

FISCAL NOTE
Requested by Legislative Council
04/13/2015

Amendment to: SB 2097

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$29,970		\$45,000		\$35,000
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Senate Bill No. 2097 amends sections to the Cosmetology chapter of the North Dakota Century Code. Section 10 of the Bill's Amendments increase the penalty fee for the late renewal of a license from fifteen dollars (\$15) to fifty dollars (\$50).

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section ten of the bill increases the penalty for late renewal of a license from fifteen dollars to fifty dollars. The North Dakota State Board of Cosmetology is hoping the increase in fee will act as a deterrent for the future years and will hope to see a decrease in the number of late renewals.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Records indicate that in 2012, approximately 726 licensees were late in their renewals, resulting in approximately \$10,890 revenue generated from late renewals. In 2013, this number jumped to 854 late renewal of license, resulting in approximately \$12,810. In 2014, the number again jumped to 948 licenses with a late charge, resulting in approximately \$14,220 in late fees.

The licenses terms are for one year, beginning January 1 and ending December 31, each year. We recognize fiscal years do not run on the same calendar. However, because most renewals happen during the beginning four months each year, we include the year renewals with the end terms of the fiscal year. So for example, 2015-2017 includes renewals for 2016 and 2017. The 2015 amounts are included in the 2013-2015, along with 2014. The 2017-2019 includes renewals for 2018 and 2019.

We estimate that the number of late renewals will again increase in 2015 as based on the previous three years, at least until licensees become aware of the change in penalty fee. Thereafter, we are hoping to see a decrease in the amount of late renewals. The above figures are estimates on what we hope to see as a decline in the number of late renewals, but also taking into account the increase in renewal fee.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The State Board of Cosmetology does not anticipate any effect on expenditures.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The increase in late renewal fees will not affect appropriations.

Name: Sue Meier

Agency: North Dakota State Board of Cosmetology

Telephone: 701-224-9800

Date Prepared: 04/13/2015

FISCAL NOTE
Requested by Legislative Council
03/26/2015

Amendment to: SB 2097

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$29,970		\$36,000		\$34,000
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Senate Bill No. 2097 amends sections to the Cosmetology chapter of the North Dakota Century Code. Section 10 of the Bill's Amendments increase the penalty fee for the late renewal of a license from fifteen dollars (\$15) to twenty dollars (\$20).

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section ten of the bill increases the penalty for late renewal of a license from fifteen dollars to twenty dollars. The North Dakota State Board of Cosmetology is hoping the increase in fee will act as a deterrent for the future years and will hope to see a decrease in the number of late renewals.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Records indicate that in 2012, approximately 726 licensees were late in their renewals, resulting in approximately \$10,890 revenue generated from late renewals. In 2013, this number jumped to 854 late renewal of license, resulting in approximately \$12,810. In 2014, the number again jumped to 948 licenses with a late charge, resulting in approximately \$14,220 in late fees.

The licenses terms are for one year, beginning January 1 and ending December 31, each year. We recognize fiscal years do not run on the same calendar. However, because most renewals happen during the beginning four months each year, we include the year renewals with the end terms of the fiscal year. So for example, 2015-2017 includes renewals for 2016 and 2017. The 2015 amounts are included in the 2013-2015, along with 2014. The 2017-2019 includes renewals for 2018 and 2019.

We estimate that the number of late renewals will again increase in 2015 as based on the previous three years, at least until licensees become aware of the change in penalty fee. Thereafter, we are hoping to see a decrease in the amount of late renewals. The above figures are estimates on what we hope to see as a decline in the number of late renewals, but also taking into account the increase in renewal fee.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The State Board of Cosmetology does not anticipate any effect on expenditures.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The increase in late renewal fees will not affect appropriations.

Name: Sue Meier

Agency: North Dakota State Board of Cosmetology

Telephone: 701-224-9800

Date Prepared: 03/30/2015

FISCAL NOTE
Requested by Legislative Council
01/29/2015

Amendment to: SB 2097

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

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	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$29,970		\$90,000		\$50,000
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

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Cities			
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Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Senate Bill No. 2097 amends sections to the Cosmetology chapter of the North Dakota Century Code. Section 10 of the Bill's Amendments increase the penalty fee for the late renewal of a license from fifteen dollars (\$15) to one hundred dollars (\$100).

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section ten of the bill increases the penalty for late renewal of a license from fifteen dollars to one hundred dollars. The North Dakota State Board of Cosmetology is hoping the increase in fee will act as a deterrent for the future years and will hope to see a decrease in the number of late renewals.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

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The licenses terms are for one year, beginning January 1 and ending December 31, each year. We recognize fiscal years do not run on the same calendar. However, because most renewals happen during the beginning four months each year, we include the year renewals with the end terms of the fiscal year. So for example, 2015-2017 includes renewals for 2016 and 2017. The 2015 amounts are included in the 2013-2015, along with 2014. The 2017-2019 includes renewals for 2018 and 2019.

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renewals, but also taking into account the increase in renewal fee.

For 2015, in recognize a trend in the past three years of approximately 100 more licenses each year paying a late renewal fee, we estimate approximately 1,050 late license renewal applications. We kept the \$15 late fee for 2015, to account for the change in law going into effect after most renewals have been made. With a \$15 penalty fee per license, we estimate \$15,750 in revenue generated from late renewals in 2015. We are hoping the number of late renewals will drop to 500 by 2016, resulting in \$50,000 in revenue generated from late renewals. 2017 - hoping late renewals drop to 400, resulting in \$40,000. 2018 - hoping late renewals drop to 300, resulting in \$30,000. 2019 - late renewals drop to 200, resulting in \$20,000.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

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Name: Sue Meier

Agency: North Dakota State Board of Cosmetology

Telephone: 701-224-9800

Date Prepared: 01/29/2015

FISCAL NOTE
Requested by Legislative Council
12/22/2014

Bill/Resolution No.: SB 2097

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

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Expenditures						
Appropriations						

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The State Board of Cosmetology does not anticipate any effect on expenditures.

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The increase in late renewal fees will not affect appropriations.

Name: Sue Meier

Agency: North Dakota State Board of Cosmetology

Telephone: 701-224-9800

Date Prepared: 12/23/2014

2015 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2097

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2097
1/13/2015
Job Number 21904

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the practice and licensing of cosmetology, manicuring and esthetics

Minutes:

Attachments

Vice Chairman Campbell: Called the hearing to order.

Barb Hougum, State Board of Cosmetology: Written Testimony Attached (1). (:32-5:30)

Senator Miller: Asked about the use of the words hair removal and if cosmetologist did laser or electrolysis.

Barb Hougum: No they are not allowed to invade the live tissue. She continues going over her written testimony. (6:29-12:10)

Senator Sinner: Asked if there was a place where a medical director was defined in the code.

Sandra DePountis, Office of the Attorney General and Counsel for the North Dakota State Board of Cosmetology: Said that they had a new board member that holds a FNP license and she told her this language had changed to encompass nurse practitioner and medical director. She doesn't know where that is in the code but can get it for him.

Barb Hougum: She continues with her written testimony. (13:10-15:00)

Senator Sinner: Talked about the need to have medical director defined in this bill.

Barb Hougum: She continues with her testimony. (17:17-21:30)

Sandra DePountis: Explains how the law works with reciprocity. (21:30-22:09)

Senator Poolman: Asked why they wouldn't allow them to be licensed in North Dakota if they already hold a license in California.

Barb Hougum: Stated that she serves on a National Board where they are trying to have nationalized testing.

Senator Sinner: Asked if the testing programs are different across the nation.

Barb Hougum: The National Interstate Council is like the national organization of state boards of cosmetology. She continues with her written testimony, section 8. (24:31-32:40)

Vice Chairman Campbell: Asked how many inspectors there are throughout the state.

Barb Hougum: Six.

Sue Meier, State Board of Cosmetology: They have 8,300 licensed in the state and 1,600 salons. That would include booth renters.

Senator Miller: We would probably need a definition of "booth" in the bill. Could you explain what a booth renter is?

Sue Meier: A booth rental salon is like an independent contractor. The salon owner rents a station or a room and that person would conduct their own business.

Senator Sinner: The license renewal fee is fifteen dollars and if they don't pay by a certain date they would pay one hundred and fifteen dollars?

Sue Meier: That's correct, that's what we are proposing.

Barb Hougum: She continues to go over her testimony. (36:35-37:37)

Senator Miller: Asked if it would be easier for their office if they did a two or five year license.

Barb Hougum: That is something to consider.

Senator Miller: Said they could double the fee if it's every two years to thirty dollars.

Barb Hougum: Said that a lot of states do a two year renewal.

Vice Chairman Campbell: Asked if they were looking to increase the fee in January 1st of 2016.

Barb Hougum: That's correct.

Vice Chairman Campbell: Asked for anyone else that was in support, opposition or neutral.

Ken Bollinger, North Dakota Department of Health: He came today to follow the discussion because they do license electronic hair removal technicians. He thinks an

addition to the amendment for what "hair removal" is covered by the board of cosmetology and if on the bottom of page it would state "noninvasive hair removal". (43:50-44:44)

Vice Chairman Campbell: Asked Barb if she had any opposition to that addition.

Barb Houglum: Said no.

Vice Chairman Campbell: Asked if there were any other questions or neutral testimony. He closed the hearing.

Vice Chairman Campbell: Asked what the intentions of the committee were.

Senator Sinner: Asked that the intern would follow up on the discussed amendments.

Vice Chairman Campbell: Any other additions or corrections to those?

Senator Miller: Commented that the definition of the word, "booth" would also need to be in the amendment.

Vice Chairman Campbell: Any discussions on the amendments, if not we will close the hearing and discuss the amendments next week.

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2097
1/27/2015
Job Number 22637

- Subcommittee
 Conference Committee

Committee Clerk Signature

Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to the practices and licensing of cosmetology, manicuring and esthetics

Minutes:

Attachment

Chairman Klein: Called the committee back to order. This bill was heard on the thirteenth of January. Sue do you want to go over the amendments?

Sue Meier, Board Administrator for the State Board of Cosmetology: She went over the proposed amendments, Attached (1). (:30-2:19)

Senator Sinner: Asked if there was an Emergency Clause on the amendment because they had a fiscal note for this biennium.

Chairman Klein: I do not see it anywhere so there is not. Do we need one?

Sue Meier: No

Chairman Klein: You don't renew licenses until after July 1st?

Sue Meier: The deadline is December 31st, so after December 31st. It would be for anyone who renews their license from January to December late, they would pay the penalty fee.

Chairman Klein: The law goes into effect July 1st but you don't renew licenses until late January.

Sue Meier: December 31st so starting July 2015.

Chairman Klein: So this July you can apply a penalty already for what they didn't pay this year?

Sue Meier: Correct.

Senator Murphy: Moved to adopt the proposed amendments.

Senator Poolman: Seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Murphy: Moved a do pass as amended.

Senator Sinner: Seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Murphy will carry the bill.

January 27, 2015

TDS
1 27 15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2097

Page 1, line 11, after "2." insert "Booth space" means that part of a licensed salon that is operated independently by a licensed booth renter.

3."

Page 1, line 13, overstrike "3." and insert immediately thereafter "4."

Page 1, line 23, after "performing" insert "non-invasive"

Page 2, line 1, overstrike "4." and insert immediately thereafter "5."

Page 2, line 3, overstrike "5." and insert immediately thereafter "6."

Page 2, line 6, overstrike "6." and insert immediately thereafter "7."

Page 2, line 8, overstrike "7." and insert immediately thereafter "8."

Page 2, line 12, overstrike "8." and insert immediately thereafter "9."

Page 2, line 22, overstrike "9."

Page 2, line 24, remove the overstrike over "10."

Page 2, line 26, remove the overstrike over "11."

Page 2, line 26, remove "10."

Page 2, line 28, replace "11." with "12."

Page 2, line 30, overstrike "12." and insert immediately thereafter "13."

Page 3, line 1, overstrike "13." and insert immediately thereafter "14."

Page 3, line 3, after "performing" insert "non-invasive"

Page 3, line 5, overstrike "14." and insert immediately thereafter "15."

Page 3, line 9, overstrike "15." and insert immediately thereafter "16."

Page 3, line 11, overstrike "16." and insert immediately thereafter "17."

Page 4, line 8, replace "medical director" with "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"

Page 4, line 16, replace "have a medical or nursing license" with "be a physician licensed to practice medicine in this state under chapter 43-17 or nurse licensed to practice nursing in this state under chapter 43-12.1"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2097: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2097 was placed on the Sixth order on the calendar.

Page 1, line 11, after "2." insert ""Booth space" means that part of a licensed salon that is operated independently by a licensed booth renter.

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Page 1, line 13, overstrike "3." and insert immediately thereafter "4."

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Renumber accordingly

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2097

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2097
3/11/2015
24691

- Subcommittee
 Conference Committee

Golden Letang

Explanation or reason for introduction of bill/resolution:

Practice & licensing of cosmetology, manicuring & esthetics.

Minutes:

Attachment 1, 2, 3

Chairman Keiser: Opens the hearing on SB 2097.

Barb Houglum~Serves on the Board of Cosmetology: (Attachment 1). The mike wasn't turned on but the testimony was read from her attachment.

13:00

Representative Louser: Regarding the definition for the invasive care, why are we removing it?

Houglum: I talked to someone and they couldn't explain it to me either. The definition is old and new treatments are being used now. The main thing is that they can't enter the live dermis.

Representative Becker: The aspect from going to the manager operator to master cosmetologist, isn't master cosmetologist sometimes used to indicate increased proficiency?

Houglum: It's a matter of work experience. After they have worked a number of hours under a manager operator, then they can get their license.

Representative Becker: Master cosmetologist is one who has a greater efficiency through experience and education, that seems separate than manager operator because one is running a business and the other is being able to do things with hair. Master cosmetologist deals with a department in skill and a manager operator would have basic skills with knowledge of the business. I'm finding confusion in the terms.

Houglum: A manager cosmetologist is cosmetologist that had worked with one year's experience. We have updated the definition.

Sandy ??~Attorney for the Board of Cosmetology: The master cosmetologist is going to be that increased work experience, increased training but so is the manager operator. In order to get your manager operator, you have to have the increased training. We are keeping it with the other states in what they called their minimal level of cosmetologist, people with extended experience are called a master cosmetologist. We were calling it manager operator. We are keeping it consistent.

Representative Laning: If I want to go out and invest in a salon, I would not be able to do that because I'm not a master cosmetologist?

Houglum: You can own a salon, but you need to hire and it needs to be staffed with a master cosmetologist.

Representative Laning: That person must have managerial responsibilities as well if I were the owner of a salon?

Houglum: Everyone in my salon is a master cosmetologist because they all have one year's work experience. By our law, you have to have a licensed master cosmetologist, previously known as manager operator. You have to have them on staff at all time when your salon is open.

Representative Amerman: Can you give me an example to make it clear, the eye lash operator?

Houglum: We have run into individuals that want to start up business that serve eye lash extenders. They can get the training on line and we don't feel it's safe for anyone doing it.

Representative Amerman: If this is passed, they won't be able to do it?

Houglum: They can get an esthetic license which is 600 hours.

Representative Ruby: Section 1, what is the necessity to add booth space?

Sandy: The Senate committee asked us to.

Representative Ruby: The fiscal note, the board for the late renewal application is going from \$10 to \$100, is the fiscal note generated because there are a large number of those? You are removing the penalty fee for late renewal on page 7 but then this a charge of \$100 penalty for each renewal application. It's mentioned twice, once on page 15 and on page 10.

Sandy: We are removing from there and putting it down below into section 2.

Representative Ruby: Did you have two before where you had a \$10 and a \$15, now you just have one that's a \$100?

Sandy: It used to be \$10 for all and they increased it by \$5, but they missed changing it down in subsection 2.

Representative Ruby: In the struck language it talks about removing the ability of the board to reduce the renewal fee as long as they applied it equally to all renewal fees? Did that happen quite a bit where that is resulting in the fiscal note increase?

Sandy: No, we never reduced it at a certain percentage.

Chairman Keiser: Why do you need a big fiscal note?

Houglum: I'm expecting everybody to have renewal in on time and we will not get a penny.

Chairman Keiser: We cannot generate this kind of money without having a basis for it. If you don't need the money but it you are running a deficit that one thing, so what is the current reserve in your fund.

Sandy: These are complete estimates.

Chairman Keiser: They are estimates but they are in the fiscal note. We deal with what is here and this is going to appropriations and I don't want to carry it there.

Sandy: It just goes directly to their fund.

Chairman Keiser: What is their current balance?

Sandy: \$224,000.

Chairman Keiser: This is not going to fly but we take care of this. We can't have this revenue. We do want you to check to see if that is your reserve.

Houglum: We have been fiscally conservative; we were trying to stop the late behavior.

Representative Amerman: Would it be beneficial for your board to have someone with a medical background.

Houglum: The reason for the medical saves time where we don't have to do research. We thought it would save an invaluable amount of time.

Representative Devlin: On the manipulation of eye lashes, can you cite any public safety threat by having the other people do it?

Houglum: They can do it anywhere, no one is inspecting, not educated about eye infections but the main one is disposable implements, there are many things that can go wrong.

Representative Devlin: Can you cite a specific incidence?

Sandy: Optometrists are saying there is an increase in eye infection because people don't know what they are doing.

Representative Devlin: How does our educational hours compare to states around us?

Houglum: Minnesota has 15,000, Montana to 21,000 and the national average is about 16,000 hours.

Representative Beadle: Section 6 of the bill, if I have that master cosmetologist on site, if they are there to supervise, is it still ok for me as an owner to have a separate operator who is not a master cosmetologist but is my business manager?

Houglum: Yes.

Chairman Keiser: Anyone else here to testify in support of SB 2097, opposition?

Courtney Koebele~North Dakota Medical Association: (Attachment 2 & 3) Reads attachment 2, testimony that is Dr Steve Bagan, MD. Also hands out attachment 3 which is George Hruza, MD-President of the American Society for Dermatologic Surgery Association.

Representative Boschee: When is evasive care applied throughout this chapter that is a concern?

Koebele: The invasive care that is in the definition, the chemical peels and laser those are not allowed.

Chairman Keiser: Anyone else here to testify in opposition to SB 2097, neutral?

Kevin Bollinger~Department of Health: I have tons of calls over laser hair removal. I'm here to relay those calls to do laser hair removal and I don't who has jurisdiction.

Chairman Keiser: It seems that you are the Department of Health, you should be telling us where it should be.

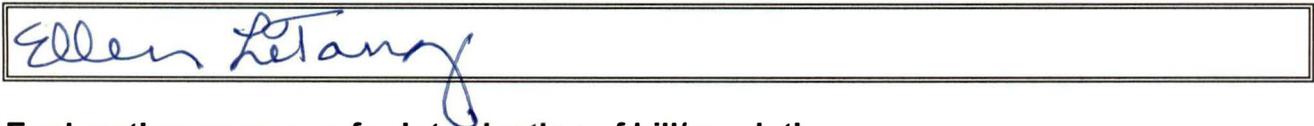
Bollinger: The board of medicine.

Chairman Keiser: Closes the hearing. We will hold it.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

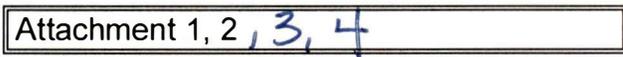
SB 2097
3/23/2015
25346



Explanation or reason for introduction of bill/resolution:

Practice & licensing of cosmetology, manicuring & esthetics.

Minutes:



Chairman Keiser: Opens the work session on SB 2097.

Representative Becker: (Attachment 1). Started recording late but captured it on the SD Card. Goes over the Christmas tree version with the new amendments, which he read.

7:15

Representative Beadle: Page 2, laser use, does the sentence needs to be reworded?

Representative Ruby: No.

Chairman Keiser: It should be laser use and then have a sub a.

Representative Beadle: The booth space, what is a license booth renter?

Representative Ruby: I asked that question and they said that the Senate put that in.

Representative Hanson: If we were to amend the bill, is this a good bill?

Representative Becker: I think its fine.

Chairman Keiser: Does anyone want to make a rationale?

Cheryl Rising~North Dakota Nursing Association: (Attachment 2).

Chairman Keiser: Page 2, line 15 chemical peels that use 30% or higher concentration-alpha hydroxyl acid, 20% or higher concentration-alpha hydroxyl, 2% resorcinol, 15% or higher concentration of TCA and Phenol in any concentration.

Rising: They all use Phenol now.

Chairman Keiser: That would be included in here, those would be invasive?

Rising: Yes.

Chairman Keiser: We agree with you but we are going to reword this.

Rising: Between lines 24 & 25, Phenol in any concentration, the current concentration being used is 15%. Maybe we would like to strike that line out of there.

Chairman Keiser: You want greater than 15%?

Representative Becker: There is some dastardly results and I would never want those complications as a plastic surgeon. I would look to investigate the Phenol.

Chairman Keiser: We will double check that.

Rising: (continues testimony).

Chairman Keiser: That's just advanced practice?

Rising: Yes.

Representative Becker: When you are referring to the advanced practice nurse being a medical director of a spa, how does this help? What are they doing to be exempted from the other aspects of this section code?

Chairman Keiser: If they are managing the spa, are you saying managing the staff or managing the treatment program?

Rising: I will refer that question to the people that are more knowledgeable.

Sandra ???~Representing the Attorney General of North Dakota: The exemptions for this chapter are basically just requiring estheticians to be practicing within a licensed salon. This brings them out of that as long as they are practicing under the direction and control of those nurse practitioners.

Chairman Keiser: Give me an example of what you are saying?

Sandra: An esthetician, who performs skin care.

Chairman Keiser: This is licensed not a medical person.

Sandra: Correct. This esthetician, who is licensed with our board which is different from the cosmetology license, all they can do is non-invasive skin care.

Chairman Keiser: As defined by code?

Sandra: Yes. This exception in this section just means that licensed esthetician doesn't have to be performing these services in a licensed salon as long as they are under the direction of a nurse.

Chairman Keiser: In a hospital or doctor's setting, do nurses have offices where they could be operating this thing?

Sandra: That is the current change, now an FNP can be a medical director. They still can't do invasive care.

Chairman Keiser: Can a nurse?

Sandra: Yes they can perform under their license.

Representative Becker: If that's the case, I'm fine with that. What is included in this chapter?

Sandra: In 43-11 is the cosmetologist chapter.

Representative Becker: 43-11 also includes the invasive care?

Sandra: Nobody can perform invasive care.

Representative Becker: You just told me that the exemption is for chapter 43-11. You are now saying that they are exempt from parts of 43-11 but I'm looking for where it says that?

Sandra: Maybe we need to reword this differently but it still says skin care.

Representative Becker: I'm looking at the language that says you are exempted from 43-11. If I look at 43-11, I don't have to follow anything because it says it. I know your intent but if it said what your intent was, I would be fine with it.

Sandra: We will work on the wording.

Chairman Keiser: I agree with Representative Becker, because the way you read isn't the way you say it.

Representative Becker: The last thing is the hours, is 1,800 for cosmetology? Do we want to change to 1,500 hours?

Rising: Continues testimony.

Representative Kasper: I would like to hold the bill.

Chairman Keiser: Closes the hearing on SB 2097.

(Attachment 3 & 4 testimony for the record).

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2097
3/25/2015
Job Number 25387

- Subcommittee
 Conference Committee

Re Ma Kuelm

Explanation or reason for introduction of bill/resolution:

Practice & licensing of cosmetology, manicuring & esthetics.

Minutes:

Attachment 1

Chairman Keiser: Opens the work session.

Representative Becker: Explained the marked up version (Attachment 1).

Representative Ruby: Page 1, line 11, removing the term "booth space"? Nowhere in the bill can I see the term. That was something the Senate added.

Chairman Keiser: I think this is for independent contractors within a salon.

Representative Beadle: It's a sublease, I don't think it adds anything

Representative Becker: Moves to adopt his amendment.

Representative Ruby: Seconded the motion.

Representative M Nelson: Page 2 the manipulation of eyelashes. There is no problem with curling eyelashes. But aren't they talking where they are gluing. Why isn't that a licensed procedure?

Representative Becker: Manipulation does include that. If it said application of adhesive to eyelashes I would be in favor of putting that in.

Voice Vote. Motion carried.

Representative Ruby: Moved to remove lines 11 and 12 on page 1

Representative Hanson: Seconded the motion

Representative M Nelson: While we don't see it in the bill, it may be somewhere else in the code.

Representative Kasper: If no place in the code do we define what booth space means, then we need to define it.

Representative Becker: Licensed booth renter is implied that they mean a licensed cosmetologist renting a booth.

Chairman Keiser: It should read "independently by a cosmetologist renting a booth."

Brian Johnson, Intern: Page 2, number 5 says "Cosmetology salon includes that part of any building in which the occupation of a cosmetologist is practiced." That may be the reason for defining booth space. Booth space would be defining that as part of a cosmetology salon.

A Roll Call vote was taken: Yes 7 , No 7 , Absent 1 .

Motion fails.

Representative Kasper: Moved to amend page 1, starting on line 11 to read, "Booth space means that part of a licensed salon that is operated independently by a licensed cosmetologist who rents booth space."

Vice Chairman Sukut: Seconded the motion

Representative Becker: I don't think you can use the term you are defining in the definition of the term.

Representative Kasper: ". . . a licensed cosmetologist who rents space from a salon."

Representative M Nelson: It is not just cosmetologists that rent booth space. The manicurist can rent space, etc.

Representative Kasper: "That is operated independently by an individual licensed under this chapter."

Voice Vote. Motion carried.

Representative Ruby: Moved Do Pass as amended.

Representative Kasper: Seconded the motion.

A Roll Call vote was taken: Yes 14, No 0, Absent 1.

Do Pass as amended carries.

Representative Hanson will carry the bill.

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Cosmetology)

1 A BILL for an Act to amend and reenact sections 43-11-01, 43-11-02, 43-11-04, 43-11-11,
2 43-11-13, 43-11-15, 43-11-25, 43-11-26, subsection 1 of section 43-11-27, and section 43-11-28
3 of the North Dakota Century Code, relating to the practice and licensing of cosmetology,
4 manicuring, and esthetics.

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 that is operated independently by a
12 licensed booth renter.
- 13 3. "Cosmetologist" means an individual licensed under this chapter to practice
14 cosmetology.
- 15 ~~3.4.~~ "Cosmetology" means any one or combination of practices generally and usually
16 performed by and known as the occupation of beauty culturists or cosmeticians or
17 cosmetologists or hairdressers, or of any other person holding out as practicing
18 cosmetology by whatever designation and within the meaning of this chapter and in
19 and upon whatever place or premises; and in particular cosmetology includes the
20 following or any one or a combination of practices: arranging, dressing, curling,
21 waving, cleansing, cutting, singeing, bleaching, coloring, ~~shampooing~~ or similar work,
22 upon the hair of any person by any means or with hands or mechanical or electrical
23 apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics,
24 lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating,

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- 1 exercising, ~~waxing to remove~~ performing non-invasive hair removal, beautifying, or
2 similar work on the body, manipulation of eyelashes, or manicuring the nails of any
3 person.
- 4 ~~4.5.~~ "Cosmetology salon" includes that part of any building in which the occupation of a
5 cosmetologist is practiced.
- 6 ~~5.6.~~ "Esthetician" means a person who is licensed by the board to engage in the practice of
7 skin care. ~~An esthetician does not include a professional make-up artist trained in~~
8 ~~facial make-up application by a cosmetics company.~~
- 9 ~~6.7.~~ "Homebound" means any person who is ill, disabled, or otherwise unable to travel to a
10 salon.
- 11 ~~7.8.~~ "Instructor" means any person of the age of eighteen years or more, who is a licensed
12 cosmetologist, who teaches cosmetology or any practices taught in a duly registered
13 school of cosmetology, and who has met the requirements of section 43-11-27 and
14 has applied for and received an instructor's license.
- 15 ~~8.9.~~ "Invasive care" means any procedure that invades the live tissue of the dermis,
16 including:
- 17 a. Laser use, ~~except the use of cold laser technology using nonlinear pulsed light~~
18 ~~application for the purpose of biostimulation without the generation of heat; and~~
- 19 b. Chemical peels ~~except for chemical peels~~ using:
- 20 (1) Thirty percent or higher concentration of alpha hydroxy acid, ~~which includes~~
21 ~~glycolic acid with a pH of~~
22 3.0 or higher;
- 23 (2) Twenty percent or higher concentration of beta hydroxy acid, ~~which includes~~
24 ~~salicylic acid with a pH of~~
25 3.0 or higher; or
- 26 (3) Two percent resorcinol with a pH of 3.0 or higher.
- 27 (4) Fifteen percent or higher concentration of trichloroacetic acid (TCA); or
- 28 (5) Phenol in any concentration.
- 29 9. "Manager operator" means any person who has met the requirements of section
30 ~~43-11-26 and has applied for and received a managing cosmetologist license.~~
10. "Manicuring" means the cleansing, cutting, shaping, beautifying, or massaging of the
hands, feet, or nails of any person.
11. "Manicurist" means a person who is licensed by the board to engage in the practice of
manicuring.

- 1 12. "Master cosmetologist" means any person who has met the requirements of section
2 43-11-26 and has applied for and received a managing cosmetologist license.
- 3 ~~12.~~13. "School of cosmetology" means an establishment operated for the purpose of teaching
4 cosmetology.
- 5 ~~13.~~14. "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions,
6 creams, or otherwise, massaging, cleansing, stimulating, manipulating, ~~waxing to~~
7 ~~remove~~performing non-invasive hair removal, beautifying, or similar work on the body
8 of any person. The term does not include invasive care.
- 9 ~~14.~~15. "Student" means any person who is engaged in the learning or acquiring of any or all
10 the practices of cosmetology and while so learning, performs or assists in any of the
11 practices of cosmetology in any school registered or licensed and under the immediate
12 supervision of an instructor licensed as such under this chapter.
- 13 ~~15.~~16. "Student instructor" means a cosmetologist who is receiving instruction in teacher's
14 training in a duly registered school of cosmetology.
- 15 ~~16.~~17. "Tuition" means the total cost of a person's cosmetology studies, and does not include
16 books or demonstration kits.

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

19 **43-11-02. Exemptions from provisions of chapter.**

20 This chapter does not apply to:

- 21 1. Services in case of emergency.
- 22 2. Services provided by persons practicing cosmetology upon members of their
23 immediate families.
- 24 3. Services by a person licensed by the state and working within the standards and
25 ethics of that person's profession, if that person does not represent to the public that
26 the person is a cosmetologist or manicurist.
- 27 4. Services by nurses, undertakers, and morticians lawfully engaged in the performance
28 of the usual and ordinary duties of their vocation.
- 29 5. Educational activities conducted in connection with any regularly scheduled meeting or
30 any educational activities of any bona fide association of licensed cosmetologists, from
31 which the general public is excluded. For purposes of this subsection a "bona fide

- 1 association of cosmetologists" means any organization whose constitution, bylaws, or
2 membership rules establish within said organization a class of membership consisting
3 of licensed cosmetologists.
- 4 6. Services provided by retailers or their sales personnel trained in the demonstration of
5 cosmetics application if the cosmetics are applied only with disposable applicators that
6 are discarded after each customer demonstration. The board may adopt rules to
7 ensure sanitary conditions for services provided under this exemption.
- 8 7. Services provided in a licensed hospital or a nursing home by a person practicing
9 cosmetology on a volunteer basis without compensation or by a nurse's assistant.
- 10 8. Non-invasive skin care provided by a licensed esthetician or cosmetologist are not
required to be performed in a licensed cosmetology salon when such services are being
provided under the supervision, control, and responsibility of a physician in
11 the hospital, clinic, or physician's office physician practicing within the scope of the
12 physician's license under chapter 43-17 or nurse practicing within the scope of the
13 nurse's license under chapter 43-12.1.

14 **SECTION 3. AMENDMENT.** Section 43-11-04 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-11-04. Members of board - Qualifications.**

17 Each member of the board must be a citizen of this state. Three of the members of the
18 board must each be a licensed cosmetologist who has had at least three years' practical
19 experience in the occupation. The other two members One member of the board must be citizen
20 members, at least one of whom has have professional experience as a secondary teacher or as
21 a postsecondary educator. One member of the board must be a physician licensed to practice
22 medicine in this state under chapter 43-17 or nurse licensed to practice nursing in this state
23 under chapter 43-12.1.

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

26 **43-11-11. Sanitary rules - Practice outside salon.**

27 The board with the approval of the state department of health shall adopt sanitary rules
28 necessary to prevent the creating and spreading of infectious and contagious diseases. A
29 cosmetology salon must be at a fixed location and may not be used for living or sleeping
30 quarters. An operator A cosmetologist or esthetician may practice outside of the establishment

1 under the direction and control of ~~an owner or manager~~ a master cosmetologist or master
2 esthetician thereof under rules adopted by the board.

3 **SECTION 5. AMENDMENT.** Section 43-11-13 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-11-13. License required.**

6 No person in this state may engage in or attempt to engage in the occupation of
7 cosmetology, manicuring, or skin care, nor conduct a cosmetology salon or booth or school of
8 cosmetology, unless having first obtained a license.

9 **SECTION 6. AMENDMENT.** Section 43-11-15 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-11-15. Cosmetology salon Salon ownership and operation.**

12 A cosmetology-salon may be owned by any person authorized to do business in this state. A
13 cosmetology salon must be operated and supervised by a ~~manager-operator~~ master
14 cosmetologist. ~~A manicuring salon must be operated and supervised by a master cosmetologist~~
15 ~~or master manicurist. A salon providing only skin care must be operated and supervised by a~~
16 ~~master cosmetologist or master esthetician.~~

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

19 **43-11-25. License issued without examination - Conditions.**

20 The board may dispense with the examination of applicants for licenses to practice
21 cosmetology and may grant licenses upon the payment of a fee for original licensure and the
22 reciprocity fee if all the following requirements are met:

23 1. The applicant has ~~complied~~ complied:

24 a. ~~Complies~~ Complied with the requirements for registration of the District of Columbia,
or

25 another state, territory, foreign country, or province where the requirements are
26 equal substantially to those in force in this state at the time the application for the
27 license is filed; or

28 b. Provided satisfactory proof of completing the course curriculum hours required by
29 the board and provide proof of successfully passing the theoretical and practical
30 examinations substantially similar to those required in this state.

- 1 2. The applicant passes to the satisfaction of the board an examination on sanitary
2 practices and cosmetology law in this state.

3 **SECTION 8. AMENDMENT.** Section 43-11-26 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-11-26. ~~Manager-operator~~Master cosmetologist - License - Qualifications.**

6 An individual may obtain a ~~manager-operator's~~master cosmetologist's license upon meeting
7 all the following requirements:

- 8 1. Furnishing to the board evidence of having practiced as a cosmetologist for at least
9 one thousand hours.
10 2. Paying an original licensure fee as set forth in section 43-11-28.
11 3. Complying with the other requirements of this chapter applicable to a
12 ~~manager-operator~~master cosmetologist.

13 **SECTION 9. AMENDMENT.** Subsection 1 of section 43-11-27 of the North Dakota Century
14 Code is amended and reenacted as follows:

- 15 1. No person may be licensed as an instructor of cosmetology unless the person
16 furnishes the board the examination fee set forth in section 43-11-28 and evidence of
17 having a general education equivalent to the completion of four years in high school.

18 An applicant:

- 19 a. Shall have at least nine hundred sixty hours instructor's training in cosmetology in
20 a school of cosmetology. ~~In no event may more than two thousand sixty hours~~
21 ~~instructor's training be required for admission to examination.~~ Under this
22 subdivision the practical portion of the examination may be waived if the written
23 examination is supplemented with videotapes of the applicant's teaching
24 procedures;
25 b. Shall possess a current North Dakota license as a cosmetologist and must have
26 been actively engaged in the practice of cosmetology for at least one year before
27 application for an instructor's license, supplemented by not less than four
28 hundred eighty hours instructor's training in a school of cosmetology or course of
29 training approved by the board; or
30 c. Shall possess a current North Dakota license as a cosmetologist and shall have
31 been actively engaged in the practice of cosmetology for at least three years prior

1 to application for an instructor's license supplemented by not less than one
2 hundred sixty hours instructor's training in a school of cosmetology or course of
3 training approved by the board. No instructor or student instructor may be
4 permitted to practice cosmetology on a patron other than that part of practical
5 work which pertains directly to the teaching of practical operations to students.

6 **SECTION 10. AMENDMENT.** Section 43-11-28 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-11-28. Fees.**

9 1. Fees to be paid by applicants for original registrations, original licenses, annual
10 renewals, licenses issued upon reciprocity, and examinations as required under this
11 chapter may not exceed the following amounts:

12	a. Original registrations, licenses, and annual	MAXIMUM
13	renewals:	FEE:
14	(1) Salons, original registration	\$80.00
15	(2) Salons, annual renewal	\$30.00
16	(3) School of cosmetology, original registration	\$505.00
17	(4) School of cosmetology, annual renewal	\$205.00
18	(5) Operator Cosmetologist, original license	\$15.00
19	(6) Operator Cosmetologist, annual renewal	\$15.00
20	(7) Manager-operator Master cosmetologist, original license	\$25.00
21	(8) Manager-operator Master cosmetologist, annual renewal	\$20.00
22	(9) Instructor, original license	\$35.00
23	(10) Instructor, annual renewal	\$20.00
24	(11) Demonstrators , original license	\$30.00
25	(12) Demonstrators, annual renewal	\$20.00
26	(13) Reciprocity license fee	\$105.00
27	(14) (12) Registration fee for student instructor	\$15.00
28	(15) (13) Duplicate license	\$10.00
29	(16) Penalty fee for late renewal	\$15.00
30	(17) (14) Certification fee	\$20.00
31	b. Examinations:	

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- 1 (1) ~~Operator~~Cosmetology practical examination \$25.00
- 2 (2) Instructors practical examination \$55.00
- 3 (3) Written examination fees are set and collected by the administrator of the
- 4 examination and payment is the responsibility of the applicant.
- 5 2. Fees are not prorated or returnable. The board may charge a ~~ten~~ twenty
6 dollar
- 7 penalty for each license renewal applications~~application~~ received after December
- 8 thirty-first. ~~The board may reduce a renewal fee from the maximum amount only if the~~
- 9 ~~board applies an equal percentage of reduction to all renewal fees.~~ The board shall
- 10 sponsor an educational program for licenseholders to carry out the purposes of
- 11 protecting the public health and safety and maintaining capable and skilled ~~operators,~~
- 12 ~~manager operators~~cosmetologists, manicurists, estheticians, and instructors. The
- 13 board shall use such portion of the renewal fees as the board may determine for the
purpose of providing the educational program.

March 25, 2015

3/25/15
1/2

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2097

- Page 1, line 11, replace the second "a" with "an individual"
- Page 1, line 12, replace "booth renter" with "under this chapter"
- Page 1, line 21, remove "braiding."
- Page 2, line 2, remove "manipulation of eyelashes."
- Page 2, line 15, remove the overstrike over the coma
- Page 2, remove the overstrike over line 16
- Page 2, line 17, remove the overstrike over "a.——Laser-use"
- Page 2, line 18, remove the overstrike over "∴and"
- Page 2, line 19, remove the overstrike over "b.——Chemical peels"
- Page 2, line 19, remove the overstrike over "using:"
- Page 2, line 20, remove the overstrike over "(1)——Thirty percent"
- Page 2, line 20 after "percent" insert "or higher concentration of"
- Page 2, line 20, remove the overstrike over "alpha hydroxy acid"
- Page 2, line 21, remove the overstrike over the semicolon
- Page 2, line 22, remove the overstrike over "(2)——Twenty percent"
- Page 2, line 22, after "percent" insert "or higher concentration of"
- Page 2, line 22, remove the overstrike over "beta hydroxy acid"
- Page 2, line 23, remove the overstrike over the semicolon
- Page 2, line 24, remove the overstrike over "(3)——Two percent"
- Page 2, line 24, after "percent" insert "or higher concentration of"
- Page 2, line 24, remove the overstrike over "resorcinol"
- Page 2, line 24, after "resorcinol" insert an underscored semicolon
- Page 2, line 24, after "higher" insert:
- "(4) Fifteen percent or higher concentration of trichloroacetic acid (TCA); or
 - (5) Fifteen percent or higher concentration of phenol"
- Page 4, line 10, overstrike "Skin" and insert immediately thereafter "Non-invasive skin"
- Page 4, line 10, after "provided" insert "by a licensed esthetician or cosmetologist are not required to be performed in a licensed cosmetology salon when such services are being provided"

Page 4, line 12, after "or" insert "an advance practice"

Page 4, line 19, remove the overstrike over "~~The other two members~~"

Page 4, line 19, remove "One member"

Page 4, line 19, remove the overstrike over "~~be citizen~~"

Page 4, line 20, remove the overstrike over "~~members, at least one of whom has~~"

Page 4, line 20, remove "have"

Page 4, line 21, remove "One member of the board must be a physician licensed to practice"

Page 4, remove lines 22 and 23

Page 5, line 11, remove the overstrike over "~~Cosmetology salon~~"

Page 5, line 11, remove "Salon"

Page 5, line 12, remove the overstrike over "~~cosmetology~~"

Page 5, line 14, remove "A manicuring salon must be operated and supervised by a master cosmetologist"

Page 5, remove lines 15 and 16

Page 5, line 24, replace "Compiled" with "Complied"

Page 8, line 5, replace "one hundred" with "twenty"

Renumber accordingly

Date: Mar 25, 2015

Roll Call Vote: 1

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. 2097

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: Rep Rick Becker's Admenment

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider _____

Motion Made By Rep Rick Becker Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

voice vote- motion carried

Date: Mar 25, 2015

Roll Call Vote: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2097

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: Remove lines 11-12, page 1

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider

Motion Made By Ruby Seconded By Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		x	Representative Lefor	x	
Vice Chairman Sukut		x	Representative Louser	x	
Representative Beadle	x		Representative Ruby	x	
Representative Becker	x		Representative Amerman		x
Representative Devlin	x		Representative Boschee		x
Representative Frantsvog	x		Representative Hanson		x
Representative Kasper		x	Representative M Nelson		x
Representative Laning	x				

Total (Yes) 7 No 7

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Motion failed

Date: Mar 25, 2015

Roll Call Vote: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2097

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: Line 11 Booth Space

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider

Motion Made By Rep. Kasper Seconded By Rep. Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Representative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

voice vote, Motion Carried.

Date: Mar 25, 2015

Roll Call Vote: 4

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. _____

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Ruby Seconded By Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman	X	
Representative Devlin	X		Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson	X	
Representative Laning	X				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Hanson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2097, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2097 was placed on the Sixth order on the calendar.

Page 1, line 11, replace the second "a" with "an individual"

Page 1, line 12, replace "booth renter" with "under this chapter"

Page 1, line 21, remove "braiding."

Page 2, line 2, remove "manipulation of eyelashes."

Page 2, line 15, remove the overstrike over the coma

Page 2, remove the overstrike over line 16

Page 2, line 17, remove the overstrike over "a. Laser use"

Page 2, line 18, remove the overstrike over ";-and"

Page 2, line 19, remove the overstrike over "b. Chemical peels"

Page 2, line 19, remove the overstrike over "using:"

Page 2, line 20, remove the overstrike over "(1) Thirty percent"

Page 2, line 20 after "percent" insert "or higher concentration of"

Page 2, line 20, remove the overstrike over "alpha hydroxy acid"

Page 2, line 21, remove the overstrike over the semicolon

Page 2, line 22, remove the overstrike over "(2) Twenty percent"

Page 2, line 22, after "percent" insert "or higher concentration of"

Page 2, line 22, remove the overstrike over "beta hydroxy acid"

Page 2, line 23, remove the overstrike over the semicolon

Page 2, line 24, remove the overstrike over "(3) Two percent"

Page 2, line 24, after "percent" insert "or higher concentration of"

Page 2, line 24, remove the overstrike over "resorcinol"

Page 2, line 24, after "resorcinol" insert an underscored semicolon

Page 2, line 24, after "higher" insert:

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

(5) Fifteen percent or higher concentration of phenol"

Page 4, line 10, overstrike "Skin" and insert immediately thereafter "Non-invasive skin"

Page 4, line 10, after "provided" insert "by a licensed esthetician or cosmetologist are not required to be performed in a licensed cosmetology salon when such services are being provided"

Page 4, line 12, after "or" insert "an advance practice"

Page 4, line 19, remove the overstrike over "~~The other two members~~"

Page 4, line 19, remove "One member"

Page 4, line 19, remove the overstrike over "~~be citizen~~"

Page 4, line 20, remove the overstrike over "~~members, at least one of whom has~~"

Page 4, line 20, remove "have"

Page 4, line 21, remove "One member of the board must be a physician licensed to practice"

Page 4, remove lines 22 and 23

Page 5, line 11, remove the overstrike over "~~Cosmetology salon~~"

Page 5, line 11, remove "**Salon**"

Page 5, line 12, remove the overstrike over "~~cosmetology~~"

Page 5, line 14, remove "A manicuring salon must be operated and supervised by a master cosmetologist"

Page 5, remove lines 15 and 16

Page 5, line 24, replace "Compiled" with "Complied"

Page 8, line 5, replace "one hundred" with "twenty"

Renumber accordingly

2015 CONFERENCE COMMITTEE

SB 2097

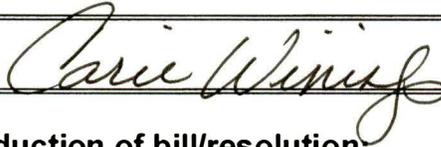
2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2097
4/8/2015
Job # 25930

Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 43-11-01, 43-11-02, 43-11-04, 43-11-11, 43-11-13, 43-11-15, 43-11-25, 43-11-26, subsection 1 of section 43-11-27, and section 43-11-28 of the North Dakota Century Code, relating to the practice and licensing of cosmetology, manicuring, and esthetics.

Minutes:

Attachments 1 - 2

Chairman Poolman: Opened the Conference Committee on SB2097. We will have the House Representatives give us a summary of their changes to start off.

Representative Louser: (Walked through the bill and explained the changes that they made.) See Attachment #1 for the marked up version.

(4:15) Senator Murphy: Did you folks hear testimony on why they wanted the \$100 penalty? They had a pretty good reason I thought. The people are just not coming in and they think \$100 will get their attention. It is not that they need the money. They just can't be chasing these people down all of the time. I felt like that was a pretty good move.

Representative Louser: Yes. They said that they were having a hard time getting people to pay their fee on time because it was such a low amount.

Representative Beadle: We did have some discussions later on and our chairman had gotten an e-mail where they were looking at lowering the fee down to \$25 as we were going through our discussions. So we decided to drop it to \$20.

Sue Meier, Administrator, North Dakota Board of Cosmetology: See Attachment #2 for information brought to the committee.

(9:22) Senator Klein: You had asked originally for a physician; would you be comfortable with someone that has just a medical degree?

Sue Meier: Yes. Like a Nurse Practitioner.

Senator Klein: Do you think that it would be an effort to get one of those folks to take off time to participate on your board or have you reached out already to the medical folks?

Sue Meier: Currently we do have a Nurse Practitioner that is on the board.

Representative Hanson: Going back to the issue on page 1 and 2 about braiding and manipulation of eyelashes; I understand the boards desire to have a more specific definition than the one on the books, but as this would read in the language one of the interpretations is braiding by means with hands or mechanical etc. Another words this applies to anyone braiding hair with hands. Under this we would be putting into Century Code that someone needs a license to be braiding hair period, and the same thing with eye lashes. I understand your point that you are looking at manipulation with chemical or things that need training, but simple braiding with hands you can understand how this would appear to be a bit overreaching.

Sue Meier: The cosmetology schools do teach braiding. It is part of the hairdressing/arranging. There are individuals that just recently this past year that came in from another state that opened a braiding business and taking away the services that licensed salons would be offering that service. Braiding is within the scope of practice as a cosmetologist; arranging the hair.

Representative Hanson: That to me seems kind of protectionist If that. If the shop is only offering braiding, to me it would not get very far as a cosmetology shop. I think that it would have to offer the other services. I do not fear too much that someone is going to go out and try and arrest and penalize someone for braiding hair on a street corner but it just seems silly to put that into law when you are dealing with something with hands and chemicals are not involved. Things that are damaging enough to require consumer protection are not there.

Sue Meier: When you are tinting eyelashes chemicals are involved.

Representative Hanson: It does not say tinting. It says manipulation.

Chairman Poolman: Sue, I think manipulation is used just to show that when you are adjusting them or changing them in any way so that you don't have to list every single type of manipulation, correct?

Sue Meier: Right.

Representative Beadle: What is the difference when it comes to braiding between the qualifications of a cosmetologist and the qualifications of a barber because they are in two separate areas of code?

Sue Meier: I don't know what the scope of practice is for a barber but for a cosmetologist they can braid hair within their scope.

Representative Beadle: When people think of barbers they think of people that are cutting hair and all that sort of stuff. Why should they be precluded from being able to braid hair?

Sue Meier: I don't think that they are. I don't know if they are not.

Representative Beadle: If we add it so that you have to be a licensed cosmetologist to braid hair, would they now be?

Sue Meier: I do not know if the barber board has some kind of a code that says that they would be exempt on certain parts of the cosmetology code.

Chairman Poolman: From a female perspective I would never go to a barber to get my hair braided.

(15:24) Sue Meier: (Returned to testimony on attachment #2)

(16:35) Senator Murphy: Are you saying that you would prefer the Senate version of the bill for the Section on Page 5?

Sue Meier: We would like to keep that in the bill.

Senator Murphy: There are some things that you liked from the House and there are some that you liked from the Senate, Correct?

Sue Meier: Yes.

Representative Beadle: One of the reasons that we made the change on the House side is because we thought that as long as there was direct operation and supervision by a Master Cosmetologist we did not care that the Master individual the owner of it. Why would ownership be an issue?

Sue Meier: The ownership is not an issue. Anyone can own the salon. It is a matter of being supervised over someone that has the experience over the cosmetologist, manicurist, or the esthetician.

Representative Beadle: Does the Master Cosmetologist have the same credentialing as the manicurist or the esthetician?

Sue Meier: They do. They can supervise a salon that offers a full service, or a salon that just offers nails, or skin care. However, when there is just a manicure salon, we are allowing a Master Manicurist to supervise that salon.

Representative Louser: What is a Master Manicurist?

Sue Meier: A Master Manicurist and a Master Esthetician is addressed in our administrative codes. A Master Manicurist is an individual that has 1000 hours of work experience and is able to supervise someone that is not. The qualifications are the same for an esthetician.

Representative Beadle: How does that compare with the requirement hours for similarly licensed individuals in other states?

Sue Meier: Most of the states do have a Master or someone that supervises someone that just receive their license. There are a few states that require an exam to obtain their Master license and some just require the work experience.

Chairman Poolman: From a practical standpoint that is probably to prevent when we see all of these different nail salons popping up everywhere where there is no supervision and it is all new people or people new to the country and maybe not well versed in our rules.

Sue Meier: Exactly, as well as for sanitation/safety issues.

(21:00) Sue Meier: Returned to attachment #2 at 43:11:28.

(22:50) Representative Beadle: Has the board ever taken action or do they often threaten to take action?

Sue Meier: From this point, quite at monthly meetings we probably address 4 to 5 of them. The only time that it comes to the board is if the salon is being inspected and our inspector finds that their license has not been renewed and they are not operating with a current license. That comes to the board for the board to consider.

Representative Beadle: Do you not have an online renewal system so that the board knows when the license is expired.

Sue Meier: We do have an online system and we have people that renew by mail however they are not actually caught practicing without a license because we do not have evidence that they were doing that without going there. There are many cosmetologists that are not working in a salon.

Representative Louser: Do I understand that you said that the board would be comfortable with \$25 for the license renewal? We went from \$10 to \$100 to \$20.

Sue Meier: They will be comfortable with it, but if that is going to help, we do not know.

Senator Murphy: Would you rather see \$50?

Sue Meier: Yes we would.

Senator Klein: I am going to go back to braiding. Is this an issue in the state? I heard you say that your big concern is a health and safety risk more than the competition issue. Could you speak to that?

Sue Meier: The board feels it is within our scope of practice for cosmetologists because it is arranging the hair. Like I mentioned earlier, we had an individual from a different country move to North Dakota and she did open up a business and she was doing braiding. She was conducting a salon and she was providing the services which are a violation of the

cosmetology law. The board feels that if they would include that in the definition it would make it clear to the public that it is within our scope of practice. I don't know if the board is going to go and take action of anyone that is doing just a simple braid in someone's hair at a street fair or something like that but when they are setting up a business and providing the services that is where the board thinks that it should be within the scope of the board.

Senator Klein: So if someone holds them out to be hair braiding professionals that is where the line is drawn rather than just a neighbor coming over and braiding your hair?

Sue Meier: Correct.

Senator Klein: So you spoke to the individual that set up a shop and then they were in violation. How did that situation come out? Were you able to still force them to discontinue their business?

Sue Meier: Yes we did.

Senator Klein: So you are just suggesting here that if they would have known that they would have been able to follow the rules like everyone else does.

Sue Meier: Correct. At times, if you are providing braiding it can lead to hair extensions and other services that are within our scope of practice.

Senator Poolman: If we are going to get knit picky about braiding shouldn't we have the same conversation about curling, cleansing, and all the other types of things?

Sue Meier: Exactly.

Senator Poolman: This is not what we are talking about here. This is about defining scope of practice and making sure that we have everything there that is typically done in a salon, correct?

Sue Meier: Correct.

Representative Hanson: In your example of the person that set up that salon, were they offering any services other than braiding?

Sue Meier: Not that I am aware of.

Senator Murphy: I am wondering if we can't move towards resolution here and kind of give them what they wanted on some and both of us give and take a little bit and get this combed out?

Chairman Poolman: Are you offering an amendment?

Senator Murphy: I would not know how to exactly say it any better but I would hope that we can do that at our next meeting unless we can go long enough here to figure out how that would work.

Chairman Poolman: Does anyone else have somewhere they need to be? (All committee members were able to stay.)

Senator Klein: I would like to have a discussion on the medical field member. That has been stricken here and I would like to know why we would not want to do that?

Senator Murphy: I would like to reinforce that. They do have one on the board and they have found it very helpful and I think the changes that you made on the House side show that it is helpful because you went along with the doctor and they like his recommendation. I think that argument on a medical professional falls on itself. I hope we can keep that as well.

Representative Louser: I would take the other approach that there is someone on now and that would be considered one of the citizen members but to follow with one of the questions that Senator Klein had - are you going to always be able to find someone that is going to be willing to serve on the board? My understanding is that at this point it is very difficult to find people to serve on boards that are outside their scope.

Senator Murphy: I guess my answer to that is that they are making their own problem. They are asking for this and they feel it is important enough and I would let them try it.

Chairman Poolman: I would agree with you on the fact that showing how much of a difference it makes when you have a doctor involved in the definition of what is involved in a chemical peel. Things in this industry are changing all the time and new ways to make us look beautify come out all the time. I really feel strongly about that concept of having someone with a medical background.

Senator Klein: I think you hit on that. A medical background verses a physician. Maybe there is some latitude in there.

Dr. Connie Kalanek, Executive Director, Board of Nursing: I would like to suggest that you use "licensed healthcare provider". That way it could be an LPN, RN, Advanced Practice, a Physician, Nurse Practitioner, etc. It is pretty broad but it would still have the medical background.

Senator Klein: That would give me comfort if we used that terminology so that it gives them a lot more flexibility.

Senator Poolman: Should we move on to Master Manicurist?

Senator Murphy: This is one where the board thought that the Senate language was preferable. I would just as soon let a profession define their profession the way they want to. I don't feel like we need to meddle in that one.

Representative Hanson: I hate to repeat a point but I do not understand. Unless I understand this incorrectly, this would forbid an investor from owning a salon would it not?

Chairman Poolman: No. Anyone can own it. This is just talking about the supervision. A cosmetology salon must be operated and supervised by - so you can own it but when we are talking about daily operations and supervision that is when they are asking for this type of person.

Representative Beadle: One thing that we would have to make sure to do is that we do not have Master Manicurist or Esthetician actually defined in Century Code. They are just defined in their administrative code. If we start using those terminologies in Century Code we might want to add them to the definition section so that we actually have them defined in code as opposed to administrative rules.

Sandy, North Dakota Board of Cosmetologists: It is. It is just not something that we changed here in 43:11:13.1 it talks about the license of the Master Esthetician and the Master Manicurist. The code just lays out the specific requirements of them.

Representative Beadle: Do they define Master or Manicurist?

Sandy: That section just addresses both the Master Esthetician and the Master Manicurist.

Chairman Poolman: Then the last thing is the fee.

Senator Murphy: I got a little bit of a chortle from the committee when I suggested \$50 but again it was the matter of getting the attention of the members. I just don't know. They would take \$25 but they would rather have it higher. Can you move on that at all?

Representative Hanson: That was part of a package of amendments offered by Representative Becker. I did not feel too passionately about that. I think the concern was the percentage of increase. In my frank opinion I really don't like that the legislature is able to set fees for what I think associations should be setting period. I would not mind going back to the original hundred myself. I do not know what thoughts my colleagues have.

Representative Louser: There was quite a bit of discussion after the hearing on that and the concept of going that high but if we have heard from the board that they would be willing to accept \$25 I think that is where we should stay.

Senator Klein: (Asked about realtor penalties.) Going from \$100 back to \$50 would be sort of a compromise that we can work with. I understand that the issue they have is getting people to make sure they get their registration in.

Representative Louser: (Talked about realty penalties and that they are different.)

Senator Klein: I understand that we are dealing here with the board but they also have to make sure that those folks are not only licensed but following the rules. They probably even go out and inspect the salon. When I visited with the board they seemed alarmed with some of the changes that the House had made and they are just trying to work with everyone here in throwing the \$25 in. That may have just been a number they threw out when they were in the panic mode.

Senator Murphy: What I would like to say is that I think their compliance rates are abysmal and they need to get some attention to them. You may not have increased fees to that percentage but you never started with \$15 either.

Senator Klein: I think that maybe we need to start at the beginning and see if we can start crafting an amendment that would be agreeable to everyone.

Committee Discussion: The committee members proceeded to walk through the bill and make decisions on each section that had been changed by the House and what agreement could be reached on each point.

1. Page 1, Line 12 Individual - the Senate agreed to House change.
2. Page 1, Line 21 and Page 2, Line 2 - Braiding and Manipulation: the committee could not agree on those and were going to continue to work on that before reconvening the next time.
3. Page 2, Lines 16-26 - The Senate agreed with the House change.
4. Page 4, Lines 13-17 - The Senate agreed with the House change.
5. Page 4, Lines 24-28 - The committee agreed to change the board member to "one licensed healthcare provider".
6. Page 5, Lines 19-21 - The House agreed to reinstate these lines.
7. Page 8, Line 10 - The committee agreed to set the amount at \$50.

Part of the discussion on braiding addressed occasions like the state fair and when someone is braiding hair for money. The board representatives stated that is something that they are looking into and they feel it is crossing the line. Most of the time there has not been a problem but the line appears to be getting pushed more and more and we may have to define that more and more for clarification. The House wanted the Master Manicurist and Master Esthetician defined but there was concern on the Senate side about putting that in code and felt that it was fine that it was in the administrative code.

Chairman Poolman: Adjourned the Conference Committee discussion on SB 2097 and decided to come back and finish up with the language.

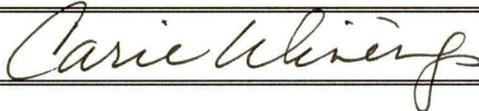
2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2097
4/10/2015
Job # 26017

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact sections 43-11-01, 43-11-02, 43-11-04, 43-11-11, 43-11-13, 43-11-15, 43-11-25, 43-11-26, subsection 1 of section 43-11-27, and section 43-11-28 of the North Dakota Century Code, relating to the practice and licensing of cosmetology, manicuring, and esthetics.

Minutes:

No Attachments

Chairman Poolman: Opened SB 2097 for committee discussion. I think that we have come to some consensus on the language. We had gone through the entire bill in our last meeting and in talking with the cosmetologist they are willing to give up on the braiding so we are going to keep that out. The rest of it we have all agreed upon.

Representative Beadle: Moved that the House recede from the House amendments and amend by going with the changes that we agreed on when we last met with the word "braiding" being removed from Page 1, Line 21.

Senator Murphy: Seconded.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Poolman and Representative Beadle will carry the bill.

April 10, 2015

4/10/15
JAL
WJ

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2097

That the House recede from its amendments as printed on pages 994 and 995 of the Senate Journal and pages 1184 and 1185 of the House Journal and that Engrossed Senate Bill No. 2097 be amended as follows:

Page 1, line 11, replace the second "a" with "an individual"

Page 1, line 12, replace "booth renter" with "under this chapter"

Page 1, line 21, remove "braiding."

Page 2, line 15, remove the overstrike over the overstruck comma

Page 2, remove the overstrike over line 16

Page 2, line 17, remove the overstrike over "a- Laser-use"

Page 2, line 18, remove the overstrike over "; and"

Page 2, line 19, remove the overstrike over "b- Chemical peels"

Page 2, line 19, remove the overstrike over "using:"

Page 2, line 20, remove the overstrike over "(1) Thirty percent"

Page 2, line 20, after "percent" insert "or higher concentration of"

Page 2, line 20, remove the overstrike over "alpha-hydroxy acid"

Page 2, line 21, remove the overstrike over the overstruck semicolon

Page 2, line 22, remove the overstrike over "(2) Twenty percent"

Page 2, line 22, after "percent" insert "or higher concentration of"

Page 2, line 22, remove the overstrike over "beta-hydroxy acid"

Page 2, line 23, remove the overstrike over the overstruck semicolon

Page 2, line 24, remove the overstrike over "(3) Two percent"

Page 2, line 24, after "percent" insert "or higher concentration of"

Page 2, line 24, remove the overstrike over "-resorcine!"

Page 2, line 24, after "higher" insert: ":

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

(5) Fifteen percent or higher concentration of phenol"

Page 2, line 24, remove the overstrike over the overstruck period

Page 4, line 21, remove "physician licensed to practice"

Page 4, remove line 22

20/2

Page 4, line 23, replace "under chapter 43-12.1" with "licensed healthcare provider"

Page 5, line 24, replace "Compiled" with "Complied"

Page 8, line 5, replace "one hundred" with "fifty"

Renumber accordingly

Date: 4/10
 Roll Call Vote #: 1

**2015 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2097 as engrossed

Senate Industry Business and Labor Committee

- Action Taken
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Beadle Seconded by: Murphy

Senators	4/8	4/10	Yes	No	Representatives	4/8	4/10	Yes	No
Senator Poolman (Chair)	✓	✓	✓		Representative Beadle	✓	✓	✓	
Senator Klein	✓	✓	✓		Representative Louser	✓	✓	✓	
Senator Murphy	✓	✓	✓		Representative Hanson	✓	✓	✓	
Total Senate Vote					Total Rep. Vote				

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Poolman House Carrier Beadle

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Changes as outlined in prior meeting with the addition of removing "braiding" from pg 1 line 21.

REPORT OF CONFERENCE COMMITTEE

SB 2097, as engrossed: Your conference committee (Sens. Poolman, Klein, Murphy and Reps. Beadle, Louser, Hanson) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 994-995, adopt amendments as follows, and place SB 2097 on the Seventh order:

That the House recede from its amendments as printed on pages 994 and 995 of the Senate Journal and pages 1184 and 1185 of the House Journal and that Engrossed Senate Bill No. 2097 be amended as follows:

Page 1, line 11, replace the second "a" with "an individual"

Page 1, line 12, replace "booth renter" with "under this chapter"

Page 1, line 21, remove "braiding."

Page 2, line 15, remove the overstrike over the overstruck comma

Page 2, remove the overstrike over line 16

Page 2, line 17, remove the overstrike over "a. Laser-use"

Page 2, line 18, remove the overstrike over "; and"

Page 2, line 19, remove the overstrike over "b. Chemical peels"

Page 2, line 19, remove the overstrike over "using:"

Page 2, line 20, remove the overstrike over "(1) ~~Thirty percent~~"

Page 2, line 20, after "~~percent~~" insert "or higher concentration of"

Page 2, line 20, remove the overstrike over "~~alpha-hydroxy acid~~"

Page 2, line 21, remove the overstrike over the overstruck semicolon

Page 2, line 22, remove the overstrike over "(2) ~~Twenty percent~~"

Page 2, line 22, after "~~percent~~" insert "or higher concentration of"

Page 2, line 22, remove the overstrike over "~~beta-hydroxy acid~~"

Page 2, line 23, remove the overstrike over the overstruck semicolon

Page 2, line 24, remove the overstrike over "(3) ~~Two percent~~"

Page 2, line 24, after "~~percent~~" insert "or higher concentration of"

Page 2, line 24, remove the overstrike over "~~resorcinol~~"

Page 2, line 24, after "higher" insert: ":

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

(5) Fifteen percent or higher concentration of phenol"

Page 2, line 24, remove the overstrike over the overstruck period

Page 4, line 21, remove "physician licensed to practice"

Page 4, remove line 22

Page 4, line 23, replace "under chapter 43-12.1" with "licensed healthcare provider"

Page 5, line 24, replace "Compiled" with "Complied"

Page 8, line 5, replace "one hundred" with "fifty"

Renumber accordingly

Engrossed SB 2097 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

SB 2097

(1)

Senate Bill 2097

Before the Industry, Business and Labor Committee

Testimony of Barb Houglum, State Board of Cosmetology

January 13, 2015

Mr. Chairman and members of the committee, my name is Barb Houglum and I currently serve on the State Board of Cosmetology. The Board of Cosmetology is introducing this bill to clean up and clarify some language in our code and also to address some issues the Board continually sees.

Section One: N.D.C.C. § 43-11-01. Definitions.

This section updates and clarifies language for the following subsections:

(3) "Cosmetology" - clarify and update the definition of cosmetology by adding braiding, changing waxing to hair removal, and adding manipulation of eyelashes.

We want to make it clear that the definition of cosmetology includes hair braiding for several reasons. Hair braiding is done with tools which require disinfecting between uses to protect the public from the spread of disease. Often creams and lotions are used during braiding and need to be dispensed properly. Heat implements are also used and require education about safety and sanitation.

We have removed the word waxing. It is limiting in its definition because it's not the only form of hair removal cosmetologists are licensed to perform. By changing "waxing to remove hair" to "hair removal," it is now clear that the definition of cosmetology includes the removal of hair by means other than waxing.

We also want to make it clear that the manipulation of eyelashes is included in the definition of cosmetology as we have seen an increase in people offering such

services. Eyelash extensions or tinting require a person to touch the face of another person and apply or tint lashes or using chemicals and adhesives. We are educated in public safety, sanitation and disinfection. Tools need to be disinfected, hands need to be sanitized, and items that cannot be disinfected need to be disposed of properly.

(5) "Esthetician" - the line removed is already covered under section 43-11-02 Exemptions #6 which states: "Services provided by retailers or their sales personnel trained in the demonstration of cosmetics application if the cosmetics are applied with disposable applicators that are discarded after each customer demonstration." We think the sentence we are taking out of this section is misleading as it does not contain all the requirements of 43-11-02, specifically that disposable applicators must be used and discarded for each demonstration, which we require for sanitation purposes.

(8) "Invasive care" - we simplified the definition to say what is meant, cosmetologists and estheticians may not invade the live tissue, period! The old definition is confusing and outdated. The field of skin care is changing rapidly and we need to stay current.

(9) "Manager-operator" - update terminology to "master cosmetologist" and move to (11). Previous language referred to a "manager-operator" license, however, in keeping with language in our code, this will now be a "master cosmetologist" license. You will see that we now adjusted this language throughout the code.

(13) "Skin care" - remove the word "waxing" to encompass all hair removal as stated above.

Section 2: N.D.C.C. § 43-11-02(8). Exemptions.

We updated the term “physician” to “medical director” – recent legislative changes include not only physicians within this definition but also nurse practitioners and we updated the language to encompass both. We also eliminated “hospital, clinic, or physician’s office” as it was unclear what would qualify under this language, specifically what is considered a “physician’s office.” The skin care services performed under the supervision of a medical director fall outside the jurisdiction of this board, and would instead be subject to regulation by the State Board of Medical Examiners or North Dakota Board of Nursing.

Section 3: N.D.C.C. § 43-11-04. Members of the board.

During the 2013 session, our board was increased from 3 to 5 members. Three members must be cosmetologist, one must hold a teaching degree. We feel it’s very important and highly beneficial to the success of the Board if the fifth member holds a medical or nursing license. A recently appointed member to the Board has a medical background – holding a FNP license and is a medical director of a medical spa. Her knowledge of medical trends and the interrelationship between medical procedures versus current trends with esthetics and skin care services have been invaluable. Having a medical person serve on the board enables us to stay current on medical trends and safety and sanitary issues.

Section 4: N.D.C.C. § 43-11-11. Sanitary rules.

Update terminology. Instead of referencing “operator” it is now clear that cosmetologist and esthetician may practice outside of a salon establishment under rules adopted by the board.

Section 5: N.D.C.C. § 43-11-13. License required.

Update terminology because we offer licenses in esthetics and manicuring separate from cosmetology. Booth rental is also available and needs to be included.

Section 6: N.D.C.C. § 43-11-15. Cosmetology salon.

Update terminology and clarifications for the operation and supervision of cosmetology salon, manicuring salon, and salons offering only skin care services.

Section 7: N.D.C.C. § 43-11-25. License issued without examination

We added a new subsection that would increase the ability for licensees from other states to gain licensure in North Dakota through reciprocity.

North Dakota has a very high standard for education requirements, for example, requiring 1800 hours of education for a cosmetology license. Under this new addition to the reciprocity law, an applicant who has met these education requirements can now apply for a reciprocity license, even if the reciprocal state does not have such requirements by law. For example, if a neighboring state only requires 1400 hours of education for a cosmetology license, but the applicant has gone above and beyond and actually completed 1800 hours of education, and also took a similar practical and theoretical examination, the applicant would now be eligible for reciprocity.

Section 8: N.D.C.C. § 43-11-26. Manager-operator – License - Qualifications

Update terminology - again changing “manager-operator” to “master cosmetologist.”

Section 9: N.D.C.C. § 43-11-27. Instructors license

Removed one unnecessary sentence that made no sense.

Section 10: N.D.C.C. § 43-11-28. Fees

Update terminology for subsections (1)(a)(5), (6), (7), and (8); (1)(b)(1); and (2). Move the "Penalty fee for late renewal" and include it under 43-11-28(2) to avoid duplicative language.

The board would like to increase the "fee for late renewal" from \$15.00 to \$100.00:

Every year we see a significant increase in the amount of late renewals and an increase in our inspectors finding unlicensed individuals practicing cosmetology and manicuring services without a license. In 2012, approximately 726 licensees were late renewing their licenses. In 2013, this number jumped to 854, and in 2014, to 948. That is a significant amount of cosmetologists and manicurists failing to renew their licenses in the State of North Dakota.

This has several effects on the state. First, is the amount of time the Board of Cosmetology spends addressing people practicing without a license during its monthly meetings. Salons and booth rentals in the State of North Dakota get an annual inspection to review the sanitary premises and practices of its licensees. During such inspections, if the inspector notices someone is practicing without a valid license, it is noted on the form, and brought to the Board's attention. The Board must then determine whether to seek disciplinary action against such person for performing services without a license. This takes up a significant amount of time at each meeting. This time could be better spent planning educational programs, producing newsletters, and updating materials to better serve our licensees and the public.

Second, and the more significant issue, is the need for the Board of Cosmetology to have accurate and up-to-date records of its licensees. Providing cosmetology and manicuring services in a sanitary manner, at a sanitary premise, is a top priority of the Board in order to protect the health, safety, and welfare of the citizens of North Dakota, and we need accurate records to assist in this endeavor. As an example, representatives of the Board met this past year with representatives from the State Department of Health to address concerns about Hepatitis C in Minot. The meetings relayed concerns with having sanitary manicuring and cosmetology salons to prevent the spread of infectious disease. In order to adequately do our inspections, we need to have updated records on the location of salons/booths and the licensee's working there. By having up-to-date records of who is licensed to practice in the State of North Dakota and at what location will aid the Board in assuring the public that the cosmetology and manicuring services are safe and sanitary.

We believe that the \$15 late fee is inadequate and does not serve as a deterrent, as evidence by the sheer number of late renewals the Board receives, that increases each year. We hope that a stiffer fine will encourage practitioners to keep their license current.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2097

Page 1, line 11, after the period insert:

“Booth space” includes that part of a licensed salon that is operated independently by a licensed booth renter.

3.”

Page 1, line 13, overstrike “3.” and insert immediately thereafter “4.”

Page 1, line 23, after “performing” insert “non-invasive”

Page 2, line 1, overstrike “4.” and insert immediately thereafter “5.”

Page 2, line 3, overstrike “5.” and insert immediately thereafter “6.”

Page 2, line 6, overstrike “6.” and insert immediately thereafter “7.”

Page 2, line 8, overstrike “7.” and insert immediately thereafter “8.”

Page 2, line 12, overstrike “8.” and insert immediately thereafter “9.”

Page 2, line 22, overstrike “9.” and insert immediately thereafter “10.”

Page 2, line 26, remove the overstrike over “~~11.~~”, remove “10.”

Page 2, line 29, replace “11.” with “12.”

Page 2, line 30, overstrike “12.” and insert immediately thereafter “13.”

Page 3, line 1, overstrike “13.” and insert immediately thereafter “14.”

Page 3, line 3, after “performing” insert “non-invasive”

Page 3, line 5, overstrike “14.” and insert immediately thereafter “15.”

Page 3, line 9, overstrike “15.” and insert immediately thereafter “16.”

Page 3, line 11, overstrike “16.” and insert immediately thereafter “17.”

Page 4, line 8, replace “medical director” with “physician, practicing within the scope of their license, pursuant to North Dakota Century Code chapter 43-17 or nurse, practicing within the scope of their license, pursuant to North Dakota Century Code chapter 43-12.1.”

Page 4, line 16, replace "have a medical or nursing license" with "be a physician, licensed to practice medicine in this state pursuant to North Dakota Century Code chapter 43-17, or nurse licensed to practice nursing in this state pursuant to North Dakota Century Code chapter 43-12.1"

Renumber accordingly.

Engrossed Senate Bill 2097

Before the Industry, Business and Labor Committee

Testimony of Barb Houglum, State Board of Cosmetology

March 11, 2015

Mr. Chairman and members of the committee, my name is Barb Houglum and I currently serve on the State Board of Cosmetology. The Board of Cosmetology is introducing this bill to clean up and clarify some language in our code and also to address some issues the Board continually sees.

Section One: N.D.C.C. § 43-11-01. Definitions.

This section updates and clarifies language for the following subsections:

(2) Added definition of "booth space" at the request of the Senate Committee.

(3) "Cosmetology" - clarify and update the definition of cosmetology by adding braiding, changing waxing to hair removal, and adding manipulation of eyelashes.

We want to make it clear that the definition of cosmetology includes hair braiding for several reasons. Hair braiding is done with tools which require disinfecting between uses to protect the public from the spread of disease. Often creams and lotions are used during braiding and need to be dispensed properly. Heat implements are also used and require education about safety and sanitation.

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(13) "Skin care" - remove the word "waxing" to encompass all hair removal as stated above.

Section 2: N.D.C.C. § 43-11-02(8). Exemptions.

This exception to the cosmetology rules is in reference to medical spas. Medical directors at these spas can include not only “physicians” practicing within the scope of their license, but also nurse practitioners practicing within the scope of their license. The language has been updated to reflect this. We also eliminated “hospital, clinic, or physician’s office” as it was unclear what would qualify under this language, specifically what is considered a “physician’s office.” The skin care services performed under the supervision of a physician or nurse practitioner fall outside the jurisdiction of this board, and would instead be subject to regulation by the State Board of Medical Examiners or North Dakota Board of Nursing.

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Update terminology because we offer licenses in esthetics and manicuring separate from cosmetology. Booth rental is also available and needs to be included.

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Update terminology - again changing “manager-operator” to “master cosmetologist.”

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Removed one unnecessary sentence that made no sense.

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determine whether to seek disciplinary action against such person for performing services without a license. This takes up a significant amount of time at each meeting. This time could be better spent planning educational programs, producing newsletters, and updating materials to better serve our licensees and the public.

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Mar 11, 2015

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BAGAN STRINDEN VISION

March 9, 2015

Re: Proposed changes to Cosmetology code **Senate Bill 2097** | Steve Bagan, MD | Tom Strinden, MD | Sarah Swanholm, OD

Dear Esteemed Members of the Industry, Business and Labor Committee

I am very concerned about significant changes in Senate Bill No. 2097. I am a Board Certified M.D., an ophthalmologist (eye surgeon) and I also own, operate and supervise a skin care business in Fargo, named SkinAppeal. That business employs a Family Nurse Practitioner FNP, an R.N., and an aesthetician. In the course of that business, and in my medical practice, I operate or supervise the operation of many types of lasers, including those used for skin treatments, and hair removal.

The **2** changes in this Bill that concern me are on page 2 line 1, and page 2 lines 15-24. the drafters of this bill have

1. downgraded the significance of laser use for hair removal by including it as 'non-invasive' on page 2 line 1, and by conveniently eliminating all reference to lasers in their definition of "Invasive care" on page 2 lines 17-18. Hair removal by laser necessarily treats the hair follicle, which is deep in the skin in the dermis, so cannot be called 'noninvasive'. Ironically, as an M.D., I would be required to document training and experience before being able to use a laser, but this bill not only eliminates any restriction on hair-removal lasers, but does not require any demonstration of training in their use by a non-medical person.
2. removed all reference to chemical peels from the definition of "Invasive care". Many of the chemical agents that have been lined out do invade living tissue.

So that my purpose does not seem to be self-serving, considering that I own a skin care facility that provides these services, and thus competes with those who would benefit from having a lesser standard of care as proposed by this Bill, I submit to you the unbiased opinion of the *American Society for Dermatologic Surgery Association* via the attached letter. It would be great if you could read the entire letter, but I know how busy you are so I have marked certain points:

- Point 1:** laser hair removal causes more complications than any other medical laser treatment
- Point 2:** great majority of lawsuits for laser hair removal are against non-physicians
- Point 3:** suggestions for wording of section on Invasive care, page 2 lline 15.
- Point 4:** lasers are medical devices.

Please do not allow the changes proposed on page 2, lines 1, and lines 15-24.

Thank you.

Sincerely,
Steve Bagan, M.D.



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Mar 11, 2015

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February 25, 2015

The Honorable George Keiser
Chairman, House Industry, Business, and Labor Committee
North Dakota State House of Representatives
422 Toronto Drive
Bismarck, ND 58503-0276

RE: OPPOSE SB 2097

Dear Chairman Keiser:

As President of the American Society for Dermatologic Surgery Association (ASDSA), a surgical specialty organization representing nearly 6,000 physician members, I am writing to you to express our opposition to SB 2097. As written, SB 2097 would remove the use of lasers and chemical peels from the definition of "invasive care," allowing cosmetologists to perform these procedures.

The following procedures constitute the practice of medicine by virtue of the potential harm that can be incurred by patients who receive this treatment by untrained or unqualified practitioners:

- Performing any act or procedure that uses a biologic or synthetic material, or chemical application of any kind if it alters or damages or is capable of altering or damaging living tissue; and
- Performing any act or procedure using a mechanical device, or displaced energy form of any kind if it damages or is capable of damaging living tissue.

The Safety of North Dakota Patients is at Risk

ASDSA believes that allowing cosmetologists to perform laser hair removal and deep chemical peels without physician supervision would jeopardize patient safety and disregard adequate and appropriate medical training. While these procedures are extremely safe and effective when used by medical professionals with appropriate training and oversight, in the wrong hands they can cause painful burns and permanent scarring.

Quality patient care includes evaluating a patient's needs and current condition, selecting an appropriate course of treatment, and providing adequate information and follow-up care. When non-physician practitioners are given legal approval to do the same procedures dermatologists spend years in medical and surgical training to perform, patient safety is seriously compromised. Short term, basic training is in no way equivalent to a physician's training and understanding of a medical procedure and its implications for each patient. Ultimately, patient safety and quality of care are seriously compromised.

pg 1

Additionally, laser hair removal causes more complications than any other medical laser treatment. According to a study published in *Skin and Aging*¹, hair reduction was the most commonly treated condition that resulted in complications (46%), followed by laser/light leg vein treatments (21%) and non-facial photorejuvenation (11%). Lower extremities were the most common location of complications (36%), followed by the face (22%) and neck (12%). Physicians performing these procedures have years of training in residencies to medically recognize and address complications, in addition to evaluating the patient to determine the most appropriate treatment. For example, laser hair removal procedures are less effective on individuals with light-colored hair, and those with tanned or dark skin may be more susceptible to burning.

With multiple medical laser devices available on the market, and as more and more devices become available, it is critical to ensure that patient safety remains the primary objective. ASDSA feels strongly that cosmetic medical procedures, such as laser hair removal, are more safely performed in a physician's office by the physician or under direct, on-site supervision of the physician.

As reported in the *National Law Journal*, laser hair removal has recently become a "hot spot" for litigation, leading to costly and prolonged lawsuits. According to the article, "Laser hair removal in particular is triggering lawsuits, lawyers note, warning that even more litigation is on the horizon as the number of medical spas soars... In Arizona, a woman recently sued a spa in state court, alleging she was 'severely burned and scarred' during laser hair removal. Also in Arizona state court, a man sued a spa over scarring, 'extreme pain' and burning he allegedly suffered from laser hair removal on his back and shoulders."² According to a study published in the *Journal of the American Medical Association Dermatology*, the percentage of medical malpractice lawsuits involving the non-physician use of medical lasers has grown steadily over the past four years, from just 38 percent of lawsuits in 2008 to 78 percent of lawsuits in 2011. Perhaps most relevant is the fact that according to this same data, 89 percent of laser hair removal-related medical malpractice lawsuits in the year 2011 involved non-physicians performing laser hair removal.³

Chemical Peeling agents are appropriately used by cosmetologists only if they are used to alter the dead cell layer of the skin. They are more appropriately referred to as exfoliating agents.

¹ Narurkar, V. 2005, September. "Complications from Laser Procedures Performed by Non-Physicians." *Skin & Aging*. Volume 13 - Issue 9: 70 - 71.

² Baldas, Tresa. 2009, September 2. "Unwanted Lawsuits Grow from Laser Hair Removal." *National Law Journal*. Retrieved from: http://www.law.com/jsp/article.jsp?id=1202433518513&src=EMC-Email&et=editorial&bu=Law.com&pt=LAWCOM%20Newswire&cn=NW_20090902&kw=Unwanted%20Lawsuits%20Grow%20From%20Laser%20Hair%20Removal

³ Jalian, H; Jalian, C; Avram, M. 2013, October 16. Increased Risk of Litigation Associated with Laser Surgery by Nonphysician Operators. *JAMA Dermatol*. doi:10:1001/jamadermatol2013.7117.

5550 Meadowbrook Dr., Ste. 120, Rolling Meadows, IL 60008



ASDSA believes existing law defining cosmetic peels capable of altering or damaging living tissue as "invasive care" is appropriate and consistent with FDA guidelines on these agents. Further, we would recommend that this section be rephrased as follows:

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 with a pH of 3.0 or lower.
- (4) Fifteen percent or higher concentration of trichloroacetic acid (TCA)
- (5) Phenol in any concentration

Additionally, solid carbon dioxide is used in combination with the biomedical peel process in physician's offices. It is capable of total epidermal disruption. Its use by cosmetologists should be strictly prohibited.

Finally, it should be stressed that combinations of the above agents should be strictly prohibited for use by cosmetologists. Only single agents should be permitted for cosmetologists' use.

Practitioners performing laser hair removal and deep chemical peels (capable of altering or damaging living tissue) should have appropriate medical training to immediately recognize and effectively manage any complications that may occur. Only physicians have this training and knowledge.

The Use of Medical Lasers is the Practice of Medicine

The American National Standards Institute classified IIIb and IV lasers and intense pulsed light devices are considered by the FDA to be "medical prescription devices." A "prescription device," is defined by the Code of Federal Regulations Section 801.109 as "a device which, because of any potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use is not safe except under the supervision of a practitioner licensed by law to direct the use of such device..." As such, use of these devices should be considered the practice of medicine, and should not occur outside the supervision of a licensed and appropriately trained physician.

Any procedure, including hair removal, which utilizes energy-based devices capable of damaging living tissue performed on human beings for cutaneous conditions should be considered as the practice of medicine.

Consideration of laser and light-based hair removal as the practice of medicine is consistent with the American Medical Association and the American College of Surgeon's definition of surgery, as well as other AMA laser surgery policy as cited below.

H-475.983 Definition of Surgery

Our AMA adopts the following definition of "surgery" from American College of Surgeons Statement ST-11:

Surgery is performed for the purpose of structurally altering the human body by the incision or destruction of tissues and is part of the practice of medicine. Surgery also is the diagnostic or therapeutic treatment of conditions or disease processes by any instruments causing localized alteration or transposition of live human tissue which include lasers, ultrasound, ionizing radiation, scalpels, probes, and needles. The tissue can be cut, burned, vaporized, frozen, sutured, probed, or manipulated by closed reductions for major dislocations or fractures, or otherwise altered by mechanical, thermal, light-based, electromagnetic, or chemical means. Injection of diagnostic or therapeutic substances into body cavities, internal organs, joints, sensory organs, and the central nervous system also is considered to be surgery (this does not include the administration by nursing personnel of some injections, subcutaneous, intramuscular, and intravenous, when ordered by a physician). All of these surgical procedures are invasive, including those that are performed with lasers, and the risks of any surgical procedure are not eliminated by using a light knife or laser in place of a metal knife, or scalpel.

Patient safety and quality of care are paramount and, therefore, patients should be assured that individuals who perform these types of surgery are licensed physicians (defined as doctors of medicine or osteopathy) who meet appropriate professional standards. (Res. 212; A-07)

H-475.989 Laser Surgery

Our AMA (1) adopts the policy that laser surgery should be performed only by individuals licensed to practice medicine and surgery or by those categories of practitioners currently licensed by the state to perform surgical services; and (2) encourages state medical associations to support state legislation and rulemaking in support of this policy. (Sub. Res. 39, I-90; Reaffirmed: Sunset Report, I-00)

H-475.988 Laser Surgery

The AMA supports the position that revision, destruction, incision or other structural alteration of human tissue using laser is surgery. (Res. 316, A-96; Reaffirmed: CSAPH Rep. 3, A-06)

Moreover, it is important to consider that in addition to the use of medical lasers themselves, laser hair removal also requires the use of a medical-grade topical anesthetic. In at least two cases, the dispensation of this anesthetic without appropriate supervision has resulted in patient deaths. In 2007, and again in 2009, the Food and Drug Administration (FDA) issued public



advisories cautioning consumers about this issue. As stated in the advisory, "FDA is aware of two instances where women, aged 22 and 25 years old, applied topical anesthetics to their legs to lessen the pain of laser hair removal. These women then wrapped their legs in plastic wrap, as they were instructed, to increase the creams' numbing effect. Both women had seizures, fell into comas, and subsequently died from the toxic effects of the anesthetic drugs. The skin numbing creams used in these two cases were made in pharmacies and contained high amounts of the anesthetic drugs lidocaine and tetracaine. The FDA also has received reports of serious and life-threatening side effects such as irregular heartbeat, seizures and coma, and slowed or stopped breathing following the use of these numbing products. These effects happened in both children and adults and when the anesthetic drug was used both for approved and unapproved conditions."⁴

For these reasons, ASDSA strongly opposes SB 2097. Should you have any questions or need further information, please feel free to contact Director of State and Grassroots Advocacy Lisle Thielbar at (847) 956-9126 or lthielbar@asds.net.

Sincerely,

George J. Hruza, MD, President
American Society for Dermatologic Surgery Association

cc: Naomi Lawrence, MD, President-Elect
Mitchel P. Goldman, MD, Immediate Past President
Thomas E. Rohrer, MD, Vice President
Abel Torres, MD, Treasurer
Murad Alam, MD, Secretary
Katherine J. Duerdoth, CAE, Executive Director
Lisle Thielbar, Director of State and Grassroots Advocacy
Courtney Koebele, Executive Director, North Dakota Medical Association

⁴Food and Drug Administration. 2007, February 6. "Public Health Advisory: Life-Threatening Side Effects with the Use of Skin Products Containing Numbing Ingredients for Cosmetic Procedures." Retrieved from: <http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/DrugSafetyInformationforHealthcareProfessionals/PublicHealthAdvisories/ucm054718.htm>
5550 Meadowbrook Dr., Ste. 120, Rolling Meadows, IL 60008

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2097

Mar 23, 2015

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Cosmetology)

1 A BILL for an Act to amend and reenact sections 43-11-01, 43-11-02, 43-11-04, 43-11-11,
2 43-11-13, 43-11-15, 43-11-25, 43-11-26, subsection 1 of section 43-11-27, and section 43-11-28
3 of the North Dakota Century Code, relating to the practice and licensing of cosmetology,
4 manicuring, and esthetics.

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 that is operated independently by a
12 licensed booth renter. this is fine
- 13 3. "Cosmetologist" means an individual licensed under this chapter to practice
14 cosmetology.
- 15 ~~3.4.~~ "Cosmetology" means any one or combination of practices generally and usually
16 performed by and known as the occupation of beauty culturists or cosmeticians or
17 cosmetologists or hairdressers, or of any other person holding out as practicing
18 cosmetology by whatever designation and within the meaning of this chapter and in
19 and upon whatever place or premises; and in particular cosmetology includes the
20 following or any one or a combination of practices: arranging, dressing, curling,
21 waving, cleansing, cutting, singeing, bleaching, coloring, braiding, or similar work,
22 upon the hair of any person by any means or with hands or mechanical or electrical
23 apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics,
24 lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating,

1 exercising, ~~waxing to remove~~ performing non-invasive hair removal, beautifying, or
2 similar work on the body, manipulation of eyelashes, or manicuring the nails of any
3 person.

4 ~~4.5.~~ "Cosmetology salon" includes that part of any building in which the occupation of a
5 cosmetologist is practiced.

6 ~~5.6.~~ "Esthetician" means a person who is licensed by the board to engage in the practice of
7 skin care. ~~An esthetician does not include a professional make-up artist trained in~~
8 ~~facial make-up application by a cosmetics company.~~

9 ~~6.7.~~ "Homebound" means any person who is ill, disabled, or otherwise unable to travel to a
10 salon.

11 ~~7.8.~~ "Instructor" means any person of the age of eighteen years or more, who is a licensed
12 cosmetologist, who teaches cosmetology or any practices taught in a duly registered
13 school of cosmetology, and who has met the requirements of section 43-11-27 and
14 has applied for and received an instructor's license.

15 ~~8.9.~~ "Invasive care" means any procedure that invades the live tissue of the dermis,
16 including:

17 a. Laser use, except the use of cold laser technology using nonlinear, pulsed light
18 application for the purpose of biostimulation without the generation of heat; and

19 b. Chemical peels, except for chemical peels using:

20 (1) Thirty percent or higher concentration of alpha hydroxy acid, which includes
glycolic acid with a pH of

21 3.0 or higher;

22 (2) Twenty percent or higher concentration of beta hydroxy acid, which includes
salicylic acid with a pH of

23 3.0 or higher; or

24 (3) Two percent resorcinol with a pH of 3.0 or higher.

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

(5) Phenol in any concentration.

25 ~~9.~~ "Manager operator" means any person who has met the requirements of section
26 ~~43-11-26 and has applied for and received a managing cosmetologist license.~~

27 10. "Manicuring" means the cleansing, cutting, shaping, beautifying, or massaging of the
28 hands, feet, or nails of any person.

29 11. "Manicurist" means a person who is licensed by the board to engage in the practice of
30 manicuring.

- 1 12. "Master cosmetologist" means any person who has met the requirements of section
2 43-11-26 and has applied for and received a managing cosmetologist license.
- 3 ~~12-13.~~ "School of cosmetology" means an establishment operated for the purpose of teaching
4 cosmetology.
- 5 ~~13-14.~~ "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions,
6 creams, or otherwise, massaging, cleansing, stimulating, manipulating, ~~waxing to~~
7 ~~remove~~ performing non-invasive hair removal, beautifying, or similar work on the body
8 of any person. The term does not include invasive care.
- 9 ~~14-15.~~ "Student" means any person who is engaged in the learning or acquiring of any or all
10 the practices of cosmetology and while so learning, performs or assists in any of the
11 practices of cosmetology in any school registered or licensed and under the immediate
12 supervision of an instructor licensed as such under this chapter.
- 13 ~~15-16.~~ "Student instructor" means a cosmetologist who is receiving instruction in teacher's
14 training in a duly registered school of cosmetology.
- 15 ~~16-17.~~ "Tuition" means the total cost of a person's cosmetology studies, and does not include
16 books or demonstration kits.

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

19 **43-11-02. Exemptions from provisions of chapter.**

20 This chapter does not apply to:

- 21 1. Services in case of emergency.
- 22 2. Services provided by persons practicing cosmetology upon members of their
23 immediate families.
- 24 3. Services by a person licensed by the state and working within the standards and
25 ethics of that person's profession, if that person does not represent to the public that
26 the person is a cosmetologist or manicurist.
- 27 4. Services by nurses, undertakers, and morticians lawfully engaged in the performance
28 of the usual and ordinary duties of their vocation.
- 29 5. Educational activities conducted in connection with any regularly scheduled meeting or
30 any educational activities of any bona fide association of licensed cosmetologists, from
31 which the general public is excluded. For purposes of this subsection a "bona fide

- 1 association of cosmetologists" means any organization whose constitution, bylaws, or
2 membership rules establish within said organization a class of membership consisting
3 of licensed cosmetologists.
- 4 6. Services provided by retailers or their sales personnel trained in the demonstration of
5 cosmetics application if the cosmetics are applied only with disposable applicators that
6 are discarded after each customer demonstration. The board may adopt rules to
7 ensure sanitary conditions for services provided under this exemption.
- 8 7. Services provided in a licensed hospital or a nursing home by a person practicing
9 cosmetology on a volunteer basis without compensation or by a nurse's assistant.
- 10 8. Skin care provided under the supervision, control, and responsibility of a physician in
11 the hospital, clinic, or physician's office~~physician practicing within the scope of the~~
12 ~~physician's license under chapter 43-17 or nurse practicing within the scope of the~~
13 ~~nurse's license under chapter 43-12-1.~~

14 **SECTION 3. AMENDMENT.** Section 43-11-04 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-11-04. Members of board - Qualifications.**

17 Each member of the board must be a citizen of this state. Three of the members of the
18 board must each be a licensed cosmetologist who has had at least three years' practical
19 experience in the occupation. The other two members~~One member~~ of the board must be citizen
20 members, at least one of whom has~~have~~ professional experience as a secondary teacher or as
21 a postsecondary educator. ~~One member of the board must be a physician licensed to practice~~
22 ~~medicine in this state under chapter 43-17 or nurse licensed to practice nursing in this state~~
23 ~~under chapter 43-12-1.~~

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

26 **43-11-11. Sanitary rules - Practice outside salon.**

27 The board with the approval of the state department of health shall adopt sanitary rules
28 necessary to prevent the creating and spreading of infectious and contagious diseases. A
29 cosmetology salon must be at a fixed location and may not be used for living or sleeping
30 quarters. ~~An operator~~A cosmetologist or esthetician may practice outside of the establishment

1 under the direction and control of ~~an owner or manager~~ a master cosmetologist or master
2 esthetician thereof under rules adopted by the board.

3 **SECTION 5. AMENDMENT.** Section 43-11-13 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-11-13. License required.**

6 No person in this state may engage in or attempt to engage in the occupation of
7 cosmetology, ~~manicuring, or skin care,~~ nor conduct a cosmetology salon or booth or school of
8 cosmetology, unless having first obtained a license.

9 **SECTION 6. AMENDMENT.** Section 43-11-15 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-11-15. Cosmetology salon Salon ownership and operation.**

12 A cosmetology-salon may be owned by any person authorized to do business in this state. A
13 cosmetology salon must be operated and supervised by a ~~manager-operator~~ master
14 cosmetologist. A manicuring salon must be operated and supervised by a master cosmetologist
15 or master manicurist. A salon providing only skin care must be operated and supervised by a
16 master cosmetologist or master esthetician.

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

19 **43-11-25. License issued without examination - Conditions.**

20 The board may dispense with the examination of applicants for licenses to practice
21 cosmetology and may grant licenses upon the payment of a fee for original licensure and the
22 reciprocity fee if all the following requirements are met:

- 23 1. The applicant has ~~complied~~ complied:
- 24 a. ~~Complied~~ Complied with the requirements for registration of the District of Columbia,
25 or
26 another state, territory, foreign country, or province where the requirements are
27 equal substantially to those in force in this state at the time the application for the
28 license is filed; or
- 29 b. ~~Provided satisfactory proof of completing the course curriculum hours required by~~
30 the board and provide proof of successfully passing the theoretical and practical
examinations substantially similar to those required in this state.

- 1 2. The applicant passes to the satisfaction of the board an examination on sanitary
2 practices and cosmetology law in this state.

3 **SECTION 8. AMENDMENT.** Section 43-11-26 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-11-26. ~~Manager-operator~~Master cosmetologist - License - Qualifications.**

6 An individual may obtain a ~~manager-operator's~~master cosmetologist's license upon meeting
7 all the following requirements:

- 8 1. Furnishing to the board evidence of having practiced as a cosmetologist for at least
9 one thousand hours.
10 2. Paying an original licensure fee as set forth in section 43-11-28.
11 3. Complying with the other requirements of this chapter applicable to a
12 ~~manager-operator~~master cosmetologist .

13 **SECTION 9. AMENDMENT.** Subsection 1 of section 43-11-27 of the North Dakota Century
14 Code is amended and reenacted as follows:

- 15 1. No person may be licensed as an instructor of cosmetology unless the person
16 furnishes the board the examination fee set forth in section 43-11-28 and evidence of
17 having a general education equivalent to the completion of four years in high school.

18 An applicant:

- 19 a. Shall have at least nine hundred sixty hours instructor's training in cosmetology in
20 a school of cosmetology. ~~In no event may more than two thousand sixty hours~~
21 ~~instructor's training be required for admission to examination.~~ Under this
22 subdivision the practical portion of the examination may be waived if the written
23 examination is supplemented with videotapes of the applicant's teaching
24 procedures;
25 b. Shall possess a current North Dakota license as a cosmetologist and must have
26 been actively engaged in the practice of cosmetology for at least one year before
27 application for an instructor's license, supplemented by not less than four
28 hundred eighty hours instructor's training in a school of cosmetology or course of
29 training approved by the board; or
30 c. Shall possess a current North Dakota license as a cosmetologist and shall have
31 been actively engaged in the practice of cosmetology for at least three years prior

1 to application for an instructor's license supplemented by not less than one
2 hundred sixty hours instructor's training in a school of cosmetology or course of
3 training approved by the board. No instructor or student instructor may be
4 permitted to practice cosmetology on a patron other than that part of practical
5 work which pertains directly to the teaching of practical operations to students.

6 **SECTION 10. AMENDMENT.** Section 43-11-28 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-11-28. Fees.**

9 1. Fees to be paid by applicants for original registrations, original licenses, annual
10 renewals, licenses issued upon reciprocity, and examinations as required under this
11 chapter may not exceed the following amounts:

12 a. Original registrations, licenses, and annual	MAXIMUM
13 renewals:	FEE:
14 (1) Salons, original registration	\$80.00
15 (2) Salons, annual renewal	\$30.00
16 (3) School of cosmetology, original registration	\$505.00
17 (4) School of cosmetology, annual renewal	\$205.00
18 (5) Operator <u>Cosmetologist</u> , original license	\$15.00
19 (6) Operator <u>Cosmetologist</u> , annual renewal	\$15.00
20 (7) Manager-operator <u>Master cosmetologist</u> , original license	\$25.00
21 (8) Manager-operator <u>Master cosmetologist</u> , annual renewal	\$20.00
22 (9) Instructor, original license	\$35.00
23 (10) Instructor, annual renewal	\$20.00
24 (11) Demonstrators , original license	\$30.00
25 (12) Demonstrators , annual renewal	\$20.00
26 (13) Reciprocity license fee	\$105.00
27 (14)(12) Registration fee for student instructor	\$15.00
28 (15)(13) Duplicate license	\$10.00
29 (16) Penalty fee for late renewal	\$15.00
30 (17)(14) Certification fee	\$20.00

31 b. Examinations:

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Legislative Assembly

- 1 (1) ~~Operator~~Cosmetology practical examination \$25.00
- 2 (2) Instructors practical examination \$55.00
- 3 (3) Written examination fees are set and collected by the administrator of the
- 4 examination and payment is the responsibility of the applicant.
- 5 2. Fees are not prorated or returnable. The board may charge a ~~ten~~one hundred ~~dollar~~twenty
6 penalty for each license renewal ~~applications~~application received after December
- 7 thirty-first. ~~The board may reduce a renewal fee from the maximum amount only if the~~
- 8 ~~board applies an equal percentage of reduction to all renewal fees.~~The board shall
- 9 sponsor an educational program for licenseholders to carry out the purposes of
- 10 protecting the public health and safety and maintaining capable and skilled ~~operators,~~
- 11 ~~manager-operators~~cosmetologists, manicurists, estheticians, and instructors. The
- 12 board shall use such portion of the renewal fees as the board may determine for the
- 13 purpose of providing the educational program.

NDLA, H IBL - LeTang, Ellen

Subject: FW: regarding SB 2097

March 23, 2015
SB 2097

Representative Keiser,

Thank you for the opportunity to speak today at the discussion on SB 2097:

I did request that on page 2 to change the language, the exceptions needed to be changed and Representative Becker was going to work with Sandra from the cosmetology board.

On Page 4 lines 11 and 12, we wanted to keep the language the way the Senate had approved. In the century code APRN can practice and function as medical directors due to independent practice since 2011. We do have a practice statement related to esthetics and dermatological procedures addressed in the century code.

On line 21 and 22 we wanted to keep it as the Senate had approved. There is overlap in esthetic and cosmetology with nursing and medical practices.

On page 5 starting on line 11 through 16 wanted to spell out definition of each salon because there is differences in cosmetology, manicure and skin salons.

I have summarized above what I testified on. I understand that Representative Becker will work with Sandra on the language.

Please call me if any questions, 701-527-2583.

If this is going to conference committee, I would like to be notified when that will be discussed to be able to hear the discussion.

Cheryl Rising, FNP

March 23, 2015

3

NDLA, Intern 05 - Johnson, Brian

From: Barb Hougum <bhouglum@hotmail.com>
Sent: Thursday, March 19, 2015 8:11 AM
To: Keiser, George J.; NDLA, Intern 05 - Johnson, Brian; Barb Hougum
Subject: Amended Senate Bill 2097
Attachments: PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO.docx

Chairman Keiser,

I have attached the ND State Board of Cosmetology's proposed amendments to engrossed Senate Bill 2097.

Page 2, remove the overstrike over lines 15 through 24:

We took into account the concerns of Dr. Bagen and Courtney Koebele. After communication with both of them, we agree it would be best to leave the full definition of "invasive care" as is.

Page 8, line 5, replace "one hundred" with "twenty five":

We took into account the concerns the committee had about our increase in late renewal fee. We amended the penalty fee from \$100.00 to \$25.00. The revenue will go towards our new education plan. We are expanding our education classes on safety and sanitation and we will be publishing annual newsletters concerning changes and updates in the field of cosmetology.

Thank you, Mr. Chairman, for your consideration of the amendments. I am available if you have any other any concerns or need additional information.

Thank you, Barb Hougum, ND State Board of Cosmetology

Mar 23, 2015

4

From: Barb Houglum <bhouglum@hotmail.com>
Sent: Monday, March 23, 2015 12:16 PM
To: Keiser, George J.; NDLA, Intern 05 - Johnson, Brian; Becker, Rick C.
Subject: FW: Senate Bill 2097

From: bhouglum@hotmail.com
To: bamerman@nd.gov; tbeadle@nd.gov; bdevlin@nd.gov
Subject: FW: Senate Bill 2097
Date: Mon, 23 Mar 2015 12:06:13 -0500

Chairman Keiser and committee members,

In response to the First Engrossment of the Engrossed Senate Bill No. 2097 I would like to say:

43-11-01 Definitions.

"Cosmetology": The practice of braiding and manipulation of eyelashes already falls under the definition of "Cosmetology". We added both for clarification to licensees and the public.

"Invasive care": We are willing to leave the definition as it has been for many years. It seems someone would like to further restrict the definition without any time for explanation or discussion.

43-11-02. Exemptions

8. Skin care provided under the supervision, control, and responsibility of a physician in the hospital, clinic, or physician's office. Someone removed (physician practicing within the scope of the physicians license under chapter 43-17 or nurse practicing within the scope of the nurses license under chapter 43-12.1)

This law is vague and needs to be amended. The Board of Cosmetology does not have jurisdiction over the practice of licensed physicians and nurses. The Board of Nursing is representing themselves in this matter.

Section 3. 43-11-04 Members of board

It is very important to have a licensed physician or nurse serving on the board of cosmetology. Their knowledge of medical trends and the interrelationship between medical procedures versus current trends with esthetics and skin care are invaluable.

Section 5, 43-11-13 License required:

In the past, we issued only cosmetology licenses, we now have separate licenses for manicuring and skin care and we think they should be included. Again, the amendment is for clarification purposes.

Section 6, 43-11-15 Cosmetology salon ownership and operation:

Now that we license cosmetologists, estheticians and manicurists, it's important that the law change to reflect this. A master cosmetologist may operate all types of salon, because they have studied all areas of cosmetology including esthetics and manicuring. A master esthetician may only operate a skin care salon, and a master manicurist may only operate a nail salon, because their education is limited to their field.

Thank you for your time and consideration, Barb Houglum

Rep. Becker 1
3/25/15

15.8009.02000

FIRST ENGROSSMENT

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2097

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Cosmetology)

1 A BILL for an Act to amend and reenact sections 43-11-01, 43-11-02, 43-11-04, 43-11-11,
2 43-11-13, 43-11-15, 43-11-25, 43-11-26, subsection 1 of section 43-11-27, and section 43-11-28
3 of the North Dakota Century Code, relating to the practice and licensing of cosmetology,
4 manicuring, and esthetics.

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 that is operated independently by a
12 licensed booth renter.
- 13 3. "Cosmetologist" means an individual licensed under this chapter to practice
14 cosmetology.
- 15 ~~3.4.~~ "Cosmetology" means any one or combination of practices generally and usually
16 performed by and known as the occupation of beauty culturists or cosmeticians or
17 cosmetologists or hairdressers, or of any other person holding out as practicing
18 cosmetology by whatever designation and within the meaning of this chapter and in
19 and upon whatever place or premises; and in particular cosmetology includes the
20 following or any one or a combination of practices: arranging, dressing, curling,
21 waving, cleansing, cutting, singeing, bleaching, coloring, ~~shampooing~~ or similar work,
22 upon the hair of any person by any means or with hands or mechanical or electrical
23 apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics,
24 lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating,

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- 1 exercising, ~~waxing to remove~~ performing non-invasive hair removal, beautifying, or
2 similar work on the body, manipulation of eyelashes, or manicuring the nails of any
3 person.
- 4 ~~4.5.~~ "Cosmetology salon" includes that part of any building in which the occupation of a
5 cosmetologist is practiced.
- 6 ~~5.6.~~ "Esthetician" means a person who is licensed by the board to engage in the practice of
7 skin care. ~~An esthetician does not include a professional make-up artist trained in~~
8 ~~facial make-up application by a cosmetics company.~~
- 9 ~~6.7.~~ "Homebound" means any person who is ill, disabled, or otherwise unable to travel to a
10 salon.
- 11 ~~7.8.~~ "Instructor" means any person of the age of eighteen years or more, who is a licensed
12 cosmetologist, who teaches cosmetology or any practices taught in a duly registered
13 school of cosmetology, and who has met the requirements of section 43-11-27 and
14 has applied for and received an instructor's license.
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16 including:
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28 hands, feet, or nails of any person.
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30 manicuring.

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2 43-11-26 and has applied for and received a managing cosmetologist license.
- 3 ~~12.~~13. "School of cosmetology" means an establishment operated for the purpose of teaching
4 cosmetology.
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6 creams, or otherwise, massaging, cleansing, stimulating, manipulating, ~~waxing to~~
7 ~~remove~~performing non-invasive hair removal, beautifying, or similar work on the body
8 of any person. The term does not include invasive care.
- 9 ~~14.~~15. "Student" means any person who is engaged in the learning or acquiring of any or all
10 the practices of cosmetology and while so learning, performs or assists in any of the
11 practices of cosmetology in any school registered or licensed and under the immediate
12 supervision of an instructor licensed as such under this chapter.
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16 books or demonstration kits.

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- 24 3. Services by a person licensed by the state and working within the standards and
25 ethics of that person's profession, if that person does not represent to the public that
26 the person is a cosmetologist or manicurist.
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28 of the usual and ordinary duties of their vocation.
- 29 5. Educational activities conducted in connection with any regularly scheduled meeting or
30 any educational activities of any bona fide association of licensed cosmetologists, from
31 which the general public is excluded. For purposes of this subsection a "bona fide

- 1 association of cosmetologists" means any organization whose constitution, bylaws, or
2 membership rules establish within said organization a class of membership consisting
3 of licensed cosmetologists.
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5 cosmetics application if the cosmetics are applied only with disposable applicators that
6 are discarded after each customer demonstration. The board may adopt rules to
7 ensure sanitary conditions for services provided under this exemption.
- 8 7. Services provided in a licensed hospital or a nursing home by a person practicing
9 cosmetology on a volunteer basis without compensation or by a nurse's assistant.
- 10 8. Non-invasive skin care provided by a licensed esthetician or cosmetologist are not
required to be performed in a licensed cosmetology salon when such services are being
provided under the supervision, control, and responsibility of a physician in
11 the hospital, clinic, or physician's office physician practicing within the scope of the
12 physician's license under chapter 43-17 or nurse practicing within the scope of the
13 nurse's license under chapter 43-12.1.

14 **SECTION 3. AMENDMENT.** Section 43-11-04 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-11-04. Members of board - Qualifications.**

17 Each member of the board must be a citizen of this state. Three of the members of the
18 board must each be a licensed cosmetologist who has had at least three years' practical
19 experience in the occupation. The other two members One member of the board must be citizen
20 members, at least one of whom has have professional experience as a secondary teacher or as
21 a postsecondary educator. One member of the board must be a physician licensed to practice
22 medicine in this state under chapter 43-17 or nurse licensed to practice nursing in this state
23 under chapter 43-12.1.

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

26 **43-11-11. Sanitary rules - Practice outside salon.**

27 The board with the approval of the state department of health shall adopt sanitary rules
28 necessary to prevent the creating and spreading of infectious and contagious diseases. A
29 cosmetology salon must be at a fixed location and may not be used for living or sleeping
30 quarters. An operator A cosmetologist or esthetician may practice outside of the establishment

1 under the direction and control of ~~an owner or manager~~ a master cosmetologist or master
2 esthetician thereof under rules adopted by the board.

3 **SECTION 5. AMENDMENT.** Section 43-11-13 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-11-13. License required.**

6 No person in this state may engage in or attempt to engage in the occupation of
7 cosmetology, manicuring, or skin care, nor conduct a cosmetology salon or booth or school of
8 cosmetology, unless having first obtained a license.

9 **SECTION 6. AMENDMENT.** Section 43-11-15 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-11-15. Cosmetology salon Salon ownership and operation.**

12 A cosmetology-salon may be owned by any person authorized to do business in this state. A
13 cosmetology salon must be operated and supervised by a ~~manager-operator~~ master
14 cosmetologist. ~~A manicuring salon must be operated and supervised by a master cosmetologist~~
15 ~~or master manicurist. A salon providing only skin care must be operated and supervised by a~~
16 ~~master cosmetologist or master esthetician.~~

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

19 **43-11-25. License issued without examination - Conditions.**

20 The board may dispense with the examination of applicants for licenses to practice
21 cosmetology and may grant licenses upon the payment of a fee for original licensure and the
22 reciprocity fee if all the following requirements are met:

23 1. The applicant has ~~complied~~ complied:

24 a. ~~Complies~~ Complied with the requirements for registration of the District of Columbia,
or

25 another state, territory, foreign country, or province where the requirements are
26 equal substantially to those in force in this state at the time the application for the
27 license is filed; or

28 b. Provided satisfactory proof of completing the course curriculum hours required by
29 the board and provide proof of successfully passing the theoretical and practical
30 examinations substantially similar to those required in this state.

- 1 2. The applicant passes to the satisfaction of the board an examination on sanitary
2 practices and cosmetology law in this state.

3 **SECTION 8. AMENDMENT.** Section 43-11-26 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-11-26. ~~Manager-operator~~Master cosmetologist - License - Qualifications.**

6 An individual may obtain a ~~manager-operator's~~master cosmetologist's license upon meeting
7 all the following requirements:

- 8 1. Furnishing to the board evidence of having practiced as a cosmetologist for at least
9 one thousand hours.
10 2. Paying an original licensure fee as set forth in section 43-11-28.
11 3. Complying with the other requirements of this chapter applicable to a
12 ~~manager-operator~~master cosmetologist.

13 **SECTION 9. AMENDMENT.** Subsection 1 of section 43-11-27 of the North Dakota Century
14 Code is amended and reenacted as follows:

- 15 1. No person may be licensed as an instructor of cosmetology unless the person
16 furnishes the board the examination fee set forth in section 43-11-28 and evidence of
17 having a general education equivalent to the completion of four years in high school.

18 An applicant:

- 19 a. Shall have at least nine hundred sixty hours instructor's training in cosmetology in
20 a school of cosmetology. ~~In no event may more than two thousand sixty hours~~
21 ~~instructor's training be required for admission to examination.~~ Under this
22 subdivision the practical portion of the examination may be waived if the written
23 examination is supplemented with videotapes of the applicant's teaching
24 procedures;
25 b. Shall possess a current North Dakota license as a cosmetologist and must have
26 been actively engaged in the practice of cosmetology for at least one year before
27 application for an instructor's license, supplemented by not less than four
28 hundred eighty hours instructor's training in a school of cosmetology or course of
29 training approved by the board; or
30 c. Shall possess a current North Dakota license as a cosmetologist and shall have
31 been actively engaged in the practice of cosmetology for at least three years prior

1 to application for an instructor's license supplemented by not less than one
2 hundred sixty hours instructor's training in a school of cosmetology or course of
3 training approved by the board. No instructor or student instructor may be
4 permitted to practice cosmetology on a patron other than that part of practical
5 work which pertains directly to the teaching of practical operations to students.

6 **SECTION 10. AMENDMENT.** Section 43-11-28 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-11-28. Fees.**

9 1. Fees to be paid by applicants for original registrations, original licenses, annual
10 renewals, licenses issued upon reciprocity, and examinations as required under this
11 chapter may not exceed the following amounts:

12 a. Original registrations, licenses, and annual	MAXIMUM
13 renewals:	FEE:
14 (1) Salons, original registration	\$80.00
15 (2) Salons, annual renewal	\$30.00
16 (3) School of cosmetology, original registration	\$505.00
17 (4) School of cosmetology, annual renewal	\$205.00
18 (5) Operator Cosmetologist, original license	\$15.00
19 (6) Operator Cosmetologist, annual renewal	\$15.00
20 (7) Manager-operator Master cosmetologist, original license	\$25.00
21 (8) Manager-operator Master cosmetologist, annual renewal	\$20.00
22 (9) Instructor, original license	\$35.00
23 (10) Instructor, annual renewal	\$20.00
24 (11) Demonstrators , original license	\$30.00
25 (12) Demonstrators , annual renewal	\$20.00
26 (13) Reciprocity license fee	\$105.00
27 (14)(12) Registration fee for student instructor	\$15.00
28 (15)(13) Duplicate license	\$10.00
29 (16) Penalty fee for late renewal	\$15.00
30 (17)(14) Certification fee	\$20.00
31 b. Examinations:	

Sixty-fourth
Legislative Assembly

- 1 (1) ~~Operator~~Cosmetology practical examination \$25.00
- 2 (2) Instructors practical examination \$55.00
- 3 (3) Written examination fees are set and collected by the administrator of the
- 4 examination and payment is the responsibility of the applicant.
- 5 2. Fees are not prorated or returnable. The board may charge a ~~ten~~ twenty
dollar
- 6 penalty for each license renewal applications~~application~~ received after December
- 7 thirty-first. ~~The board may reduce a renewal fee from the maximum amount only if the~~
- 8 ~~board applies an equal percentage of reduction to all renewal fees.~~ The board shall
- 9 sponsor an educational program for licenseholders to carry out the purposes of
- 10 protecting the public health and safety and maintaining capable and skilled ~~operators,~~
- 11 ~~manager operators~~cosmetologists, manicurists, estheticians, and instructors. The
- 12 board shall use such portion of the renewal fees as the board may determine for the
- 13 purpose of providing the educational program.

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2097

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Cosmetology)

1 A BILL for an Act to amend and reenact sections 43-11-01, 43-11-02, 43-11-04, 43-11-11,
2 43-11-13, 43-11-15, 43-11-25, 43-11-26, subsection 1 of section 43-11-27, and section 43-11-28
3 of the North Dakota Century Code, relating to the practice and licensing of cosmetology,
4 manicuring, and esthetics.

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 that is operated independently by
12 aan individual licensed booth-renter under this chapter.

(Keep)

- 13 3. "Cosmetologist" means an individual licensed under this chapter to practice
14 cosmetology.

- 15 ~~3.4.~~ "Cosmetology" means any one or combination of practices generally and usually
16 performed by and known as the occupation of beauty culturists or cosmeticians or
17 cosmetologists or hairdressers, or of any other person holding out as practicing
18 cosmetology by whatever designation and within the meaning of this chapter and in
19 and upon whatever place or premises; and in particular cosmetology includes the
20 following or any one or a combination of practices: arranging, dressing, curling,
21 waving, cleansing, cutting, singeing, bleaching, coloring, braiding, or similar work,
22 upon the hair of any person by any means or with hands or mechanical or electrical
23 apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics,
24 lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating,

(Reinstall?)
?

1 exercising, ~~waxing to remove~~ performing non-invasive hair removal, beautifying, or
2 similar work on the body, manipulation of eyelashes, or manicuring the nails of any
3 person.

(reinstated)

4 4.5. "Cosmetology salon" includes that part of any building in which the occupation of a
5 cosmetologist is practiced.

6 5.6. "Esthetician" means a person who is licensed by the board to engage in the practice of
7 skin care. ~~An esthetician does not include a professional make-up artist trained in~~
8 ~~facial make-up application by a cosmetics company.~~

9 6.7. "Homebound" means any person who is ill, disabled, or otherwise unable to travel to a
10 salon.

11 7.8. "Instructor" means any person of the age of eighteen years or more, who is a licensed
12 cosmetologist, who teaches cosmetology or any practices taught in a duly registered
13 school of cosmetology, and who has met the requirements of section 43-11-27 and
14 has applied for and received an instructor's license.

15 8.9. "Invasive care" means any procedure that invades the live tissue of the dermis,
16 including:

17 a. ~~Laser use, except the use of cold laser technology using nonlinear, pulsed light~~
18 ~~application for the purpose of biostimulation without the generation of heat; and~~

19 b. ~~Chemical peels, except for chemical peels using:~~

(Keep)

20 (1) Thirty percent or higher concentration of alpha hydroxy acid, which includes
21 glycolic acid with a pH of 3.0 or higher;

22 (2) Twenty percent or higher concentration of beta hydroxy acid, which includes
23 salicylic acid with a pH of 3.0 or higher; or

24 (3) Two percent or higher concentration of resorcinol; with a pH of 3.0 or higher

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

26 (5) Fifteen percent or higher concentration of phenol.

27 9. ~~"Manager-operator" means any person who has met the requirements of section~~
28 ~~43-11-26 and has applied for and received a managing cosmetologist license.~~

29 10. "Manicuring" means the cleansing, cutting, shaping, beautifying, or massaging of the
30 hands, feet, or nails of any person.

1 11. "Manicurist" means a person who is licensed by the board to engage in the practice of
2 manicuring.

3 12. "Master cosmetologist" means any person who has met the requirements of section
4 43-11-26 and has applied for and received a managing cosmetologist license.

5 ~~42-13.~~ "School of cosmetology" means an establishment operated for the purpose of teaching
6 cosmetology.

7 ~~43-14.~~ "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions,
8 creams, or otherwise, massaging, cleansing, stimulating, manipulating, ~~waxing to~~
9 ~~remove~~ performing non-invasive hair removal, beautifying, or similar work on the body
10 of any person. The term does not include invasive care.

11 ~~44-15.~~ "Student" means any person who is engaged in the learning or acquiring of any or all
12 the practices of cosmetology and while so learning, performs or assists in any of the
13 practices of cosmetology in any school registered or licensed and under the immediate
14 supervision of an instructor licensed as such under this chapter.

15 ~~45-16.~~ "Student instructor" means a cosmetologist who is receiving instruction in teacher's
16 training in a duly registered school of cosmetology.

17 ~~46-17.~~ "Tuition" means the total cost of a person's cosmetology studies, and does not include
18 books or demonstration kits.

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

21 **43-11-02. Exemptions from provisions of chapter.**

22 This chapter does not apply to:

- 23 1. Services in case of emergency.
- 24 2. Services provided by persons practicing cosmetology upon members of their
25 immediate families.
- 26 3. Services by a person licensed by the state and working within the standards and
27 ethics of that person's profession, if that person does not represent to the public that
28 the person is a cosmetologist or manicurist.
- 29 4. Services by nurses, undertakers, and morticians lawfully engaged in the performance
30 of the usual and ordinary duties of their vocation.

- 1 5. Educational activities conducted in connection with any regularly scheduled meeting or
2 any educational activities of any bona fide association of licensed cosmetologists, from
3 which the general public is excluded. For purposes of this subsection a "bona fide
4 association of cosmetologists" means any organization whose constitution, bylaws, or
5 membership rules establish within said organization a class of membership consisting
6 of licensed cosmetologists.
- 7 6. Services provided by retailers or their sales personnel trained in the demonstration of
8 cosmetics application if the cosmetics are applied only with disposable applicators that
9 are discarded after each customer demonstration. The board may adopt rules to
10 ensure sanitary conditions for services provided under this exemption.
- 11 7. Services provided in a licensed hospital or a nursing home by a person practicing
12 cosmetology on a volunteer basis without compensation or by a nurse's assistant.
- 13 8. ~~Skin~~Non-invasive skin care provided by a licensed esthetician or cosmetologist are not
14 required to be performed in a licensed cosmetology salon when such services are
15 being provided under the supervision, control, and responsibility of a ~~physician in the~~
16 ~~hospital, clinic, or physician's office~~physician practicing within the scope of the
17 physician's license under chapter 43-17 or an advance practice nurse practicing within
18 the scope of the nurse's license under chapter 43-12.1.

(Keep)

19 **SECTION 3. AMENDMENT.** Section 43-11-04 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-11-04. Members of board - Qualifications.**

22 Each member of the board must be a citizen of this state. Three of the members of the
23 board must each be a licensed cosmetologist who has had at least three years' practical
24 experience in the occupation. ~~The other two members~~One member of the board must be citizen
25 members, at least one of whom has~~have~~ professional experience as a secondary teacher or as
26 a postsecondary educator. ~~One member of the board must be a physician licensed to practice~~
27 ~~medicine in this state under chapter 43-17 or nurse licensed to practice nursing in this state~~
28 ~~under chapter 43-12.1.~~ "one licensed healthcare provider"ⁿ

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

1 **43-11-11. Sanitary rules - Practice outside salon.**

2 The board with the approval of the state department of health shall adopt sanitary rules
3 necessary to prevent the creating and spreading of infectious and contagious diseases. A
4 cosmetology salon must be at a fixed location and may not be used for living or sleeping
5 quarters. ~~An operator~~A cosmetologist or esthetician may practice outside of the establishment
6 under the direction and control of ~~an owner or manager~~a master cosmetologist or master
7 esthetician thereof under rules adopted by the board.

8 **SECTION 5. AMENDMENT.** Section 43-11-13 of the North Dakota Century Code is
9 amended and reenacted as follows:

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

11 No person in this state may engage in or attempt to engage in the occupation of
12 cosmetology, manicuring, or skin care, nor conduct a cosmetology salon or booth or school of
13 cosmetology, unless having first obtained a license.

14 **SECTION 6. AMENDMENT.** Section 43-11-15 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-11-15. Cosmetology salon ~~Salon~~ ownership and operation.**

17 A cosmetology salon may be owned by any person authorized to do business in this state. A
18 cosmetology salon must be operated and supervised by a ~~manager-operator~~master
19 cosmetologist. ~~A manicuring salon must be operated and supervised by a master cosmetologist~~
20 ~~or master manicurist. A salon providing only skin care must be operated and supervised by a~~
21 ~~master cosmetologist or master esthetician.~~

*(Reinstated)
(Reinstated)*

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

24 **43-11-25. License issued without examination - Conditions.**

25 The board may dispense with the examination of applicants for licenses to practice
26 cosmetology and may grant licenses upon the payment of a fee for original licensure and the
27 reciprocity fee if all the following requirements are met:

- 28 1. The applicant has ~~complied~~;
- 29 a. ~~Gompiled~~Complied with the requirements for registration of the District of
30 Columbia, or another state, territory, foreign country, or province where the

1 requirements are equal substantially to those in force in this state at the time the
2 application for the license is filed; or

3 b. Provided satisfactory proof of completing the course curriculum hours required by
4 the board and provide proof of successfully passing the theoretical and practical
5 examinations substantially similar to those required in this state.

6 2. The applicant passes to the satisfaction of the board an examination on sanitary
7 practices and cosmetology law in this state.

8 **SECTION 8. AMENDMENT.** Section 43-11-26 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **43-11-26. ~~Manager-operator~~Master cosmetologist - License - Qualifications.**

11 An individual may obtain a ~~manager-operator's~~master cosmetologist's license upon meeting
12 all the following requirements:

13 1. Furnishing to the board evidence of having practiced as a cosmetologist for at least
14 one thousand hours.

15 2. Paying an original licensure fee as set forth in section 43-11-28.

16 3. Complying with the other requirements of this chapter applicable to a
17 ~~manager-operator~~master cosmetologist.

18 **SECTION 9. AMENDMENT.** Subsection 1 of section 43-11-27 of the North Dakota Century
19 Code is amended and reenacted as follows:

20 1. No person may be licensed as an instructor of cosmetology unless the person
21 furnishes the board the examination fee set forth in section 43-11-28 and evidence of
22 having a general education equivalent to the completion of four years in high school.

23 An applicant:

24 a. Shall have at least nine hundred sixty hours instructor's training in cosmetology in
25 a school of cosmetology. ~~In no event may more than two thousand sixty hours~~
26 ~~instructor's training be required for admission to examination.~~ Under this
27 subdivision the practical portion of the examination may be waived if the written
28 examination is supplemented with videotapes of the applicant's teaching
29 procedures;

30 b. Shall possess a current North Dakota license as a cosmetologist and must have
31 been actively engaged in the practice of cosmetology for at least one year before

1 application for an instructor's license, supplemented by not less than four
2 hundred eighty hours instructor's training in a school of cosmetology or course of
3 training approved by the board; or

- 4 c. Shall possess a current North Dakota license as a cosmetologist and shall have
5 been actively engaged in the practice of cosmetology for at least three years prior
6 to application for an instructor's license supplemented by not less than one
7 hundred sixty hours instructor's training in a school of cosmetology or course of
8 training approved by the board. No instructor or student instructor may be
9 permitted to practice cosmetology on a patron other than that part of practical
10 work which pertains directly to the teaching of practical operations to students.

11 **SECTION 10. AMENDMENT.** Section 43-11-28 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **43-11-28. Fees.**

- 14 1. Fees to be paid by applicants for original registrations, original licenses, annual
15 renewals, licenses issued upon reciprocity, and examinations as required under this
16 chapter may not exceed the following amounts:

17 a. Original registrations, licenses, and annual	MAXIMUM
18 renewals:	FEE:
19 (1) Salons, original registration	\$80.00
20 (2) Salons, annual renewal	\$30.00
21 (3) School of cosmetology, original registration	\$505.00
22 (4) School of cosmetology, annual renewal	\$205.00
23 (5) Operator Cosmetologist, original license	\$15.00
24 (6) Operator Cosmetologist, annual renewal	\$15.00
25 (7) Manager-operator Master cosmetologist, original license	\$25.00
26 (8) Manager-operator Master cosmetologist, annual renewal	\$20.00
27 (9) Instructor, original license	\$35.00
28 (10) Instructor, annual renewal	\$20.00
29 (11) Demonstrators, original license	\$30.00
30 (12) Demonstrators, annual renewal	\$20.00
31 (13) Reciprocity license fee	\$105.00

1	(14) (12) Registration fee for student instructor	\$15.00
2	(15) (13) Duplicate license	\$10.00
3	(16) Penalty fee for late renewal	\$15.00
4	(17) (14) Certification fee	\$20.00
5	b. Examinations:	
6	(1) Operator Cosmetology practical examination	\$25.00
7	(2) Instructors practical examination	\$55.00
8	(3) Written examination fees are set and collected by the administrator of the	
9	examination and payment is the responsibility of the applicant.	
10	2. Fees are not prorated or returnable. The board may charge a ten <u>one hundred twenty</u> (\$50)	
11	dollar penalty for <u>each</u> license renewal applications <u>application</u> received after	
12	December thirty-first. The board may reduce a renewal fee from the maximum amount	
13	only if the board applies an equal percentage of reduction to all renewal fees. The	
14	board shall sponsor an educational program for licenseholders to carry out the	
15	purposes of protecting the public health and safety and maintaining capable and	
16	skilled operators, manager-operators <u>cosmetologists, manicurists, estheticians,</u> and	
17	instructors. The board shall use such portion of the renewal fees as the board may	
18	determine for the purpose of providing the educational program.	

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#2
Pg 1

Chairman and committee members, my name is Sue Meier and I am the administrator for the ND State Board of Cosmetology. I would like to address some issues the Board of Cosmetology has on the Amendments to Senate Bill 2097.

Century Code 43-11-01 #4 Page 1 under Definition "Cosmetology". The board firmly believes "manipulation of eyelashes" and "braiding" should be included in the definition of Cosmetology.

Eyelash extensions or tinting requires a person to touch the face of another person and apply or tint lashes using chemicals and adhesives. Braiding is done with tools, creams, and heat implements. Persons provide these services require proper education and need to be educated in public safety, sanitation, and the proper method of disinfection of tools and which tools need to be disposed of after one use.

43-11-01 #9 on Page 2 under Definition "Invasive care". The board discussed the definition of invasive care with the Medical Association and agrees with the House committee's amendment on the definition. It is stated in the "FIRST ENGROSSMENTS with House Amendments ENGROSSED SENATE BILL NO. 2097.

43-11-02 line 8, page 4 Exemptions: The board has reached an agreement with the House committee on the definition. It is stated in the "FIRST ENGROSSMENTS with House Amendments ENGROSSED SENATE BILL NO.2097.

43-11-04 Members of Board- Qualifications on page 4: The Board feels it is highly beneficial to the success of the board to have both an educator and a person with a medical degree to serve on the board. As you are aware, in this legislation session, we are very interrelated with the medical profession. Many of our licensed estheticians work under the supervision of a physician or nurse practitioner. The Board receives many inquiries on the use of skin care machines and types of services that may be within the scope of practice of medicine. Having a Board Member with a medical background will be able to address these questions and provide the Board of Cosmetology with knowledge on medical procedures.

43-11-15. Salon ownership and operation on page 5. In the past, there were only salons that offered cosmetology services which includes hair, nails, and skin care. Since the Board added manicure and esthetician licenses, there are now salons that offer only skin care and nail care services. The Board wants to update and clarify this law to allow salons that offers nail care only be allowed to operate and be supervised by a master manicurist or master cosmetologist, and a skin care salon to be operated and

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pg 2

supervised by a "master esthetician" or a "master cosmetologist". A salon that offers hair, nails, and skin care must be operated and supervised by a "master cosmetologist".

43-11-28 Fees #2 on page 5: The increase of the late fee is not mandatory for a renewal of a license. It is to be used to encourage licensees and salon owners to keep their license current. If a license is not renew by January 1st, a licensee is practicing cosmetology, manicuring, and esthetics without a license and a salon owner is conducting an entire salon without a license. It is noted on all licenses issued of the renewal date and the penalty fee if the license is not renew on time and the Board office mails renewal notices to all licensees and salon owners for a reminder to renew and give them adequate time to renew. Most of our monthly board meetings are spent taking disciplinary action to those who have violated the law by practicing cosmetology and conducting a salon without a current license. By establishing a proper fine we could eliminate most of the discipline action taken and hopefully it will encourage them to renew their license on time to be in compliance with the law.