

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 916

Short Title: Cosmetologists.

(Public)

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Sponsors: Senator Kerr.

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Referred to: Finance.

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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 Chapter 88 of the General Statutes is repealed.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.

17 (3) Booth. – A workstation located within a licensed cosmetic art shop that  
18 is operated primarily by one individual in performing cosmetic art  
19 services for consumers.

20 (4) Booth renter. – A person who rents a booth in a cosmetic art shop.

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

32    **"§ 88B-3. Creation and membership of the Board; term of office; removal for**  
33    **cause; officers.**

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

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

42    (b)   Each cosmetologist member shall have practiced all parts of cosmetic art in  
43    this State for at least five years immediately preceding appointment to the Board and

1 shall not have any connection with any cosmetic art school while serving on the Board.  
2 The cosmetology teacher member shall be currently employed as a teacher by a North  
3 Carolina public school, community college, or other public or private cosmetic art school  
4 and shall have practiced or taught cosmetic art for at least five years immediately  
5 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 in  
13 accordance with G.S. 120-122. Appointees to fill vacancies shall serve the remainder of  
14 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 are  
18 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 **"§ 88B-4. Powers and duties of the Board.**

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

25 (1) To administer and interpret this Chapter.

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

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

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

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

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

35 (7) To approve new cosmetic art schools.

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

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

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

41 (11) To employ an executive director and any additional professional,  
42 clerical, or special personnel necessary to carry out the provisions of

1           this Chapter, and to purchase or rent necessary office space, equipment,  
2           and supplies.

3           (12) To adopt a seal.

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

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

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

18 **"§ 88B-5. Meetings and compensation of the Board.**

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

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

31 **"§ 88B-6. Board office, employees, funds, budget requirements.**

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

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

36           (c) With the approval of the Director of the Budget and the Office of State  
37 Personnel, the Board may employ as many inspectors, investigators, and other staff as  
38 necessary to perform inspections and other duties prescribed by the Board. Inspectors  
39 and investigators shall be experienced in all parts of cosmetic art and shall have authority  
40 to examine cosmetic art shops and cosmetic art schools during business hours to  
41 determine compliance with this Chapter.

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

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

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

10 **"§ 88B-7. Qualifications for licensing cosmetologists.**

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

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

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

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

22 **"§ 88B-8. Qualifications for licensing apprentices.**

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

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

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

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

29 **"§ 88B-9. Qualifications for licensing as an esthetician.**

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

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

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

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

36 **"§ 88B-10. Qualifications for licensing manicurists.**

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

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

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

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

43 **"§ 88B-11. Qualifications for licensing teachers.**

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

3           (1) Possession of a high school diploma or a high school graduation  
4 equivalency certificate.

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

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

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

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

14          (3) Passes an examination for cosmetology teachers conducted by the  
15 Board.

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

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

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

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

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

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

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

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

36 **"§ 88B-12. Temporary employment permit; extensions; limits on practice.**

37       (a) The Board shall issue a temporary employment permit to an applicant for  
38 license as an apprentice, cosmetologist, esthetician, or manicurist who meets all of the  
39 following:

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

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

1           (3) Is qualified to take the examination.

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

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

7 **"§ 88B-13. Applicants licensed in other states.**

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

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

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

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

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

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

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

26 **"§ 88B-14. Licensing of cosmetic art shops.**

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

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

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

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

39 **"§ 88B-15. Practice outside cosmetic art shops.**

40           (a) Any individual licensed under this Chapter may visit the residences of  
41 individuals who are sick or disabled and confined to their place of residence in order to  
42 attend to their cosmetic needs. A licensed individual may also visit hospitals, nursing  
43 homes, rest homes, retirement homes, mental institutions, correctional facilities, funeral

1 homes, and similar institutions to attend to the cosmetic needs of those in these  
2 institutions.

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

5 **"§ 88B-16. Licensing cosmetic art schools.**

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

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

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

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

18 (a) Each private cosmetic art school shall provide a guaranty bond unless the  
19 school has already provided a bond or an alternative to a bond under G.S. 115D-95. The  
20 Board may restrict, suspend, revoke, refuse to renew or reinstate the license of a school  
21 that fails to maintain a bond or an alternative to a bond pursuant to this section or G.S.  
22 115D-95.

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

34 (2) The bond amount shall be at least equal to the maximum amount of  
35 prepaid tuition held at any time by the school during the last fiscal year,  
36 but in no case shall be less than ten thousand dollars (\$10,000). Each  
37 application for license or license renewal shall include a letter signed by  
38 an authorized representative of the school showing the calculations  
39 made and the method of computing the amount of the bond in  
40 accordance with rules prescribed by the Board. If the Board finds that  
41 the calculations made and the method of computing the amount of the  
42 bond are inaccurate or that the amount of the bond is otherwise



1           inadequate to provide indemnification under the terms of the bond, the  
2           Board may require the applicant to provide an additional bond.

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

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

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

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

24           **"§ 88B-18. Examinations.**

25           (a) Each applicant for any examination shall file an application with the Board, on  
26           a form approved by the Board, which shall be verified by the applicant under oath, and  
27           the applicant shall pay the required examination fee. Applications shall be filed at least  
28           30 days before the requested examination date.

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

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

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

39           **"§ 88B-19. Expired school credits.**

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

**"§ 88B-20. Fees required.**

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

- (1) Cosmetologist \$ 20.00
- (2) Apprentice \$ 5.00
- (3) Manicurist \$ 15.00
- (4) Esthetician \$ 20.00
- (5) Teacher \$ 25.00.

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

- (1) Inspection of a newly established cosmetic art shop \$ 25.00
- (2) Reciprocity applicant under G.S. 88B-13 \$ 15.00.

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

- (1) Cosmetologist \$ 39.00 every 3 years
- (2) Apprentice \$ 10.00 per year
- (3) Esthetician \$ 10.00 per year
- (4) Manicurist \$ 10.00 per year
- (5) Teacher \$ 10.00 every 2 years
- (6) Cosmetic art shop per active booth per year \$ 3.00
- (7) Cosmetic art school \$ 50.00 per year
- (8) Duplicate license \$ 1.00.

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

- (1) Apprentice, cosmetologist, esthetician, manicurist, and teacher late renewal \$ 10.00
- (2) Cosmetic art schools and shops late renewal \$ 10.00
- (3) Reinstatement - cosmetic art schools and shops \$ 25.00.

(e) The Board may prorate fees as appropriate.

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

(a) Each license to operate a cosmetic art shop shall be renewed on or before the first day of February of each year. As provided in G.S. 88B-20, a late fee shall be charged for licenses renewed after February 1. Any license not renewed by March 1 of each year shall expire. A cosmetic art shop whose license has been expired for one year or less shall have the license reinstated immediately upon payment of the reinstatement fee, the late fee, and all unpaid license fees. The licensee shall submit to the Board, as a part of the renewal process, a list of all licensed cosmetologists who practice cosmetic art in the shop and shall identify each as an employee or a booth renter.

(b) Cosmetologist licenses shall be renewed on or before October 1 every three years beginning October 1, 1998. A late fee shall be charged for renewals after that date. Any license not renewed shall expire on October 1 of the year that renewal is required.

1 The Board may develop and implement a plan for staggered license renewal and may  
2 prorate license fees to implement such a plan.

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

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

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

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

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

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

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

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

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

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

33 (e) An apprentice licensed under the provisions of this Chapter shall apprentice  
34 under the direct supervision of a cosmetologist. An apprentice shall not operate a  
35 cosmetic art shop.

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

37 **"§ 88B-23. Licenses to be posted.**

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

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

43 **"§ 88B-24. Revocation of licenses and other disciplinary measures.**

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

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

19 **"§ 88B-25. Exemptions.**

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

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

29 **"§ 88B-26. Rules to be posted.**

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

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

36 **"§ 88B-27. Inspections.**

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

1 **"§ 88B-28. Restraining orders.**

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

7 **"§ 88B-29. Civil penalties.**

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

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

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

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

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

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

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

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

28 Section 3. Any esthetician who submits proof to the Board that the esthetician  
29 is actively engaged in the practice of esthetics on the effective date of this act, and who  
30 passes an examination conducted by the Board, and pays the required fee shall be  
31 licensed without having to satisfy the requirements of G.S. 88B-9, as enacted by Section  
32 2 of this act. All persons who do not make application to the Board within one year of  
33 the effective date of this act shall be required to complete all training and examination  
34 requirements prescribed by the Board and to otherwise comply with the provisions of  
35 Chapter 88B, as enacted by Section 2 of this act.

36 Section 4. Any manicurist who submits proof to the Board that the manicurist  
37 is actively engaged in the practice of manicuring on the effective date of this act, and who  
38 passes an examination conducted by the Board, and pays the required fee shall be  
39 licensed without having to satisfy the requirements of G.S. 88B-10, as enacted by Section  
40 2 of this act. All persons who do not make application to the Board within one year of  
41 the effective date of this act shall be required to complete all training and examination  
42 requirements prescribed by the Board and to otherwise comply with the provisions of  
43 Chapter 88B, as enacted by Section 2 of this act.

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

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

9           Section 7. The State Board of Cosmetic Art Examiners existing on the  
10 effective date of this act shall continue in effect until the terms of the members expire or  
11 a member is removed as authorized in G.S. 88B-3, as enacted by Section 2 of this act.  
12 Vacancies on the Board shall be filled as authorized in G.S. 88B-3, as enacted by Section  
13 2 of this act. The rules of the State Board of Cosmetic Art Examiners in effect on the  
14 effective date of this Chapter shall continue in effect until amended.

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

19           Section 9. This act becomes effective July 1, 1997, and shall apply to  
20 applications made and acts occurring on or after that date.