutting, shaping, beautifying, or massaging of the hands, feet, or nails of any individual.

~~11.13.12~~. "Manicurist" means an individual who is licensed by the board to engage in the practice of manicuring.

~~12.14.13~~. "Master cosmetologist" means an individual who has met the requirements of section 43-11-26 and has applied for and received a managing cosmetologist license.

~~13.15.14~~. "Mechanical device" means a ~~brush~~, clip, comb, crochet hook, curler, curling iron, ~~flat iron~~, hairpin, roller, scissors, blunt-tipped needle, thread, ~~tweezers~~, and hair binder.

~~14.16.15~~. "Natural hair braiding" means the service of twisting, wrapping, weaving, extending, locking, or braiding hair by hand or with a mechanical device. Natural hair braiding is commonly known as "African-style hair braiding" but is not limited to any particular cultural, ethnic, racial, or religious forms of hairstyles.

a. The term includes:

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

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

(3) The making of wigs from natural hair, natural fibers, synthetic fibers, and

hair extensions; and

(4) The use of topical agents, such as conditioners, gels, moisturizers, oils, pomades, and shampoos, in conjunction with performing services under paragraph 1 or 2.

b. The term does not include:

(1) The application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair; or

(2) The use of chemical hair joining agents, such as synthetic tape, keratin bonds, or fusion bonds.

~~45.17-16~~. "School of cosmetology" means an establishment operated for the purpose of teaching cosmetology.

~~46.18-17~~. "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, performing noninvasive hair removal, beautifying, or similar work on the body of any person. The term does not include invasive care or threading.

~~47.19-18~~. "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.

~~48.20-19~~. "Student instructor" means a cosmetologist who is receiving instruction in teacher's training in a duly registered school of cosmetology.

~~49.21-20~~. "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.

~~20.22.21.~~ "Tuition" means the total cost of a person's cosmetology studies, and does not include books or demonstration kits.

SECTION 2. AMENDMENT. Section 43-11-02 of the North Dakota Century Code is amended and reenacted as follows:

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

This chapter does not apply to:

1. Services in case of emergency.
2. Services provided by persons practicing cosmetology upon members of their immediate families.
3. Services by a person licensed by the state and working within the standards and ethics of that person's profession, if that person does not represent to the public that the person is a cosmetologist or manicurist.
4. Services by nurses, undertakers, and morticians lawfully engaged in the performance of the usual and ordinary duties of their vocation.
5. Educational activities conducted in connection with any regularly scheduled meeting or any educational activities of any bona fide association of licensed cosmetologists, 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.
6. Services provided by retailers or their sales personnel trained in the demonstration of cosmetics application, ~~beauty aid, or equipment,~~ if the cosmetics are applied only with disposable applicators that are discarded after each customer demonstration. ~~The board may adopt rules to ensure sanitary conditions for services provided under this exemption.~~

7. Services provided in a licensed hospital or a nursing home by a person practicing cosmetology on a volunteer basis without compensation or by a nurse's assistant.
8. Skin care provided under the supervision, control, and responsibility of a physician practicing within the scope of the physician's license under chapter 43-17 or nurse practicing within the scope of the nurse's license under chapter 43-12.1.

9. Providing dry hairstyling.

~~SECTION 3. Section 43-11-02.1 of the North Dakota Century Code is created and enacted as follows:~~

~~43-11-02.1. Certification for niche beauty services.~~

~~The board shall certify an individual who performs only hairstyling and cosmetic application as a niche beauty services provider. The board may require a certificate holder to complete a board-approved four-hour course in health, safety, and infection control and state law. A certificate holder is not licensed under this chapter as a cosmetologist, esthetician, or manicurist. A facility at which a niche beauty services provider provides hairstyling and cosmetic services is not subject to regulation under this chapter.~~



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A C A D E M Y

Jill Krahn and Jodi Brown Testimony BILL NO. 1426

Dear Chairman, Senators, and Committee Members,

My name is Jill Krahn I am here along with my partner and sister we are two of the partners of 5 for Salon Professional Education Company, a franchisor of L'Oréal and Redken partnered beauty schools across the country. We are also salon owners and a school owner in Fargo ND. We are members of the AACSB state's relations committee, which gives us the opportunity to see what is happening in the beauty school industry. I am a committee member for Beauty Changes Lives a well. We are Beauty Industry Experts from our Home State of North Dakota. We are Growing Salon Leaders One Student at a Time. We employ in Fargo alone over 100 people. It is our mission to help them to **Learn** more, **Earn** more and **Live** best.

Rationale:

I STRONGLY disagree and want to amend to Kill this bill to NOT allow to deregulate the hair and skin industry for the safety of the public. They refer to themselves as the down under as stated in their first testimony. This would give them the rights to open a business without being licensed therefore they would not be inspected to ensure they are following the guidelines. Also giving someone a 4-hour sanitation course does NOT give a guest any safety for them to be educated on what kinds of glues and products they can use on the guest hair extensions. This is a very dangerous for the guest.

They want to take cash at weddings or formal gathering to style hair and put on lashes. But there is more to this, it would allow them to do install extensions hair, and not be regulated that they are not performing all services with NO regulations or safety protocols or follow up on state guidelines. No one to report to. We see a lot of people operating in a cash only business. By allowing this bill that would only grow.

HB 1426 -Moving on not requiring a license for Hair Styling. As you know if you are examining our industry, "booth rental" usage is up 70% according to PBA economic snapshot, but reported revenue is down. In fact, most of the reported income is coming from the commission salons who are regulated and inspected. If you allow hair styling to not be regulated, how will you monitor providers to ensure that they are not doing regulated services such as hair coloring and cutting as well? If you also allow them to do hair extensions, you should know they have to be cut to fit the head shape and the hair style. You cannot add an extension without cutting it to fit the length of the hair. Do you have the manpower to do so? How can you protect public safety? The state board has no jurisdiction to a certification. Even a well-run business has a person they report to and be held accountable to follow the guidelines. I reported the fact that a lot of booth renters do not report their income to my legislator, Jonathan Casper, a few years ago. This is an issue that has only worsened since then. I hear people brag that they keep their business all cash to avoid reporting both sales and income taxes. The State is losing a lot of money by allowing



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Jill Krahn and Jodi Brown Testimony BILL NO. 1426

booth renters to have such loose guidelines. As a significant taxpayer in the state, with more than [100] employees, I would think my state would want a degree of control on hair stylists and booth renters so that it can properly regulate it and collect the taxes that legitimate businesses such as mine pay. This bill will open a Pandora's box of horror stories. From the damage that cheap glue can cause to not knowing the protocols required to safely install extensions will lead to loss of hair and lawsuits will follow. I want all of you to understand that the beauty industry is a professional industry. I strongly feel that only an industry expert can really determine the outcome of this bill. A group from "the down under" (their words) would not know the difference, or what the results will look like. Our providers are licensed for a reason, starting with public safety. Our students deserve the best education they can get – one that will give them the best chance to earn a solid middle class living. Deregulation may be a noble goal – one designed to respect the rights of business owners. But in the case of the above-mentioned bills, the proposed deregulation is reckless and short sighted.

I also want to talk about changing the hours of the cosmetology course in North Dakota to 1,500 hrs. It is at 1,800 hrs. now, and it is helping the student learn the business skill sets, and personal development skills sets on how to run a good business and follow the guidelines. If you cut 20 % of their training, you will cut a valuable part that will help them become successful faster. I know the goal is to see the students earn a great living faster but cutting their education will only make them have to try to learn it on their own and that will happen a lot slower. And at their expense.

I implore you NOT to change what is working for North Dakota students and salon owners. We are Growing Future Salon Leaders they earn roughly \$40,000 plus their first year with very little college debt in less than a year. What industry can do this? So why would you want to change that? **If you accept this bill you have destroyed the beauty industry and the professionals that stand up to all the guidelines to give the guest, the best experience.**

Please refrain from allowing any more change in the beauty and skin industry for the safety of the public and the tax ramifications for unlicensed facilities opening. **I find this very upsetting to a guest that may think they are going to a licensed professional to get their services done and find out after the results that that service provider was not trained nor licensed.**

Jill Krahn The Salon Professional Academy Fargo. AACS States Relations Board and SPEC Franchise Beauty Schools.



March 19, 2021

RE: Testimony against HB1426

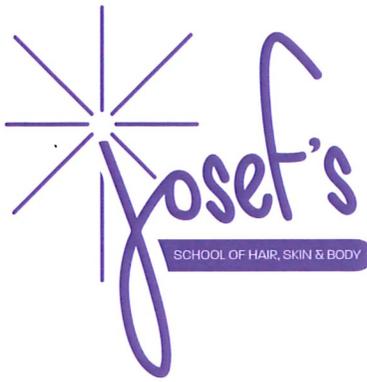
Dear Chairman, Senators, & Committee members,

My name is Todd Anderson, I work for Josef's School of Hair, Skin & Body doing financial aid and general day-to-day operations. Although, I am not a licensed Cosmetologist or Skin Esthetician I have great respect and admiration for the professions as well as for the students that walk through our doors on their way to become licensed professional stylists.

HB1426 is a dangerous proposal, the repercussions of which will be felt by:

- Current licensed beauty professionals. Their education and commitment to the industry they care for and clients they respect will be minimized. Their livelihoods will be put in jeopardy.
- Salon owners. Licensed and inspected salons stand to be subject to "guilt by association" of poor press from mishaps in unregulated facilities. Their stylists will be negatively financially impacted which in turn will trickle up to negatively impact the salon owner's ability to employ as many stylists or even continue to operate.
- ND Board of Cosmetology. Registration and licensing fees may decrease while complaints from guests of unregulated facilities and services would increase.
- The state of ND. Reduction in sales tax collected at licensed salons, reduction of income tax from licensed stylists, and a significant increase in untaxed income being recognized by unregulated individuals.
- Clients and their safety.

The curriculum laid out by the ND Board of Cosmetology sets a solid educational foundation for aspiring professionals. Students need to understand the science within the skin and hair to insure that during each client consultation they are asking the proper questions, including (but not limited to) current chemicals in their hair, current products using on skin or hair, allergies, etc. Being a part of a larger regulated group means each professional is being held to certain set of minimum standards including continuing education requirements, 12 hours per year. Despite efforts to educate thoroughly during their time in-school as well as through continuing education credits oversights and mistakes do happen. However, they are currently happening under the care of licensed professionals in licensed inspected and safe facilities affording them the best chance to recognize a potential issue, stop significant damage and set forth a corrective action plan. Through deregulation of services education and oversight would cease and so the number of mistakes and their severity would increase.



Guests have a right to know that no matter what salon they choose to patron within North Dakota they will be handled professionally and safely by licensed stylists in licensed facilities. The deregulation proposed in HB1426, if allowed, would open the door and allow unlicensed professionals to operate unregulated and unsupervised potentially allowing such individuals to go beyond their scope of practice as well as operate in unsafe or unsanitary facilities. The hair and skin industry holds its self to a very high standard in regards to sanitation and safety. Proof of this is within the past year little to no community spread came from salons and spas as we have always sanitized and disinfected to the highest standards. Coming off of the past year we as a state and nation just had is no time to allow for the deregulation of safety and sanitation practices within the hair and skin professions.

I urge you to uphold North Dakota's current laws and practices that are clearly working showing hair and skin professionals within the state that they are see, heard, and valued within North Dakota.

Thank you for your time.

Respectfully,

A handwritten signature in blue ink that reads "Todd Anderson".

Todd Anderson
701-235-9910
todd@jsohd.com

As a North Dakota resident and a licensed Master Cosmetologist, I oppose HB 1426.

Salon sanitation has a great impact on the health of both the client and the professional. We must be educated about proper sanitation in order to prevent the transmission of any communicable disease, and facilities providing services should be monitored and inspected on a regular basis, as are salons and professionals currently licenses under Chapter 43-11. Each client or employee has the potential of carrying a type of bacterial, fungal, parasite, or viral infection. It is necessary to correctly take the proper steps to disinfect implements, linens, products and surfaces in a salon. Proper training and sanitation isn't just a concern, it is a responsibility to the public.

While this bill admittedly does allow for niche providers to be required to complete a sanitation course, it explicitly provides that the facilities they provide these services in are not subject to regulation under chapter 43-11; therefore, this presumably would mean that the Board of Cosmetology is not empowered to monitor and inspect these facilities to insure that proper sanitation procedures are being followed. This ultimately is not only a disservice to the public, but potentially an endangerment.

Stephanie Henderson
License #7418 since 1993

To local and State officials in response to Bill #1426

I strongly disagree and amend to kill bill #1426 due to the fact that I am a licensed cosmetologist and have taken the appropriate steps in order to obtain my license and learn the safety and rules that come with my industry. I attended high school at Fargo North high school and have dreamed of being a stylist since I could remember. I was often asked if I wanted to be poor or not successful. This was due to years of people thinking and saying cosmetology was not a proper career. Which is furthest from the truth. Yet now this group who is not even from our state wants to come in and deregulate even more of my career.

It is absolutely terrifying that a simple bill could potentially take away 20% of my salons income. In order for me to receive my license I had to clock hundreds of hours in sanitation education to learn how to properly sanitize my tools for my next client. It is not as simple as washing it. There are 3 different steps of sanitizing currently required by the ND state board of cosmetology. Did you know that? Did you know that by simply not switching combs between clients can spread things such as lice and scabies? It can be transferred from client to client when tools are not properly sanitized. Imagine sending your son, daughter, niece, nephew, or grandchildren to an unlicensed salon, even for a simple braid or curl style could result in said conditions leaving the parents or grandparents with a costly treatment regimen and traumatized children. When you could simply trust a fully licensed salon.

As a salon owner during the time of Covid we were one of the only industries that were mandated closed to flatten the curve. We stood by and followed the rules because it was licensing that taught us to do so. We were also one of the only industries that were fully open as of May 1st. It's because we had rules and regulations that we learned in school to guide us through a pandemic. Yes it is only styling and such but where does it stop?

We deserve more than this. We are still paying our student loans on the school that taught us to keep our client safe and happy.

We are the ones that prepare people for their birthdays, weddings, anniversaries and even their funerals.

We walk to the ends of the earth to keep people feeling their best. We shouldn't feel like we are not protected.

I beg you to vote against Bill #1426 to save your local hair salons. We did it the way you asked us to do it in the first place. Please honor our licenses

Chloe Benz
Co-owner Salon 3|5
Fargo, ND
Chloebenz222@gmail.com

House Bill 1426

Presented by: Mia Pietruszewski
Misfit Mia Makeup

Before: House Human Services
The Honorable Chairman Klein

Date: March 22, 2021

Chairman Klein and the Industry Business and Labor Committee, my name is Mia Pietruszewski, I began my journey as a professional makeup artist in 2016 upon graduating college with a degree in Sales Management and Marketing. It quickly became apparent to me that makeup artistry was going to take my life by the reigns at full force. I was sitting in the financial aid office about to finalize my financial aid to attend school in pursuit of a cosmetology degree while I shared my dream of being the best makeup artist in the country with the aid officer. She told me not to pursue the cosmetology degree if makeup was my dream due to the limited amount of education offered in the curriculum of the license. It was the best advice I've ever been given and this woman saved me countless hours and tens of thousands of dollars that wouldn't have gotten me any closer to my dream.

When I attended Faces Etc. of MN, I was able to study makeup and operate in MN with proper certification as a freelancer there. Over the past few years I've worked towards furthering my skill set and career and have built up my business to where it is today. Being from Grand Forks, I often get called back home by friends to provide makeup services for their weddings and other major milestones as well as style shoots for photographers and marketing groups. After seeing a freelance colleague get charged outrageous fines for doing weddings in ND without a full cosmetology degree, I've been working in fear. Fear of missing out on business even though I'm qualified in several other states, fear of getting fined and losing my career for wanting to offer my expertise for friends' important days.

There are currently a limited amount of makeup artists due to the huge entry barrier of this license requirement. A fellow makeup artist in my

hometown is booked through 2022 and continues to turn folks away due to over scheduling. It's time for people like me to stop being afraid to pursue a profitable careers with our passions because we're being silenced and over regulated in North Dakota.

March 22, 2021

#10456

Professional Beauty Association Testimony in Opposition of House Bill 1426

Dear Chairman Klein and Members of the Senate Industry, Business and Labor Committee,

On behalf of our licensed beauty professionals and small business owners in the state of North Dakota, I respectfully urge you to oppose House Bill 1426, which will allow individuals to provide blow-dry and styling services without a license or training, provided they receive a niche beauty services certificate. This bill will remove regulation for facilities that provide hair styling services.

The Professional Beauty Association (PBA), a national non-profit membership association, provides business education, government advocacy, and events to ensure career success with integrity. Part of our mission is to share knowledge regarding consumer safety and professional accountability.

In a third-party study on licensure in the beauty industry, NDP analytics found that 84% of the public believe that states should continue licensing requirements. When given two sides of the licensure issue (i.e., "necessary to protect the safety of consumers" vs. "unnecessary intrusion into those businesses") "necessary" won, 81% to 8%. This was consistent across age and income groups. **Proponents of HB 1426 would like the ability to provide these services as freelancers. This has been addressed in SB 2092, which would allow licensed professionals to provide services outside of the salon and has passed in the Senate and the House Industry, Business, and Labor Committee.** It has been noted that customers themselves are the best judges of safety and sanitation and will hold stylists accountable. This position is shortsighted and puts responsibility on consumers to be educated on the necessary safety and sanitation for services they are paying for. **Without oversight, inspection, or a board to report to, this proposed circumstance encourages a more litigious system- something most North Dakota consumers cannot afford nor want to engage in.**

The Nevada State Board of Cosmetology produced a collaborative project to identify consumer risks in common beauty services, *The Nevada Report: Identifying Risks in Beauty Services*. The results of risks involved in blow-drying can be found [here](#) and [here](#). Providing close touch services with skin-to-skin contact to the public is different than blow-drying your own hair at home and the risks identified in this report illustrate that the minimal requirement of a niche services certificate without oversight is detrimental to North Dakota consumers.

PBA and our members support common-sense reform and **would be in favor of allowing cosmetology students to work in the salon to provide the services** outlined in the bill. Michigan passed similar legislation in 2018, and I have attached the language to this letter. Allowing the student to provide services in the salon serves as a steppingstone in their career, with the opportunity to bring in income during school. **Additionally, we support a hair styling only license.**

The concerns of the beauty industry and our members in North Dakota are associated with **allowing untrained individuals to provide services to the public that require skin-to-skin contact using the same tools on each client.** There is not research that supports the safety of the measures being proposed in this bill. It is the state's responsibility to protect the health and safety of consumers. On behalf of our members and your constituents, we ask that you oppose HB 1426.

Sincerely,



Kati Rapoza, Government Affairs Manager
Professional Beauty Association



Dear Chairman, Senators, and Committee Members,

My name is Alisha Schaeffer and I am currently the Director of Operations for Josef's School of Hair, Skin & Body in Fargo and Grand Forks. I also have been a licensed instructor working at Josef's for 15 years as well as at the Paul Mitchell Academy in Little Rock Arkansas. I have seen hundreds of students graduate and become licensed professionals in this state. Licensed professionals who have gone through the proper training that it takes to be able to not only accommodate a client's wants but also can deliver it in a safe and sanitary manner. There is much more to providing services than just the service itself.

The deregulation of HB1426 is risky and unfitting for our clients in this state because it permits an unlicensed individual to perform services that could potentially be dangerous, unsanitary for not only the client, but the person performing the services as well. Our current education that is provided in this state is set with certain standards that allows a licensed individual to be able to manage situations that can occur with services being provided. No matter if it is hairstyling, there is much more behind it.

What chemicals are currently on the hair? What products does the client use? Any allergies or contraindications? How does the deregulated services get proper consultations? How do you not know that deregulating these services will not open the door for regulated services to be performed without you knowing? For instance, Hair Extensions require the hair to be cut for the style the client is wanting. How do we not know that won't happen?

The deregulation proposed in HB1426 is a disaster waiting to happen. A 4 hours sanitation course does NOT allow enough proper education for someone to perform these services. Our hair and skin professionals in this state have done the time it takes to be professional and successful. The standards set by the board has proven to work over the years and has allowed this industry to be a very productive one. They are able to not only provide the services, but can execute them in a safe and professional manner.

This is an industry that has required a license for a reason. Safety, sanitation and a knowledge of the science behind hair and skin is a MUST. The services being provided needs to be regulated, and the places that are providing these services MUST be inspected. Anything less is simply negligent to the people needing/wanting these services in our state. We have to continue to uphold our integrity not only to this profession but all the current licensed professionals and what we have always stood for.

Education and safety are truly so important when working with our clients so If we lose sight on that then we might as well say the beauty industry is done for. Please do NOT allow any of these deregulations to happen in our state.

Thank you,
Alisha Schaeffer
701-235-0011
alisha@jsohd.com

March 23, 2021

The National Interstate Council of State Boards of Cosmetology (NIC) would like to thank you for the opportunity to provide comments.

NIC is a national non-profit organization that promotes a national forum for collaborating and sharing national standards to promote uniformity in regulation and testing throughout the United States. NIC serves and supports states on a national basis to encourage and promote the protection of the health, safety and welfare of the public while promoting portability opportunities to the barber, cosmetology, manicure and esthetics professions.

Proposed HB 1426 appears to cross over into the current definition of Cosmetology. The proposed definition for hair styling could fall under the statement "it involves the use of tools and/or chemicals which may be dangerous when mixed or applied improperly." In addition, the proposed definition of hair styling also includes mechanical devices and products, which could open it up to provide the ability to utilize many different tools and/or products that are dangerous if not trained correctly. The definition also includes arranging, curling, straightening or styling hair, which could also result in burns and/or spread of infections if the tools are not cleaned and disinfected appropriately.

I would also argue there is not a need for a separate definition of cosmetic application as the North Dakota law already allows for exemptions for: "Services provided by retailers or their sales personnel trained in the demonstration of cosmetics application, beauty aid, or equipment, if the cosmetics are applied only with disposable applicators that are discarded after each customer demonstration. The board may adopt rules to ensure sanitary conditions for services provided under this exemption".

The proposed language states *"The board shall certify an individual who performs only hairstyling and cosmetic application as a niche beauty services provider. The board may require a certificate holder to complete a board approved four-hour course in health, safety, and infection control and state law. A certificate holder is not licensed under this chapter as a cosmetologist, esthetician, or manicurist. A facility at which a niche beauty services provider provides hairstyling and cosmetic services is not subject to regulation under this chapter."*

The proposed language **does not meet** the national standard for education, testing and licensing requirements and will put consumers at risk. It will also prevent portability of licensure for North Dakota licensees as no other state or jurisdiction allows this type of practice. NIC recommends the State of North Dakota not develop a definition that will prevent portability of licensure as there are not other states that have this type of regulation.

We are happy to share national standards and best practices with states and jurisdictions and are available to provide additional information at your request.

Respectfully,
Susan Colard, Executive Director
National Interstate Council of State Boards of Cosmetology (NIC)
Scolard.nic@gmail.com
(803) 922-7476
www.nictesting.org

2021 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Fort Union Room, State Capitol

HB 1426
3/23/2021 PM

relating to exemptions to regulation by the state board of cosmetology and definitions relating to the regulation of cosmetology
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Chair Klein opened the hearing at 3:11 p.m. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

Discussion Topics:

- Curriculum development

Senator Burckhard moved a DO NOT PASS [15:11].

Senator Vedaa seconded the motion [15:11].

[15:11]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	Y
Senator Randy A. Burckhard	Y
Senator Curt Kreun	Y
Senator Richard Marcellais	Y
Senator Shawn Vedaa	Y

Motion passed: 6-0-0

Senator Marcellais will carry the bill [15:12].

Chair Klein ended the hearing at 3:13 p.m.

Isabella Grotberg, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1426, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO NOT PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1426 was placed on the Fourteenth order on the calendar.