

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 916
Second Edition Engrossed 5/22/97

Short Title: Cosmetologists.

(Public)

Sponsors: Senator Kerr.

Referred to: Finance.

April 17, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REWRITE THE LAWS REGULATING COSMETIC ART.
3 The General Assembly of North Carolina enacts:

4 Section 1. Chapter 88 of the General Statutes is repealed.
5 Section 2. The General Statutes are amended by adding the following new
6 Chapter to read:

7 **"CHAPTER 88B.**
8 **"COSMETIC ART.**

9 **"§ 88B-1. Short title.**

10 This act shall be known and may be cited as the North Carolina Cosmetic Art Act.

11 **"§ 88B-2. Definitions.**

12 The following definitions apply in this Chapter:

- 13 (1) Apprentice. – A person who is not a manager or operator, and who is
14 engaged in learning the practice of cosmetic art under the direction and
15 supervision of a cosmetologist.
16 (2) Board. – The North Carolina Board of Cosmetic Art Examiners.

- 1 (3) Booth. – A workstation located within a licensed cosmetic art shop that
2 is operated primarily by one individual in performing cosmetic art
3 services for consumers.
- 4 (4) Booth renter. – A person who rents a booth in a cosmetic art shop.
- 5 (5) Cosmetic art. – All or any part or combination of: (i) the systematic
6 massaging with the hands or mechanical apparatus of the scalp, face,
7 neck, shoulders, hands, and feet; (ii) the use of cosmetic chemicals and
8 preparations and antiseptics; (iii) manicuring, including the application
9 of artificial nails; (iv) esthetics; or (v) cutting, coloring, cleansing,
10 arranging, dressing, waving, and marcelling the hair, and the use of
11 electricity for stimulating growth of hair.
- 12 (6) Cosmetic art shop. – Any building or part thereof where cosmetic art is
13 practiced for pay or reward, whether direct or indirect.
- 14 (7) Cosmetic art school. – Any building or part thereof where cosmetic art
15 is taught.
- 16 (8) Cosmetologist. – Any individual who is licensed to practice all parts of
17 cosmetic art.
- 18 (9) Cosmetology teacher. – An individual licensed by the Board to teach all
19 parts of cosmetic art.
- 20 (10) Esthetician. – An individual licensed by the Board to practice only that
21 part of cosmetic art that constitutes skin care.
- 22 (11) Esthetician teacher. – An individual licensed by the Board to teach only
23 that part of cosmetic art that constitutes skin care.
- 24 (12) Manicurist. – An individual licensed by the Board to practice only that
25 part of cosmetic art that constitutes manicuring.
- 26 (13) Manicuring. – The care and treatment of the fingernails, toenails,
27 cuticles on fingernails and toenails, and the hands and feet, including the
28 decoration of the fingernails and the application of nail extensions and
29 artificial nails. The term 'manicuring' shall not include the treatment of
30 pathologic conditions.
- 31 (14) Manicurist teacher. – An individual licensed by the Board to teach
32 manicuring.
- 33 (15) Shampooing. – The application and removal of commonly used, room
34 temperature, liquid hair cleaning and hair conditioning products.
35 Shampooing does not include the arranging, dressing, waving, coloring,
36 or other treatment of the hair.

37 **§ 88B-3. Creation and membership of the Board; term of office; removal for**
38 **cause; officers.**

39 (a) The North Carolina Board of Cosmetic Art Examiners is established. The
40 Board shall consist of six members who shall be appointed as follows:

- 41 (1) The General Assembly, upon the recommendation of the President Pro
42 Tempore of the Senate, shall appoint a cosmetologist.

1 (2) The General Assembly, upon the recommendation of the Speaker of the
2 House of Representatives, shall appoint a cosmetologist.

3 (3) The Governor shall appoint two cosmetologists, a cosmetology teacher,
4 and a member of the public who is not licensed under this Chapter.

5 (b) Each cosmetologist member shall have practiced all parts of cosmetic art in
6 this State for at least five years immediately preceding appointment to the Board and
7 shall not have any connection with any cosmetic art school while serving on the Board.
8 The cosmetology teacher member shall be currently employed as a teacher by a North
9 Carolina public school, community college, or other public or private cosmetic art school
10 and shall have practiced or taught cosmetic art for at least five years immediately
11 preceding appointment to the Board.

12 (c) Cosmetologist members of the Board shall serve staggered terms of three
13 years. No Board member shall serve more than two consecutive terms, except that each
14 member shall serve until a successor is appointed and qualified. All other board
15 members shall serve three-year terms, but they shall not be staggered.

16 (d) The Governor may remove any member of the Board for cause.

17 (e) A vacancy shall be filled in the same manner as the original appointment,
18 except that unexpired terms in seats appointed by the General Assembly shall be filled in
19 accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of
20 the unexpired term and until their successors have been duly appointed and qualified.

21 (f) The Board shall elect a chair, a vice-chair, and other officers as deemed
22 necessary by the Board to carry out the purposes of this Chapter. All officers shall be
23 elected annually by the Board for one-year terms and shall serve until their successors are
24 elected and qualified.

25 (g) The Board shall not issue a teacher's license to any Board member during that
26 member's term on the Board.

27 (h) No Board member may be employed by the Board for at least one year after
28 that member's term expires.

29 **"§ 88B-4. Powers and duties of the Board.**

30 (a) The Board shall have the following powers and duties:

31 (1) To administer and interpret this Chapter.

32 (2) To adopt, amend, and repeal rules to carry out the provisions of this
33 Chapter.

34 (3) To examine and determine the qualifications and fitness of applicants
35 for licensure under this Chapter.

36 (4) To issue, renew, deny, restrict, suspend, or revoke licenses.

37 (5) To conduct investigations of alleged violations of this Chapter or the
38 Board's rules.

39 (6) To collect fees required by G.S. 88B-20 and any other monies permitted
40 by law to be paid to the Board.

41 (7) To approve new cosmetic art schools.

42 (8) To inspect cosmetic art schools and shops.

1 (9) To adopt rules for the sanitary management and physical requirements
2 of cosmetic art shops and cosmetic art schools.

3 (10) To establish a curriculum for each course of study required for the
4 issuance of a license issued under this Chapter.

5 (11) To employ an executive director and any additional professional,
6 clerical, or special personnel necessary to carry out the provisions of
7 this Chapter, and to purchase or rent necessary office space, equipment,
8 and supplies.

9 (12) To adopt a seal.

10 (13) To carry out any other actions authorized by this Chapter.

11 (b) A member of the Board shall have the authority to inspect cosmetic art shops
12 and cosmetic art schools at any reasonable hour to determine compliance with the
13 provisions of this Chapter if the inspection is made: (i) at the request of the Board, or
14 with the approval of the chair or the executive director as the result of a complaint made
15 to the Board or a problem reported by an inspector, or (ii) at the request of an inspector
16 who deems it necessary to request the assistance of a Board member and who has the
17 prior approval of the chair or executive director to do so. A Board member who makes
18 an inspection pursuant to this subsection shall file a report with the Board before
19 requesting reimbursement for expenses.

20 (c) The Board shall keep a record of its proceedings relating to the issuance,
21 renewal, denial, restriction, suspension, and revocation of licenses. This record shall also
22 contain each licensee's name, business and home addresses, license number, and the date
23 the license was issued.

24 **"§ 88B-5. Meetings and compensation of the Board.**

25 (a) Each member of the Board shall receive compensation for services and
26 expenses as provided in G.S. 93B-5, but shall be limited to payment for services deemed
27 official business of the Board when such business exceeds three continuous hours per
28 day. Official business of the Board includes meetings called by the chair and time spent
29 inspecting cosmetic art shops and schools as permitted by this Chapter. No payment for
30 per diem or travel expenses shall be authorized or paid for Board meetings other than
31 those called by the chair. The Board may annually select one member to attend a
32 national state board of cosmetic arts meeting on official business of the Board. No other
33 Board members shall be authorized to attend trade shows or to travel out of State at the
34 Board's expense.

35 (b) The Board shall hold four regular meetings a year in the months of January,
36 April, July, and October. The chair may call additional meetings whenever necessary.

37 **"§ 88B-6. Board office, employees, funds, budget requirements.**

38 (a) The Board shall maintain its office in Raleigh, North Carolina.

39 (b) The Board shall employ an executive director who shall not be a member of
40 the Board. The executive director shall keep all records of the Board, issue all necessary
41 notices, and perform any other duties required by the Board.

42 (c) With the approval of the Director of the Budget and the Office of State
43 Personnel, the Board may employ as many inspectors, investigators, and other staff as

1 necessary to perform inspections and other duties prescribed by the Board. Inspectors
2 and investigators shall be experienced in all parts of cosmetic art and shall have authority
3 to examine cosmetic art shops and cosmetic art schools during business hours to
4 determine compliance with this Chapter.

5 (d) The salaries of all employees of the Board, including the executive director,
6 shall be subject to the State Personnel Act.

7 (e) The executive director may collect in the Board's name and on its behalf the
8 fees prescribed in this Chapter and shall turn these and any other monies paid to the
9 Board over to the State Treasurer. These funds shall be credited to the Board and shall be
10 held and expended under the supervision of the Director of the Budget only for the
11 administration and enforcement of this Chapter. Nothing in this Chapter shall authorize
12 any expenditure in excess of the amount credited to the Board and held by the State
13 Treasurer as provided in this subsection.

14 (f) The Executive Budget Act and the State Personnel Act apply to the
15 administration of this Chapter.

16 **"§ 88B-7. Qualifications for licensing cosmetologists.**

17 The Board shall issue a license to practice as a cosmetologist to any individual who
18 meets all of the following requirements:

19 (1) Successful completion of at least 1,500 hours of a cosmetology
20 curriculum in an approved cosmetic art school, or at least 1,200 hours of
21 a cosmetology curriculum in an approved cosmetic art school and
22 completion of an apprenticeship for a period of at least six months under
23 the direct supervision of a cosmetologist, as certified by sworn affidavit
24 of three licensed cosmetologists or by other evidence satisfactory to the
25 Board.

26 (2) Passage of an examination conducted by the Board.

27 (3) Payment of the fees required by G.S. 88B-20.

28 **"§ 88B-8. Qualifications for licensing apprentices.**

29 The Board shall issue a license to practice as an apprentice to any individual who
30 meets all of the following requirements:

31 (1) Successful completion of at least 1,200 hours of a cosmetology
32 curriculum in an approved cosmetic art school.

33 (2) Passage of an examination conducted by the Board.

34 (3) Payment of the fees required by G.S. 88B-20.

35 **"§ 88B-9. Qualifications for licensing as an esthetician.**

36 The Board shall issue a license to practice as an esthetician to any individual who
37 meets all of the following requirements:

38 (1) Successful completion of at least 600 hours of an esthetician curriculum
39 in an approved cosmetic art school.

40 (2) Passage of an examination conducted by the Board.

41 (3) Payment of the fees required by G.S. 88B-20.

42 **"§ 88B-10. Qualifications for licensing manicurists.**

1 The Board shall issue a license to practice as a manicurist to any individual who
2 meets all of the following requirements:

3 (1) Successful completion of at least 300 hours of a manicurist curriculum
4 in an approved cosmetic art school.

5 (2) Passage of an examination conducted by the Board.

6 (3) Payment of the fees required by G.S. 88B-20.

7 **"§ 88B-11. Qualifications for licensing teachers.**

8 (a) Applicants for any teacher's license issued by the Board shall meet all of the
9 following requirements:

10 (1) Possession of a high school diploma or a high school graduation
11 equivalency certificate.

12 (2) Payment of the fees required by G.S. 88B-20.

13 (b) The Board shall issue a license to practice as a cosmetology teacher to any
14 individual who meets the requirements of subsection (a) of this section and who meets all
15 of the following:

16 (1) Holds in good standing a cosmetologist license issued by the Board.

17 (2) Submits proof of either practice of cosmetic art in a cosmetic art shop
18 for a period equivalent to five years of full-time work immediately prior
19 to application or successful completion of at least 800 hours of a
20 cosmetology teacher curriculum in an approved cosmetic art school.

21 (3) Passes an examination for cosmetology teachers conducted by the
22 Board.

23 (c) The Board shall issue a license to practice as an esthetician teacher to any
24 individual who meets the requirements of subsection (a) of this section and who meets all
25 of the following:

26 (1) Holds in good standing a cosmetologist or an esthetician license issued
27 by the Board.

28 (2) Submits proof of either practice as an esthetician in a cosmetic art shop
29 for a period equivalent to three years of full-time work immediately
30 prior to application or successful completion of at least 650 hours of an
31 esthetician teacher curriculum in an approved cosmetic art school.

32 (3) Passes an examination for esthetician teachers conducted by the Board.

33 (d) The Board shall issue a license to practice as a manicurist teacher to any
34 individual who meets the requirements of subsection (a) of this section and who meets all
35 of the following:

36 (1) Holds in good standing a cosmetologist or manicurist license issued by
37 the Board.

38 (2) Submits proof of either practice as a manicurist in a cosmetic art shop
39 for a period equivalent to two years of full-time work immediately prior
40 to application or successful completion of at least 320 hours of a
41 manicurist teacher curriculum in an approved cosmetic art school.

42 (3) Passes an examination for manicurist teachers conducted by the Board.

43 **"§ 88B-12. Temporary employment permit; extensions; limits on practice.**

1 (a) The Board shall issue a temporary employment permit to an applicant for
2 licensure as an apprentice, cosmetologist, esthetician, or manicurist who meets all of the
3 following:

4 (1) Has completed the required hours of a cosmetic art school curriculum in
5 the area in which the applicant wishes to be licensed.

6 (2) Has applied to take the examination within three months of completing
7 the required hours.

8 (3) Is qualified to take the examination.

9 (b) A temporary employment permit shall expire six months from the date of
10 graduation from a cosmetic art school and shall not be renewed.

11 (c) The holder of a temporary employment permit may practice cosmetic art only
12 under the supervision of a licensed cosmetologist, manicurist, or esthetician, as
13 appropriate, and may not operate a cosmetic art shop.

14 **§ 88B-13. Applicants licensed in other states.**

15 (a) The Board shall issue a license to an applicant licensed as an apprentice,
16 cosmetologist, esthetician, or manicurist in another state if the applicant shows:

17 (1) The applicant is an active practitioner in good standing.

18 (2) The applicant has practiced at least one out of the three years
19 immediately preceding the application for a license.

20 (3) There is no disciplinary proceeding or unresolved complaint pending
21 against the applicant at the time a license is to be issued by this State.

22 (4) The licensure requirements in the state in which the applicant is licensed
23 are substantially equivalent to those required by this State.

24 (b) Instead of meeting the requirements in subsection (a) of this section, any
25 applicant who is licensed as a cosmetologist, esthetician, or manicurist in another state
26 shall be admitted to practice in this State under the same reciprocity or comity provisions
27 that the state in which the applicant is licensed grants to persons licensed in this State.

28 (c) The Board may establish standards for issuing a license to an applicant who is
29 licensed as a teacher in another state. These standards shall include a requirement that the
30 licensure requirements in the state in which the teacher is licensed shall be substantially
31 equivalent to those required in this State and that the applicant shall be licensed by the
32 Board to practice in the area in which the applicant is licensed to teach.

33 **§ 88B-14. Licensing of cosmetic art shops.**

34 (a) The Board shall issue a license to operate a cosmetic art shop to any applicant
35 who submits a properly completed application, on a form approved by the Board, pays
36 the required fee, and is determined, after inspection, to be in compliance with the
37 provisions of this Chapter and the Board's rules.

38 (b) The applicant shall list all licensed cosmetologists who practice cosmetic art in
39 the shop and shall identify each as an employee or a booth renter.

40 (c) A cosmetic art shop shall be allowed to operate for a period of 30 days while
41 the Board inspects and determines the shop's compliance with this Chapter and the
42 Board's rules. If the Board is unable to complete the inspection within 30 days, the shop
43 will be authorized to operate until such an inspection can be completed.

1 (d) A license to operate a cosmetic art shop shall not be transferable from one
2 location to another or from one owner to another.

3 **"§ 88B-15. Practice outside cosmetic art shops.**

4 (a) Any individual licensed under this Chapter may visit the residences of
5 individuals who are sick or disabled and confined to their place of residence in order to
6 attend to their cosmetic needs. A licensed individual may also visit hospitals, nursing
7 homes, rest homes, retirement homes, mental institutions, correctional facilities, funeral
8 homes, and similar institutions to attend to the cosmetic needs of those in these
9 institutions.

10 (b) An individual licensed under this Chapter may practice in a licensed
11 barbershop as permitted by G.S. 86-15.

12 **"§ 88B-16. Licensing cosmetic art schools.**

13 (a) The Board shall issue a license to any cosmetic art school that submits a
14 properly completed application, on a form approved by the Board, pays the required
15 license fee, and is determined by the Board, after inspection, to be in compliance with the
16 provisions of this Chapter and the Board's rules.

17 (b) No one may open or operate a cosmetic art school before the Board has
18 approved a license for the school. The Board shall not issue a license before a cosmetic
19 art school has been inspected and determined to be in compliance with the provisions of
20 this Chapter and the Board's rules.

21 (c) Cosmetic art schools located in this State shall be licensed by the Board before
22 any credit may be given for curriculum hours taken in the school. The Board may
23 establish standards for approving hours from schools in other states that are licensed.

24 **"§ 88B-17. Bond required for private cosmetic art schools.**

25 (a) Each private cosmetic art school shall provide a guaranty bond unless the
26 school has already provided a bond or an alternative to a bond under G.S. 115D-95. The
27 Board may restrict, suspend, revoke, refuse to renew or reinstate the license of a school
28 that fails to maintain a bond or an alternative to a bond pursuant to this section or G.S.
29 115D-95.

30 (b) (1) The applicant shall file the guaranty bond with the clerk of
31 superior court in the county in which the school is located. The bond
32 shall be in favor of the students. The bond shall be executed by the
33 applicant as principal and by a bonding company authorized to do
34 business in this State. The bond shall be conditioned to provide
35 indemnification to any student or the student's parent or guardian who
36 has suffered loss of tuition or any fees by reason of the failure of the
37 school to offer or complete student instruction, academic services, or
38 other goods and services as related to course enrollment for any
39 reason, including suspension, revocation, or nonrenewal of a school's
40 approval, bankruptcy, foreclosure, or the school ceasing to operate.

41 (2) The bond amount shall be at least equal to the maximum amount of
42 prepaid tuition held at any time by the school during the last fiscal year,
43 but in no case shall be less than ten thousand dollars (\$10,000). Each

1 application for license or license renewal shall include a letter signed by
2 an authorized representative of the school showing the calculations
3 made and the method of computing the amount of the bond in
4 accordance with rules prescribed by the Board. If the Board finds that
5 the calculations made and the method of computing the amount of the
6 bond are inaccurate or that the amount of the bond is otherwise
7 inadequate to provide indemnification under the terms of the bond, the
8 Board may require the applicant to provide an additional bond.

9 (3) The bond shall remain in force and effect until canceled by the
10 guarantor. The guarantor may cancel the bond upon 30 days' notice to
11 the Board. Cancellation of the bond shall not affect any liability
12 incurred or accrued prior to the termination of the notice period.

13 (c) An applicant who is unable to secure a bond may seek from the Board a waiver
14 of the guaranty bond requirement and approval of one of the guaranty bond alternatives
15 set forth in this subsection. With the approval of the Board, an applicant may file one of
16 the following instead of a bond with the clerk of court in the county in which the school
17 is located:

18 (1) An assignment of a savings account in an amount equal to the bond
19 required that is in a form acceptable to the Board, and is executed by the
20 applicant and a state or federal savings and loan association, state bank,
21 or national bank that is doing business in this State and whose accounts
22 are insured by a federal depositor's corporation, and access to the
23 account is subject to the same conditions as those for a bond in
24 subsection (b) of this section.

25 (2) A certificate of deposit that is executed by a state or federal savings and
26 loan association, state bank, or national bank that is doing business in
27 this State and whose accounts are insured by a federal depositor's
28 corporation and access to the certificate of deposit is subject to the same
29 conditions as those for a bond in subsection (b) of this section.

30 **"§ 88B-18. Examinations.**

31 (a) Each applicant for any examination shall file an application with the Board, on
32 a form approved by the Board, which shall be verified by the applicant under oath, and
33 the applicant shall pay the required examination fee. Applications shall be filed at least
34 30 days before the requested examination date.

35 (b) Each examination shall have both a practical and a written portion.

36 (c) Examinations for applicants for apprentice, cosmetologist, teacher, esthetician,
37 and manicurist licenses shall be given in at least three locations in the State that are
38 geographically scattered. The examinations shall be administered in the Board's office or
39 in a publicly supported two-year postsecondary educational institution with appropriate
40 facilities. The Board shall reimburse an institution, if requested, for the use of its
41 facilities in administering examinations.

1 (d) An applicant for a cosmetologist license who fails to pass the examination
2 three times may not reapply to take the examination again until after the applicant has
3 successfully completed any additional requirements prescribed by the Board.

4 **"§ 88B-19. Expired school credits.**

5 No credit shall be approved by the Board if five years or more have elapsed from the
6 date a person enrolled in a cosmetic art school unless the person completed the required
7 number of hours and filed an application to take an examination administered by the
8 Board.

9 **"§ 88B-20. Fees required.**

10 (a) The Board may charge examination fees as follows:

11 (1) Cosmetologist \$ 20.00

12 (2) Apprentice \$ 5.00

13 (3) Manicurist \$ 15.00

14 (4) Esthetician \$ 20.00

15 (5) Teacher \$ 25.00.

16 (b) The Board may charge application fees as follows:

17 (1) Inspection of a newly established cosmetic
18 art shop \$ 25.00

19 (2) Reciprocity applicant under
20 G.S. 88B-13 \$ 15.00.

21 (c) The Board may charge license fees as follows:

22 (1) Cosmetologist \$ 39.00 every 3 years

23 (2) Apprentice \$ 10.00 per year

24 (3) Esthetician \$ 10.00 per year

25 (4) Manicurist \$ 10.00 per year

26 (5) Teacher \$ 10.00 every 2 years

27 (6) Cosmetic art shop per active
28 booth per year \$ 3.00

29 (7) Cosmetic art school \$ 50.00 per year

30 (8) Duplicate license \$ 1.00.

31 (d) The Board may require payment of late fees and reinstatement fees as follows:

32 (1) Apprentice, cosmetologist, esthetician, manicurist, and teacher late
33 renewal \$ 10.00

34 (2) Cosmetic art schools and shops
35 late renewal \$ 10.00

36 (3) Reinstatement - cosmetic art schools
37 and shops \$ 25.00.

38 (e) The Board may prorate fees as appropriate.

39 **"§ 88B-21. Renewals; expired licenses.**

40 (a) Each license to operate a cosmetic art shop shall be renewed on or before the
41 first day of February of each year. As provided in G.S. 88B-20, a late fee shall be
42 charged for licenses renewed after February 1. Any license not renewed by March 1 of
43 each year shall expire. A cosmetic art shop whose license has been expired for one year

1 or less shall have the license reinstated immediately upon payment of the reinstatement
2 fee, the late fee, and all unpaid license fees. The licensee shall submit to the Board, as a
3 part of the renewal process, a list of all licensed cosmetologists who practice cosmetic art
4 in the shop and shall identify each as an employee or a booth renter.

5 (b) Cosmetologist licenses shall be renewed on or before October 1 every three
6 years beginning October 1, 1998. A late fee shall be charged for renewals after that date.
7 Any license not renewed shall expire on October 1 of the year that renewal is required.
8 The Board may develop and implement a plan for staggered license renewal and may
9 prorate license fees to implement such a plan.

10 (c) Apprentice, esthetician, and manicurist licenses shall be renewed annually on
11 or before October 1 of each year. A late fee shall be charged for the renewal of licenses
12 after that date. Any license not renewed shall expire on October 1 of that year.

13 (d) Teacher licenses shall be renewed every two years on or before October 1. A
14 late fee shall be charged for the renewal of licenses after that date. Any license not
15 renewed shall expire on October 1 of that year.

16 (e) Prior to renewal of a teacher's license, the teacher shall annually complete a
17 minimum of eight hours of continuing education which shall be approved by the Board.
18 Teachers shall submit written documentation to the Board showing that they have
19 satisfied the requirements of this subsection.

20 (f) If an apprentice, cosmetologist, esthetician, manicurist, or teacher fails to
21 renew his or her license within five years following the expiration date, the licensee shall
22 be required to pay the license fee for each year that the fees are delinquent and to pass an
23 examination as prescribed by the Board before the license will be reinstated.

24 (g) Cosmetic art school licenses shall be renewed on or before October 1 of each
25 year. A late fee shall be charged for licenses renewed after that date. Any license not
26 renewed by November 1 of that year shall expire. A cosmetic art school whose license
27 has been expired for one year or less shall have its license reinstated upon payment of the
28 reinstatement fee, the late fee, and all unpaid license fees.

29 **§ 88B-22. Licenses required; criminal penalty.**

30 (a) Except as provided in this Chapter, no person may practice or attempt to
31 practice cosmetic art for pay or reward in any form, either directly or indirectly, without
32 being licensed as an apprentice, cosmetologist, esthetician, or manicurist by the Board.

33 (b) Except as provided in this Chapter, no person may practice cosmetic art or any
34 part of cosmetic art, for pay or reward in any form, either directly or indirectly, outside of
35 a licensed cosmetic art shop.

36 (c) No person may open or operate a cosmetic art shop in this State unless a
37 license has been issued by the Board for that shop.

38 (d) An individual licensed as an esthetician or manicurist may practice only that
39 part of cosmetic art for which the individual is licensed.

40 (e) An apprentice licensed under the provisions of this Chapter shall apprentice
41 under the direct supervision of a cosmetologist. An apprentice shall not operate a
42 cosmetic art shop.

43 (f) A violation of this act is a Class 3 misdemeanor.

"§ 88B-23. Licenses to be posted.

(a) Every apprentice, cosmetologist, esthetician, manicurist, and teacher licensed under this Chapter shall display the certificate of license issued by the Board within the shop in which the person works.

(b) Every certificate of license to operate a cosmetic art shop or school shall be conspicuously posted in the shop or school for which it is issued.

"§ 88B-24. Revocation of licenses and other disciplinary measures.

The Board may restrict, suspend, revoke, or refuse to issue, renew, or reinstate any license for any of the following:

- (1) Conviction of a felony shown by certified copy of the record of the court of conviction.
- (2) Gross malpractice or gross incompetency as determined by the Board.
- (3) Advertising by means of knowingly false or deceptive statements.
- (4) Permitting any individual to practice cosmetic art without a license or temporary employment permit, with an expired license or temporary employment permit, or with an invalid license or temporary employment permit.
- (5) Obtaining or attempting to obtain a license for money or other thing of value other than the required fee or by fraudulent misrepresentation.
- (6) Practicing or attempting to practice by fraudulent misrepresentation.
- (7) Willful failure to display a certificate of license as required by G.S. 88B-23.
- (8) Willful violation of the rules adopted by the Board.
- (9) Violation of G.S. 86-15 by a cosmetologist, esthetician, or manicurist licensed by the Board and practicing cosmetic art in a barber shop.

"§ 88B-25. Exemptions.

The following persons are exempt from the provisions of this Chapter while engaged in the proper discharge of their professional duties:

- (1) Undertakers and funeral establishments licensed under G.S. 90-210.25.
- (2) Persons authorized to practice medicine or surgery under Chapter 90 of the General Statutes.
- (3) Nurses licensed under Chapter 90 of the General Statutes.
- (4) Commissioned medical or surgical officers of the United States Army, Air Force, Navy, Marine, or Coast Guard.
- (5) A person employed in a cosmetic art shop to shampoo hair.

"§ 88B-26. Rules to be posted.

(a) The Board shall furnish a copy of its rules relating to sanitary management of cosmetic art shops and cosmetic art schools to each shop and school licensed by the Board. Each shop and school shall post the rules in a conspicuous place.

(b) The Board shall furnish a copy of its rules relating to curriculum and schools to each licensed cosmetic art school. Each cosmetic art school shall make these rules available to all teachers and students.

"§ 88B-27. Inspections.

1 Any inspector or other authorized representative of the Board may enter any cosmetic
2 art shop or school to inspect it for compliance with this Chapter and the Board's rules.
3 All persons practicing cosmetic art in a shop or school shall, upon request, present
4 satisfactory proof of identification. Satisfactory proof shall be in the form of a
5 photographic driver's license or photographic identification card issued by any state,
6 federal, or other government entity. The Board may require a cosmetic art shop or school
7 to be inspected as a condition for license renewal.

8 **"§ 88B-28. Restraining orders.**

9 The Board, the Department of Human Resources, or any county or district health
10 director may apply to the superior court for an injunction to restrain any person from
11 violating the provisions of this Chapter or the Board's rules. Actions under this section
12 shall be brought in the county where the defendant resides or maintains his or her
13 principal place of business or where the alleged acts occurred.

14 **"§ 88B-29. Civil penalties.**

15 (a) Authority to Assess Civil Penalties. – In addition to taking any of the actions
16 permitted under G.S. 88B-24, the Board may assess a civil penalty not in excess of one
17 thousand dollars (\$1,000) for the violation of any section of this Chapter or the violation
18 of any rules adopted by the Board. All civil penalties collected by the Board shall be
19 remitted to the school fund of the county in which the violation occurred.

20 (b) Consideration Factors. – Before imposing and assessing a civil penalty and
21 fixing the amount thereof, the Board shall, as a part of its deliberations, take into
22 consideration the following factors:

23 (1) The nature, gravity, and persistence of the particular violation.

24 (2) The appropriateness of the imposition of a civil penalty when
25 considered alone or in combination with other punishment.

26 (3) Whether the violation was willful and malicious.

27 (4) Any other factors that would tend to mitigate or aggravate the violations
28 found to exist.

29 (c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil
30 penalties for violations of this Chapter. The schedule shall indicate for each type of
31 violation whether the violation can be corrected. Penalties shall be assessed for the first,
32 second, and third violations of specified sections of this Chapter and for specified rules.

33 (d) Costs. – The Board may in a disciplinary proceeding charge costs, including
34 reasonable attorneys' fees, to the licensee against whom the proceedings were brought."

35 Section 3. Any esthetician who submits proof to the Board that the esthetician
36 is actively engaged in the practice of esthetics on the effective date of this act, and who
37 passes an examination conducted by the Board, and pays the required fee shall be
38 licensed without having to satisfy the requirements of G.S. 88B-9, as enacted by Section
39 2 of this act. All persons who do not make application to the Board within one year of
40 the effective date of this act shall be required to complete all training and examination
41 requirements prescribed by the Board and to otherwise comply with the provisions of
42 Chapter 88B, as enacted by Section 2 of this act.

1 Section 4. Any manicurist who submits proof to the Board that the manicurist
2 is actively engaged in the practice of manicuring on the effective date of this act, and who
3 passes an examination conducted by the Board, and pays the required fee shall be
4 licensed without having to satisfy the requirements of G.S. 88B-10, as enacted by Section
5 2 of this act. All persons who do not make application to the Board within one year of
6 the effective date of this act shall be required to complete all training and examination
7 requirements prescribed by the Board and to otherwise comply with the provisions of
8 Chapter 88B, as enacted by Section 2 of this act.

9 Section 5. Until the Board adopts a staggered license renewal plan under G.S.
10 88B-21(b), as enacted by Section 2 of this act, any cosmetologist who applies for
11 licensure in a year other than the year all other cosmetologist licenses are due for renewal
12 shall pay the annual fee provided in G.S. 88B-20, as enacted by Section 2 of this act, on
13 or before October 1 of each year until the year all other cosmetologist licenses are again
14 due for renewal. Any license not renewed shall expire on October 1 of that year.

15 Section 6. Any license currently issued by the State Board of Cosmetic Art
16 Examiners shall remain valid until its expiration.

17 Section 7. The State Board of Cosmetic Art Examiners existing on the
18 effective date of this act shall continue in effect until the terms of the members expire or
19 a member is removed as authorized in G.S. 88B-3, as enacted by Section 2 of this act.
20 Vacancies on the Board shall be filled as authorized in G.S. 88B-3, as enacted by Section
21 2 of this act. The rules of the State Board of Cosmetic Art Examiners in effect on the
22 effective date of this Chapter shall continue in effect until amended.

23 Section 8. Nothing in this Chapter shall require the North Carolina Board of
24 Cosmetic Art Examiners to issue esthetician's licenses until the General Assembly enacts
25 legislation allowing the Board to charge an examination fee of twenty dollars (\$20.00)
26 and a license fee of ten dollars (\$10.00) per year.

27 Section 9. G.S. 14-400 reads as rewritten:

28 **"§ 14-400. ~~Tattooing~~Tattooing; body piercing prohibited.**

29 (a) It shall be unlawful for any person or persons to tattoo the arm, limb, or any
30 part of the body of any other person under 18 years of age. Anyone violating the
31 provisions of this section shall be guilty of a Class 2 misdemeanor.

32 (b) It shall be unlawful for any person to pierce any part of the body other than
33 ears of another person under the age of 18 for the purpose of allowing the insertion of
34 earrings, jewelry, or similar objects into the body, unless the prior consent of a custodial
35 parent or guardian is obtained. Anyone violating the provisions of this section is guilty of
36 a Class 2 misdemeanor."

37 Section 10. Section 9 of this act becomes effective December 1, 1997, and
38 applies to offenses committed on or after that date. The remainder of this act becomes
39 effective July 1, 1997, and applies to applications made and acts occurring on or after that
40 date.