



N.D. State Board of Cosmetology Dakota Highlights

July 2015

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Our Mission is to ensure the health and safety of North Dakota consumers by promoting ethical standards and by enforcing the laws of the beauty industry.

A Message from the Board President

It has been another productive and rewarding year working with the Board of Cosmetology and its members on issues that are of interest to all concerned. The Board put in numerous hours to make amendments to its Century Code to put through this year's 64th Legislative Session. Please make sure to read over the summary of changes found on page 3 and 4 of this newsletter. We hope these changes define and clarify our laws better.

In the past few years, North Dakota has seen an influx in the number of people moving in to the state. With this the Board has issued many new individual and salon licenses, which has kept everyone at the office quite busy.

At this time I would like to welcome our new board member, Amy Shimek. It is our pleasure to

have you on as a board member. Your knowledge and expertise will be very valuable to the Board.

I would like to thank the cosmetology schools and salons for cooperating and working together with the Board to provide greater excellence to our profession.

It has been an honor to serve as your president. The Board meets once a month and we welcome your input. If you have any concerns, opinions, or suggestions and would like to speak to me personally, you are welcome to call the board office and leave a message. I will be happy to return your call.

Sincerely,

Gary Andes, President

New Board Member

We are pleased to announce that Amy Shimek has been appointed to the Board of Cosmetology. Amy is a nurse practitioner in Grand Forks, ND where she also serves as the medical director and nurse injector at Sublime Aesthetic Professionals. She started her career in plastic surgery and has 7 years of aesthetic and dermatologic experience. She resides in Grand Forks with her husband and 3 daughters.



Manager Operator Update

One of the changes made to our Century Code that we want to highlight is that a **Manager Operator will now be called a Master Cosmetologist**. This change was made to coincide with the existing licenses of Master Manicurist and Master Esthetician. The laws and rules on becoming a Master Cosmetologist remain the same as they were for a Manager Operator. The Master License Application can be found on our website under "Forms".

2015 Remaining Board Meeting Dates

July 20th

August 17th

September 21st

October 19th

November 16th

Meetings are held at 11:30 a.m. at the Board office in Bismarck. If you wish to add items to the agenda, please call 701-224-9800. Meeting dates and times are subject to change.

Infection Control: Keep yourself, your business, and the public safe!

Read any newspaper today and you will find plenty of reasons to be concerned about infection control. The number of infectious agents continues to grow as new bacteria, viruses, fungi, and parasites are identified on a regular basis. However, by remaining educated on the risks and being diligent with the processes intended to reduce risks, the threat to you, your business, and the public can remain quite low!

A few simple rules can help keep everyone safe:

1. **Keep current** with our industry's changes by reading the regulations regarding disinfection and infection control. This information can be found on our website, www.ndcosmetology.com, or in our North Dakota Law and Rules handbook.
2. **Disinfect Correctly... Every Client... Every Time...** Prior to disinfection, all surfaces and items must be cleaned; all visible debris must be removed. This is generally achieved using soap and water. However, on a counter, bowl, or chair it may be simply wiping down the surface prior to disinfection.
3. **Contact time:** This is referenced on every EPA labeled Hospital Grade disinfectant and refers to the amount of time a surface, tool, or implement must stay moist with the disinfectant to be effective against the pathogens listed on the label. For example, when using a clipper disinfectant spray, the clipper must stay moist for the length of time recommended by the manufacturer to be effective. It would be best to spray your clipper after each use so it is disinfected and ready for your next client. There are EPA disinfecting wipes available that can be used on surfaces like shampoo bowls, counters, shears, etc.
4. **Mix correctly:** All EPA labeled disinfectants give specific directions for mixing (dilutions). It is extremely important that these are followed exactly.

Using too much or too little concentrate can affect the effectiveness of the disinfectant and can risk damaging plastics.

5. **Change correctly:** All EPA labeled disinfectants and our state regulations provide directions with regard to how frequently a disinfectant used for submersion must be changed.
6. **Hands must be washed prior to any service!**

Definitions:

To clean/sanitize: Removal of visible debris through mechanical or chemical means.

Disinfect: The use of chemical agents (after cleaning) to destroy potentially dangerous pathogens on non-porous items.

Non-porous items: Any tool or item that is made of **glass, metal, or plastic** can be disinfected with an EPA labeled disinfectant according to manufacturer's directions and reused. **Any tools or items not made of glass, metal, or plastic are considered porous and must be discarded after a single use.** We receive many inquiries concerning what type of files or buffer blocks can be reused. Only tools made of glass, metal, or plastic can be disinfected and reused. Remember, sanitized means cleaned or washed, not disinfected!

Sterilize: The destruction of all microbial life. This is generally achieved with the use of an autoclave.

Resources:

www.CDC.gov www.OSHA.gov www.barbicide.com



Don't let your licenses expire!

All licenses expire December 31st of each year. The Board makes every effort to mail renewal notices to each licensee, but it is your obligation to renew your license on time.

If you have a Master license and you own a Salon or Booth, you must renew both licenses each year.

If you have not renewed your license for 2015, you must submit the renewal application along with the late fee immediately, or go to our website, www.ndcosmetology.com, to renew online.



If you are working with an expired license you are in violation of the law and may have disciplinary action taken against your license.

If your license has been expired for more than one year, you will need to re-instate the license by reciprocity (application can be found on our website) or by examination (consisting of the practical, theory, and law exams).

Starting August 1, 2015, the late fee will be \$50.00 for EACH license that is not renewed on time. This was passed through legislation to help cut down on the high number of individuals providing services with an expired license.



Changes to the North Dakota Cosmetology Century Code

The following is a summary of the changes to the North Dakota Century Code. Underlined words have been added and words with a ~~strike through~~ have been removed. These changes are effective August 1, 2015.

To purchase an updated North Dakota Laws, Rules and Regulations book, please send your request to our office with a \$15.00 fee. The Statutes, Rules and Regulations can also be found on our website on the left side of the page.

43-11-01. Definitions. Renumbered accordingly.

#2. Added the definition of a booth space. "Booth space" means that part of a licensed salon that is operated independently by an individual licensed under this chapter.

#4. Clarify the definition of the scope of practice for a cosmetologist. "Cosmetology"... includes the following or any one or a combination of practices: arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work, upon the hair of any person by any means or with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, exercising, ~~waxing to remove~~ performing non-invasive hair removal, beautifying, or similar work on the body, manipulation of eyelashes, or manicuring the nails of any person.

#6. Remove the last line which is covered under 43-11-02. "Esthetician" means a person who is licensed by the board to engage in the practice of skin care. ~~An esthetician does not include a professional make up artist trained in facial make up application by a cosmetics company.~~

#8. Clarify the definition of invasive care. Cosmetologists, estheticians, and manicurists may not invade the live tissue, ever. "Invasive care" means any procedure that invades the live tissue of the dermis, including: a. Laser use, ~~except the use of cold laser technology using nonlinear, pulsed light application for the purpose of biostimulation without the generation of heat;~~ and b. Chemical peels, ~~except for chemical peels using:~~ (1) Thirty percent or higher concentration of alpha hydroxy acid, ~~which includes glycolic acid with a pH of 3.0 or higher;~~ (2) Twenty percent or higher concentration of beta hydroxy acid, ~~which includes salicylic acid with a pH of 3.0 or higher;~~ ~~or~~ (3) Two percent or higher concentration of resorcinol with a pH of 3.0 or higher.; (4) Fifteen percent or higher concentration of trichloroacetic acid (TCA); or (5) Fifteen percent or higher concentration of phenol.

#9. Move to #12 and update terminology. ~~"Manager-operator" means any person who has met the requirements of section 43-11-26 and has applied for and received a managing cosmetologist license.~~

#12. Update terminology to match other language in the code. "Master cosmetologist" means any person who has met the requirements of section 43-11-26 and has applied for and received a managing cosmetologist license.

#14. Remove the word waxing to encompass all hair removal as stated above. "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, ~~waxing to remove~~ performing non-invasive hair removal, beautifying, or similar work on the body of any person. The term does not include invasive care.

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

#8. Update terminology and language. Skin care provided under the supervision, control, and responsibility of a ~~physician in the hospital, clinic, or physician's office~~ 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.

43-11-04. Member of board—Qualifications. One board member must be an educator and one must practice medicine.

Each member of the board must be a citizen of this state. Three of the members of the board must each be a licensed cosmetologist who has had at least three years' practical experience in the occupation. ~~The other two members~~ One member of the board must be ~~citizen members, at least one of whom has~~ have professional experience as a secondary teacher or as a postsecondary educator. One member of the board must be a licensed healthcare provider.

43-11-11. Sanitary rules—Practice outside salon. Update terminology.

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

43-11-13. License required. Update terminology.

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

Century Code Continued...

43-11-15. ~~Cosmetology salon~~ Salon ownership and operation. Update terminology and wording.

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

43-11-25. License issued without examination—Conditions. Add new section to increase the ability for licensees from other states to gain licensure in ND through reciprocity.

The board may dispense with the examination of applicants for licenses to practice cosmetology and may grant licenses upon the payment of a fee for original licensure and the reciprocity fee if all the following requirements are met: 1. The applicant has ~~complied;~~ a. Complied with the requirements for registration of the District of Columbia, or another state, territory, foreign country, or province where the requirements are equal substantially to those in force in this state at the time the application for the license is filed; or b. Provided satisfactory proof of completing the course curriculum hours required by the board and provide proof of successfully passing the theoretical and practical examinations substantially similar to those required in this state. 2. The applicant passes to the satisfaction of the board an examination on sanitary practices and cosmetology law in this state.

43-11-26. ~~Manager-operator~~ Master cosmetologist - License - Qualifications. Update terminology.

An individual may obtain a ~~manager-operator's~~ master cosmetologist's license upon meeting all the following requirements: 1. Furnishing to the board evidence of having practiced as a cosmetologist for at least one thousand hours. 2. Paying an original licensure fee as set forth in section 43-11-28. 3. Complying with the other requirements of this chapter applicable to a ~~manager-operator~~ master cosmetologist.

Section 9. Amendment. Remove wording regarding student instructors.

Subsection 1 of section 43-11-27 of the North Dakota Century Code is amended and reenacted as follows: 1. No person may be licensed as an instructor of cosmetology unless the person furnishes the board the examination fee set forth in section 43-11-28 and evidence of having a general education equivalent to the completion of four years in high school. An applicant: a. Shall have at least nine hundred sixty hours instructor's training in cosmetology in a school of cosmetology. ~~In no event may more than two thousand sixty hours instructor's training be required for~~

~~admission to examination.~~ (Paragraph b. and c. of Section 9 remain unchanged.)

43-11-28. Fees. Update terminology and increase late renewal fee.

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

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

b. Examinations:

(1) Operator <u>Cosmetology</u> practical examination	\$25.00
(2) Instructors practical examination	\$55.00
(3) Written examination fees are set and collected by the administrator of the examination and payment is the responsibility of the applicant.	

2. Fees are not prorated or returnable. The board may charge a ~~ten~~ fifty dollar penalty for each license renewal ~~applications~~ application received after December thirty-first. ~~The board may reduce a renewal fee from the maximum amount only if the board applies an equal percentage of reduction to all renewal fees.~~ The board shall sponsor an educational program for licenseholders to carry out the purposes of protecting the public health and safety and maintaining capable and skilled ~~operators, manager-operators~~ cosmetologists, manicurists, estheticians, and instructors. The board shall use such portion of the renewal fees as the board may determine for the purpose of providing the educational program.



Salon and Booth Information

A **SALON LICENSE** is obtained by a person authorized to do business in ND and has submitted the Salon Application with the fee of \$80.00. A cosmetology salon must be operated and supervised by a Master Cosmetologist and must meet all requirements of N.D.A.C 32-03-01. All salons must be permanently set on a foundation, and must be separated from any living or sleeping quarters by complete partitioning and solid, self-closing doors.

A **BOOTH LICENSE** is required for individuals who are renting a space within a licensed salon. This license is required in any instance where an individual working in a salon is NOT an employee, regardless of the lease agreements. A booth renter must hold a Master license. The Booth Application must be submitted to the Board with the fee of \$80.00. In the event that any salon premises are divided into booth space allotments to be leased to others, each person, firm, association, partnership, corporation, or other entity whose name appears on the application as the operator of the booth space shall be responsible

for the sanitary conditions of that space. Booth spaces are subject to inspections during operation whether or not the renter is available. The owner of the salon shall be responsible for keeping the entire salon open for inspection by the Board, and the Board shall examine and inspect the entire salon premises regardless of any booth space allotments. Each booth space shall be licensed as a separate salon having a separate and independent certificate of registration.

Salon and booth licenses are not transferable. If either move locations, a new license must be applied for.

The owner of a salon or booth must notify the Board office when a location is closed. If re-opened, a new license must be applied for.

A salon or booth will fail its annual inspection if any licenses are not current.

Master licensees who also own a salon or booth space must renew both licenses by December 31st of each year.

What Does Invasive Care Mean?

The Board of Cosmetology wishes to remind its licensed cosmetologists and estheticians that under the scope of these licenses, you are not allowed to provide any service or utilize any machine that would involve "invasive care." "Invasive care" includes any service that penetrates into the live dermis, or in other words, any service that extends beyond the epidermis. **"Invasive care" includes permanent cosmetics, laser hair removal, and may involve certain chemical peels.** For a complete definition of invasive care and examples of what is included, the Board urges you to look at North Dakota Century Code 43-11-01(9). If the practitioner questions whether the service would be considered "invasive care," the practitioner should contact the manufacturer and/or distributor of the product and/or equipment being considered. The use of "invasive care" requires an appropriate medical license. Reports of cosmetologists or estheticians providing "invasive care" services without the proper medical license may be referred to the Board of Nursing or Medical Examiners and to the proper authorities for prosecution.

Providing Services in a Nursing Home

We all probably know someone in the nursing home who enjoys having their hair and nails worked on. And that is something we think all individuals should have the opportunity to have done. The problem arises is when unlicensed individuals provide these services. The chance of spreading infectious diseases is high if proper sanitation techniques are not used.

That is why all individuals providing services in a nursing home must have a **Homebound License**. "Homebound" means any person who is ill, disabled, or otherwise unable to travel to a salon. Having a homebound license means that a Master licensee provides services ONLY to those individuals. This does not allow a Master to provide services in an individual's home or work out of their own home. The Master must be traveling to the homebound individual.

This does not apply to individuals who are providing services to immediate family members or members of the nursing staff providing services to their patients.

In order to receive a homebound license one must make application to the board and meet the following requirements:

1. Possess a valid Master Cosmetologist, Master Manicurist, or Master Esthetician license.
2. Possess a kit and present it for inspection by a board-approved inspector. The kit must include the following: license, copy of rules of sanitation, first-aid kit complying with section 32-02-01-10, and separate closed labeled containers for soiled and clean supplies.
3. Comply with all rules of disinfection for all equipment as provided in section 32-02-01-10.
4. Pay the fee and schedule annual inspections.



The Homebound License Application can be found on our website under "Forms". This application must be completed, notarized, and submitted to our office with a fee of \$55.00. The kit will need to be inspected before a license is approved. The renewal fee is \$30.00 and due December 31st of each year.

Let's keep our nursing homes safe from unnecessary infections!

The Board regulates and licenses all cosmetologists, manicurists, estheticians, instructors, students, schools, and salons. It is the duty of the board to protect the public health, welfare, and safety through the prevention of the creating and spreading of infectious and contagious diseases. If you have any comments or concerns, please bring them to our attention!

Did You Know

Head lice can infest all people, regardless of age, race, social-economic status or hygiene practices, but children between the ages of 3 to 11 are most often infested. If you come across an individual in your salon that has a lice problem, please contact the North Dakota Department of Health Family Health Division at 701-328-2493 or toll free at 1-800-472-2286 and press 1.

Permanent Cosmetics

The Board of Cosmetology has seen an increase in cosmetologists and estheticians advertising for permanent cosmetic services. You cannot provide these services under a cosmetology or esthetician license because it invades the live tissue of the dermis. In order to provide such services, you need to have the appropriate permits and licenses from the North Dakota State Department of Health. Permanent cosmetics is considered "tattooing" in the State of North Dakota and it is a Class B misdemeanor to provide these services without the appropriate license under North Dakota Administrative Code section 33-41-01-14. The Board of Cosmetology will be checking to see if such services are being offered in licensed salons without the appropriate authority and may refer violators to the Department of Health.

Eyebrow threading and the manipulation of eyelashes



are considered a part of cosmetology services and therefore must be performed **ONLY** by a licensed cosmetologist or esthetician.

Current License Statistics

Master Cosmetologists.....5,244	Cosmetologists.....1,973
Estheticians & Masters.....343	Manicurists & Masters....571
Instructors.....81	Homebound.....79
Salons.....1,703	Students.....597

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