

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL 489
Senate Health Care Committee Substitute Favorable 6/1/05
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Short Title: Cosmetic Art Definitions/Exam Facilities.

(Public)

Sponsors:

Referred to:

March 15, 2005

A BILL TO BE ENTITLED

AN ACT ADDING A MEMBER TO THE NORTH CAROLINA BOARD OF
COSMETIC ART EXAMINERS, AUTHORIZING THE NORTH CAROLINA
BOARD OF COSMETIC ART EXAMINERS TO CLARIFY CERTAIN
DEFINITIONS UNDER THE NORTH CAROLINA COSMETIC ART ACT, TO
APPROVE EXAMINATION FACILITIES, AND TO SET LIMITS FOR FAILED
CANDIDATES SEEKING TO RETAKE AN EXAMINATION, AND
AMENDING CERTAIN LICENSURE REQUIREMENTS UNDER THE NORTH
CAROLINA COSMETIC ART ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 88B-3 reads as rewritten:

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

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

- (1) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint a cosmetologist.
- (2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint a cosmetologist.
- (3) The Governor shall appoint two cosmetologists, ~~at two~~ two cosmetology ~~teacher, teachers,~~ and a member of the public who is not licensed under this Chapter.

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

1 cosmetic art school and shall have practiced or taught cosmetic art for at least five years
2 immediately preceding appointment to the Board. The other cosmetology teacher
3 member shall be currently employed as a teacher by a North Carolina community
4 college and shall have practiced or taught cosmetic art for at least five years at a North
5 Carolina community college immediately preceding appointment to the Board.

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

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

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

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

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

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

23 **SECTION 2.** G.S. 88B-2 reads as rewritten:

24 "**§ 88B-2. Definitions.**

25 The following definitions apply in this Chapter:

- 26 (1) Apprentice. – A person who is not a manager or operator and who is
27 engaged in learning the practice of cosmetic art under the direction and
28 supervision of a cosmetologist.
- 29 (2) Board. – The North Carolina Board of Cosmetic Art Examiners.
- 30 (3) Booth. – A workstation located within a licensed cosmetic art shop
31 that is operated primarily by one individual in performing cosmetic art
32 services for consumers.
- 33 (4) Booth renter. – A person who rents a booth in a cosmetic art shop.
- 34 (5) Cosmetic art. – All or any part or combination of: ~~(i) the systematic~~
35 ~~massaging with the hands or mechanical apparatus of the scalp, face,~~
36 ~~neck, shoulders, hands, and feet; (ii) the use of cosmetic chemicals and~~
37 ~~preparations and antiseptics; (iii) manicuring, including the application~~
38 ~~of artificial nails; (iv) esthetics; or (v) cutting, coloring, cleansing,~~
39 ~~arranging, dressing, waving, and marcelling the hair, and the use of~~
40 ~~electricity for stimulating growth of hair.~~ of cosmetology, esthetics, or
41 manicuring.
- 42 (6) Cosmetic art school. – Any building or part thereof where cosmetic art
43 is taught.

- 1 (7) Cosmetic art shop. – Any building or part thereof where cosmetic art is
2 practiced for pay or reward, whether direct or indirect.
- 3 (8) Cosmetologist. – Any individual who is licensed to practice all parts of
4 cosmetic art.
- 5 (8a) Cosmetology. – The act of arranging, dressing, curling, waving,
6 cleansing, cutting, singeing, bleaching, coloring, or similar work upon
7 the hair of a person by any means, including the use of hands,
8 mechanical or electrical apparatus, or appliances or by use of cosmetic
9 or chemical preparations or antiseptics.
- 10 (9) Cosmetology teacher. – An individual licensed by the Board to teach
11 all parts of cosmetic art.
- 12 (10) Esthetician. – An individual licensed by the Board to practice only that
13 part of cosmetic art that constitutes skin care.
- 14 (11) Esthetician teacher. – An individual licensed by the Board to teach
15 only that part of cosmetic art that constitutes skin care.
- 16 (11a) Esthetics. – Refers to any of the following practices: giving facials;
17 applying makeup; performing skin care; removing superfluous hair
18 from the body of a person by use of creams, tweezers, or waxing;
19 applying eyelashes to a person, including the application of brow or
20 lash color; beautifying the face, neck, arms, or upper part of the human
21 body by use of cosmetic preparations, antiseptics, tonics, lotions, or
22 creams; surface massaging in relation to skin care; or cleaning or
23 stimulating the face, neck, ears, arms, hands, bust, torso, legs, or feet
24 of a person by means of hands, devices, apparatus, or appliances along
25 with the use of cosmetic preparations, antiseptics, tonics, lotions, or
26 creams.
- 27 (12) Manicuring. – The care and treatment of the fingernails, toenails,
28 cuticles on fingernails and toenails, and the hands and feet, including
29 the decoration of the fingernails and the application of nail extensions
30 and artificial nails. The term "manicuring" shall not include the
31 treatment of pathologic conditions.
- 32 (13) Manicurist. – An individual licensed by the Board to practice only that
33 part of cosmetic art that constitutes manicuring.
- 34 (14) Manicurist teacher. – An individual licensed by the Board to teach
35 manicuring.
- 36 (15) Shampooing. – The application and removal of commonly used, room
37 temperature, liquid hair cleaning and hair conditioning products.
38 Shampooing does not include the arranging, dressing, waving,
39 coloring, or other treatment of the hair."

40 **SECTION 3.** G.S. 88B-18 reads as rewritten:

41 **"§ 88B-18. Examinations.**

- 42 (a) Each applicant for any examination shall file an application with the Board,
43 on a form approved by the Board, which shall be verified by the applicant under oath,

1 and the applicant shall pay the required examination fee. Applications shall be filed at
2 least 30 days before the requested examination date.

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

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

10 (d) An applicant for a ~~cosmetologist~~ cosmetologist, esthetician, manicurist, or
11 teacher's license who fails to pass the examination three times may not reapply to take
12 the examination again until after the applicant has successfully completed any
13 additional requirements prescribed by the Board."

14 **SECTION 4.** G.S. 88B-9 reads as rewritten:

15 "**§ 88B-9. Qualifications for licensing as an esthetician.**

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

18 (1) Successful completion of at least 600 hours of an ~~esthetician~~ esthetics
19 curriculum in an approved cosmetic art school.

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

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

22 **SECTION 5.** G.S. 88B-22 reads as rewritten:

23 "**§ 88B-22. Licenses required; criminal penalty.**

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

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

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

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

34 (d1) No person may teach cosmetic art in a Board-approved cosmetic art school
35 unless the person is a teacher licensed under this Chapter. A guest lecturer may be
36 exempt from the requirements of this subsection upon approval by the Board.

37 (e) An apprentice licensed under the provisions of this Chapter shall apprentice
38 under the direct supervision of a cosmetologist. An apprentice shall not operate a
39 cosmetic art shop.

40 (f) A violation of this Chapter is a Class 3 misdemeanor."

41 **SECTION 6.** G.S. 88B-21(e) reads as rewritten:

42 "(e) Prior to renewal of a license, a teacher, cosmetologist, esthetician, or
43 manicurist shall annually complete eight hours of Board-approved continuing education
44 for each year of the licensing cycle. A cosmetologist may complete up to 24 hours of

1 required continuing education at any time within the cosmetologist's three-year
2 licensing cycle. Licensees shall submit written documentation to the Board showing that
3 they have satisfied the requirements of this subsection. A licensee who is in active
4 practice as a cosmetologist, esthetician, or manicurist, has practiced for at least 10
5 consecutive years in that profession and is 60 years of age or older does not have to
6 meet the continuing education requirements of this subsection. A licensee who is in
7 active practice as a cosmetologist and, as of October 1, 2004, has at least 20 consecutive
8 years of experience as a cosmetologist, does not have to meet the continuing education
9 requirements of this subsection, but shall report any continuing education classes
10 completed to the Board, whether the continuing education classes are Board-approved
11 or not. Promotion of products and systems shall be allowed at continuing education
12 given in-house or at trade shows. Continuing education classes may also be offered in
13 secondary languages as needed. No member of the Board may offer continuing
14 education courses as required by this section."

15 **SECTION 7.** This act is effective when it becomes law.