

Chapter 88B.
Cosmetic Art.

§ 88B-1. Short title.

This chapter shall be known and may be cited as the North Carolina Cosmetic Art Act. (1998-230, s. 2.)

§ 88B-2. Definitions.

The following definitions apply in this Chapter:

- (1) Apprentice. – A person who is not a manager or operator and who is engaged in learning the practice of cosmetic art under the direction and supervision of a cosmetologist.
- (2) Board. – The North Carolina Board of Cosmetic Art Examiners.
- (3) Booth. – A workstation located within a licensed cosmetic art shop that is operated primarily by one individual in performing cosmetic art services for consumers.
- (4) Booth renter. – A person who rents a booth in a cosmetic art shop.
- (5) Cosmetic art. – All or any part or combination of cosmetology, esthetics, natural hair care, or manicuring, including the systematic manipulation with the hands or mechanical apparatus of the scalp, face, neck, shoulders, hands, and feet. Practices included within this subdivision shall not include the practice of massage or bodywork therapy as set forth in Article 36 of Chapter 90 of the General Statutes.
- (6) Cosmetic art school. – Any building or part thereof where cosmetic art is taught.
- (7) Cosmetic art shop. – Any building or part thereof where cosmetic art is practiced for pay or reward, whether direct or indirect.
- (8) Cosmetologist. – Any individual who is licensed to practice all parts of cosmetic art.
- (8a) Cosmetology. – The act of arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work upon the hair of a person by any means, including the use of hands, mechanical or electrical apparatus, or appliances or by use of cosmetic or chemical preparations or antiseptics.
- (9) Cosmetology teacher. – An individual licensed by the Board to teach all parts of cosmetic art.
- (10) Esthetician. – An individual licensed by the Board to practice only that part of cosmetic art that constitutes skin care.
- (11) Esthetician teacher. – An individual licensed by the Board to teach only that part of cosmetic art that constitutes skin care.
- (11a) Esthetics. – Refers to any of the following practices: giving facials; applying makeup; performing skin care; removing superfluous hair from the body of a person by use of creams, tweezers, or waxing; applying eyelashes to a person, including the application of eyelash extensions, brow or lash color; beautifying the face, neck, arms, or upper part of the human body by use of cosmetic preparations, antiseptics, tonics, lotions, or creams; surface manipulation in relation to skin care; or cleaning or stimulating the face, neck, ears, arms, hands, bust, torso, legs, or feet of a person by means of hands, devices, apparatus, or

- appliances along with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
- (12) Manicuring. – The care and treatment of the fingernails, toenails, cuticles on fingernails and toenails, and the hands and feet, including the decoration of the fingernails and the application of nail extensions and artificial nails. The term "manicuring" shall not include the treatment of pathologic conditions.
 - (13) Manicurist. – An individual licensed by the Board to practice only that part of cosmetic art that constitutes manicuring.
 - (14) Manicurist teacher. – An individual licensed by the Board to teach manicuring.
 - (14a) Natural hair care. – A service that results in tension on hair strands or roots by twisting, wrapping, extending, or locking hair by hand or mechanical device. For purposes of this definition, the phrase "natural hair care" shall include the use of artificial or natural hair.
 - (14b) Natural hair care specialist. – An individual licensed by the Board to practice only that part of cosmetic art that constitutes natural hair care.
 - (14c) Natural hair care teacher. – An individual licensed by the Board to teach natural hair care.
 - (15) Shampooing. – The application and removal of commonly used, room temperature, liquid hair cleaning and hair conditioning products. Shampooing does not include the arranging, dressing, waving, coloring, or other treatment of the hair. (1933, c. 179, ss. 2-4, 8, 9; 1963, c. 1257, s. 1; 1981, c. 615, ss. 3, 7; 1993, c. 22, s. 1; 1998-230, s. 2; 2006-212, s. 1; 2009-521, s. 1.1.)

§ 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 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, a cosmetology teacher, 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 cosmetology teacher member shall be currently employed as a teacher by a North Carolina public school, community college, or other public or private cosmetic art school and shall have practiced or taught cosmetic art for at least five years immediately preceding appointment to the Board.

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

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

(e) A vacancy shall be filled in the same manner as the original appointment, except that unexpired terms in seats appointed by the General Assembly shall be filled in accordance with

G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and until their successors have been duly appointed and qualified.

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

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

(h) No Board member may be employed by the Board for at least one year after that member's term expires. (1933, c. 179, ss. 13, 14, 23; 1935, c. 54, ss. 2, 5; 1943, c. 354, s. 1; 1957, c. 1184, s. 1; 1969, c. 844, s. 4; 1971, c. 355, s. 1; c. 616, ss. 1, 2; 1973, c. 476, s. 128; c. 1360, s. 1; 1975, c. 857, ss. 2, 3, 9; 1981, c. 614, s. 1; c. 615, ss. 10, 14; c. 884, s. 7; 1987, c. 211, s. 1; 1989, c. 650, s. 1; 1995, c. 490, s. 13; (Reg. Sess., 1996), c. 605, s. 16; 1998-230, s. 2.)

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

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

- (1) To administer and interpret this Chapter.
- (2) To adopt, amend, and repeal rules to carry out the provisions of this Chapter.
- (3) To examine and determine the qualifications and fitness of applicants for licensure under this Chapter.
- (4) To issue, renew, deny, restrict, suspend, or revoke licenses.
- (5) To conduct investigations of alleged violations of this Chapter or the Board's rules.
- (6) To collect fees required by G.S. 88B-20 and any other monies permitted by law to be paid to the Board.
- (7) To approve new cosmetic art schools.
- (7a) To adopt rules for cosmetic art schools.
- (8) To inspect cosmetic art schools and shops.
- (9) To adopt rules for the sanitary management and physical requirements of cosmetic art shops and cosmetic art schools.
- (10) To establish a curriculum for each course of study required for the issuance of a license issued under this Chapter.
- (11) To employ an executive director and any additional professional, clerical, or special personnel necessary to carry out the provisions of this Chapter, and to purchase or rent necessary office space, equipment, and supplies.
- (12) To adopt a seal.
- (13) To carry out any other actions authorized by this Chapter.

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

(c) The Board shall keep a record of its proceedings relating to the issuance, renewal, denial, restriction, suspension, and revocation of licenses. This record shall also contain each

licensee's name, business and home addresses, license number, and the date the license was issued. (1933, c. 179, ss. 1, 14, 15, 17, 23, 29; 1935, c. 54, ss. 3-5; 1941, c. 234, s. 2; 1943, c. 354, ss. 1, 2; 1957, c. 1184, ss. 1, 2; 1969, c. 844, s. 5; 1971, c. 355, ss. 1-3; c. 616, ss. 1-3; 1973, c. 476, s. 128; c. 1360, ss. 2-4; c. 1481, ss. 1, 2; 1975, c. 7, s. 1; c. 857, ss. 1, 3-5, 9; 1977, cc. 155, 472; 1981, c. 614, s. 1; c. 615, ss. 1, 2, 11, 14; c. 884, s. 7; 1983, c. 913, s. 9; 1983 (Reg. Sess., 1984), c. 990; 1985, c. 125; 1985 (Reg. Sess., 1986), c. 833; 1987 (Reg. Sess., 1988), c. 965; 1989, c. 650, ss. 2, 3; 1989 (Reg. Sess., 1990), c. 1013, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 20; 1993, c. 22, s. 2; c. 54, s. 1; 1995, c. 541, s. 2; 1995 (Reg. Sess., 1996), c. 605, ss. 15, 16; 1998-230, s. 2; 1999-348, s. 1.)

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

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

(b) The Board shall hold four regular meetings a year in the months of January, April, July, and October. The chair may call additional meetings whenever necessary. (1933, c. 179, ss. 15, 17; 1935, c. 54, ss. 3, 4; 1941, c. 234, s. 2; 1943, c. 354, s. 2; 1957, c. 1184, s. 2; 1971, c. 355, ss. 2, 3; c. 616, ss. 1, 3; 1973, c. 1360, ss. 2-4; 1975, c. 857, ss. 4, 5; 1981, c. 615, s. 11; 1983, c. 913, s. 9; 1989, c. 650, ss. 2, 3; 1995, c. 541, s. 2; 1998-230, s. 2.)

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

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

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

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

(d) The salaries of all employees of the Board, excluding the executive director, shall be subject to the North Carolina Human Resources Act. The executive director shall serve at the pleasure of the Board.

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

in excess of the amount credited to the Board and held by the State Treasurer as provided in this subsection.

(f) The Executive Budget Act and the North Carolina Human Resources Act apply to the administration of this Chapter. (1933, c. 179, ss. 14, 15; 1935, c. 54, s. 3; 1941, c. 234, s. 2; 1943, c. 354, ss. 1, 2; 1957, c. 1184, ss. 1, 2; 1969, c. 844, s. 4; 1971, c. 355, ss. 1-3; c. 616, ss. 1-3; 1973, c. 1360, s. 2; 1975, c. 857, ss. 3, 4; 1981, c. 615, s. 11; c. 884, s. 7; 1983, c. 913, s. 9; 1989, c. 650, s. 2.; 1998-230, s. 2; 2009-471, ss. 2.1, 2.2; 2009-521, s. 1.2; 2013-382, s. 9.1(c).)

§ 88B-7. Qualifications for licensing cosmetologists.

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

- (1) Successful completion of at least 1,500 hours of a cosmetology curriculum in an approved cosmetic art school, or at least 1,200 hours of a cosmetology curriculum in an approved cosmetic art school and completion of an apprenticeship for a period of at least six months under the direct supervision of a cosmetologist, as certified by sworn affidavit of three licensed cosmetologists or by other evidence satisfactory to the Board.
- (2) Passage of an examination conducted by the Board.
- (3) Payment of the fees required by G.S. 88B-20. (1933, c. 179, s. 12; 1953, c. 1304, s. 3; 1973, c. 450, s. 2; 1977, c. 899, s. 1; 1981, c. 615, s. 9; 1985, c. 559, s. 5; 1998-230, s. 2.)

§ 88B-8. Qualifications for licensing apprentices.

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

- (1) Successful completion of at least 1,200 hours of a cosmetology curriculum in an approved cosmetic art school.
- (2) Passage of an examination conducted by the Board.
- (3) Payment of the fees required by G.S. 88B-20. (1933, c. 179, s. 10; 1941, c. 234, s. 1; 1953, c. 1304, ss. 1, 2; 1963, c. 1257, s. 2; 1973, c. 450, s. 1; 1981, c. 615, s. 8; 1998-230, s. 2.)

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

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

- (1) Successful completion of at least 600 hours of an esthetics curriculum in an approved cosmetic art school.
- (2) Passage of an examination conducted by the Board.
- (3) Payment of the fees required by G.S. 88B-20. (1998-230, s. 2; 2006-212, s. 3.)

§ 88B-10. Qualifications for licensing manicurists.

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

- (1) Successful completion of at least 300 hours of a manicurist curriculum in an approved cosmetic art school.
- (2) Passage of an examination conducted by the Board.
- (3) Payment of the fees required by G.S. 88B-20. (1963, c. 1257, s. 4; 1973, c. 450, s. 4; 1981, c. 615, s. 19; 1985, c. 559, s. 4; 1998-230, ss. 2, 2.1.)

§ 88B-10.1. Qualifications for licensing natural hair care specialists.

The Board shall issue a license to practice as a natural hair care specialist to any individual who meets all of the following requirements:

- (1) Successful completion of at least 300 hours of a natural hair care curriculum in an approved cosmetic art school.
- (2) Passage of an examination conducted by the Board.
- (3) Payment of the fees required by G.S. 88B-20. (2009-521, s. 2.)

§ 88B-11. Qualifications for licensing teachers.

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

- (1) Possession of a high school diploma or a high school graduation equivalency certificate.
- (2) Payment of the fees required by G.S. 88B-20.

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

- (1) Holds in good standing a cosmetologist license issued by the Board.
- (2) Submits proof of either practice of cosmetic art in a cosmetic art shop, or any Board-approved employment capacity in the cosmetic arts industry, for a period equivalent to five years of full-time work immediately prior to application or successful completion of at least 800 hours of a cosmetology teacher curriculum in an approved cosmetic art school.
- (3) Passes an examination for cosmetology teachers conducted by the Board.

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

- (1) Holds in good standing a cosmetologist or an esthetician license issued by the Board.
- (2) Submits proof of either practice as an esthetician in a cosmetic art shop, or any Board-approved employment capacity in the cosmetic arts industry, for a period equivalent to three years of full-time work immediately prior to application or successful completion of at least 650 hours of an esthetician teacher curriculum in an approved cosmetic art school.
- (3) Passes an examination for esthetician teachers conducted by the Board.

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

- (1) Holds in good standing a cosmetologist or manicurist license issued by the Board.
- (2) Submits proof of either practice as a manicurist in a cosmetic art shop, or any Board-approved employment capacity in the cosmetic arts industry, for a period equivalent to two years of full-time work immediately prior to application or

successful completion of at least 320 hours of a manicurist teacher curriculum in an approved cosmetic art school.

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

(e) The Board shall issue a license to practice as a natural hair care teacher to any individual who meets the requirements of subsection (a) of this section and who meets all of the following:

(1) Holds in good standing a natural hair care license issued by the Board.

(2) Submits proof of either practice as a natural hair care specialist in a cosmetic art shop or any Board-approved employment capacity in the cosmetic art industry for a period equivalent to two years of full-time work immediately prior to application or successful completion of at least 320 hours of a natural hair care teacher curriculum in an approved cosmetic art school. (1998-230, s. 2; 2006-212, s. 5; 2009-521, s. 3.)

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

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

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

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

(3) Is qualified to take the examination.

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

(c) The holder of a temporary employment permit may practice cosmetic art only under the supervision of a licensed cosmetologist, manicurist, natural hair care specialist, or esthetician, as appropriate, and may not operate a cosmetic art shop. (1989 (Reg. Sess., 1990), c. 1013, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 20; 1998-230, s. 2; 2009-521, s. 4.)

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

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

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

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

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

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

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

(c) The Board may establish standards for issuing a license to an applicant who is licensed as a teacher in another state. These standards shall include a requirement that the licensure requirements in the state in which the teacher is licensed shall be substantially equivalent to those

required in this State and that the applicant shall be licensed by the Board to practice in the area in which the applicant is licensed to teach. (1933, c. 179, s. 19; 1953, c. 1304, s. 4; 1957, c. 1184, s. 3; 1963, c. 1257, s. 3; 1973, c. 256, s. 1; 1981, c. 615, s. 12; c. 967; 1983, c. 438; 1998-230, s. 2; 2009-521, s. 5.)

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

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

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

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

(d) A license to operate a cosmetic art shop shall not be transferable from one location to another or from one owner to another. (1933, c. 179, s. 1; 1973, c. 1481, ss. 1, 2; 1975, c. 7; c. 857, s. 1; 1977, cc. 155, 472; 1981, c. 615, ss. 1, 2; 1983 (Reg. Sess., 1984), c. 990; 1985, c. 125; 1985 (Reg. Sess., 1986), c. 833; 1987 (Reg. Sess., 1988), c. 965; 1993, c. 22, s. 2; c. 54, s. 1; 1995 (Reg. Sess., 1996), c. 605, s. 15; 1998-230, s. 2; 2009-521, s. 6.)

§ 88B-15. Practice outside cosmetic art shops.

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

(b) An individual licensed under this Chapter may practice in a licensed barbershop as permitted by G.S. 86A-14. (1933, c. 179, s. 1; 1973, c. 1481, ss. 1, 2; 1975, c. 7; c. 857, s. 1; 1977, cc. 155, 472; 1981, c. 615, ss. 1, 2, 6; 1983 (Reg. Sess., 1984), c. 990; 1985, c. 125; 1985 (Reg. Sess., 1986), c. 833; 1987 (Reg. Sess., 1988), c. 965; 1993, c. 22, s. 2; c. 54, s. 1; 1995 (Reg. Sess., 1996), c. 605, s. 15; 1998-230, s. 2.)

§ 88B-16. Licensing cosmetic art schools.

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

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

(c) Cosmetic art schools located in this State shall be licensed by the Board before any credit may be given for curriculum hours taken in the school. The Board may establish standards for approving hours from schools in other states that are licensed. (1933, c. 179, s. 23; 1935, c. 54,

s. 5; 1973, c. 476, s. 128; 1975, c. 857, s. 9; 1981, c. 614, s. 1; c. 615, s. 14; 1995 (Reg. Sess., 1996), c. 605, s. 16.; 1998-230, s. 2.)

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

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

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

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

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

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

(1) An assignment of a savings account in an amount equal to the bond required that is in a form acceptable to the Board, and is executed by the applicant and a federally insured depository institution or a trust institution authorized to do business in this State, and access to the

account is subject to the same conditions as those for a bond in subsection (b) of this section.

- (2) A certificate of deposit that is executed by a federally insured depository institution or a trust institution authorized to do business in this State and access to the certificate of deposit is subject to the same conditions as those for a bond in subsection (b) of this section. (1989 (Reg. Sess., 1990), c. 824, s. 4; 1991, c. 636, s. 5; 1998-230, s. 2; 2017-25, s. 1(g).)

§ 88B-18. Examinations.

- (a) Repealed by Session Laws 2006-212, s. 2, effective August 8, 2006.
- (b) Each examination shall have both a practical and a written portion.
- (c) Examinations for applicants for apprentice, cosmetologist, teacher, esthetician, natural hair care specialist, and manicurist licenses shall be given in at least three locations in the State that are geographically scattered. The examinations shall be administered in Board-approved facilities.
- (d) An applicant for a cosmetologist, esthetician, manicurist, natural hair care specialist, or teacher's license who fails to pass the examination three times may not reapply to take the examination again until after the applicant has successfully completed any additional requirements prescribed by the Board. (1933, c. 179, ss. 16, 17; 1935, c. 54, s. 4; 1973, c. 1360, ss. 3, 4; 1975, c. 857, s. 5; 1985, c. 559, s. 1; 1989, c. 650, s. 3; 1995, c. 541, s. 2; 1998-230, s. 2; 2006-212, s. 2; 2009-521, s. 7.)

§ 88B-19. Expired school credits.

No credit shall be approved by the Board if five years or more have elapsed from the date a person enrolled in a cosmetic art school unless the person completed the required number of hours and filed an application to take an examination administered by the Board. (1933, c. 179, s. 12; 1953, c. 1304, s. 3; 1973, c. 450, s. 2; 1977, c. 899, s. 1; 1981, c. 615, s. 9; 1985, c. 559, s. 5; 1998-230, s. 2.)

§ 88B-20. Fees required.

- (a) The Board may charge the applicant the actual cost of preparation, administration, and grading of examinations for cosmetologists, apprentices, manicurists, estheticians, natural hair care specialist, or teachers, in addition to its other fees.
- (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
 - (4a) Natural hair care specialist..... \$ 10.00 per year
 - (5) Teacher.....\$ 10.00 every 2 years
 - (6) Cosmetic art shop per active booth..... \$ 3.00 per year
 - (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, natural hair care specialist, 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. (1933, c. 179, ss. 1, 21; 1955, c. 1265; 1973, c. 256, s. 2; c. 1481, ss. 1, 2; 1975, c. 7; c. 857, ss. 1, 6; 1977, cc. 155, 472; 1981, c. 615, ss. 1, 2, 13; 1983, c. 523; (Reg. Sess., 1984), c. 990; 1985, c. 125; 1985, c. 559, s. 2; (Reg. Sess., 1986), c. 833; 1987 (Reg. Sess., 1988), c. 965; 1993, c. 22, s. 2; c. 54, s. 1; 1995, c. 541, s. 1; (Reg. Sess., 1996), c. 605, s. 15; 1998-230, s. 2; 1999-348, s. 2; 2009-521, s. 8.)

§ 88B-21. Renewals; expired licenses; inactive status.

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

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

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

(e) Prior to renewal of a license, a teacher, cosmetologist, esthetician, natural hair care specialist, or manicurist shall annually complete eight hours of Board-approved continuing education for each year of the licensing cycle. A cosmetologist may complete up to 24 hours of required continuing education at any time within the cosmetologist's three-year licensing cycle. Licensees shall submit written documentation to the Board showing that they have satisfied the requirements of this subsection. A licensee who is in active practice as a cosmetologist, esthetician, natural hair care specialist, or manicurist, has practiced for at least 10 consecutive years in that profession, and is 60 years of age or older does not have to meet the continuing education requirements of this subsection. A licensee who is in active practice as a cosmetologist and has at least 20 consecutive years of experience as a cosmetologist, does not have to meet the continuing education requirements of this subsection, but shall report any continuing education classes completed to the Board, whether the continuing education classes are Board-approved or not. Promotion of products and systems shall be allowed at continuing education given in-house or at trade shows. Continuing education classes may also be offered in secondary languages as needed. No member of the Board may offer continuing education courses as required by this section.

(f) If an apprentice, cosmetologist, esthetician, manicurist, natural hair care specialist, or teacher fails to renew his or her license within five years following the expiration date, the licensee shall be required to pass an examination as prescribed by the Board before the license will be reinstated.

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

(h) Upon request by a licensee for inactive status, the Board may place the licensee's name on the inactive list so long as the licensee is in good standing with the Board. An inactive licensee is not required to complete continuing education requirements. An inactive licensee shall not practice cosmetic art for consideration. However, the inactive licensee may continue to purchase supplies as accorded an active licensee. When the inactive licensee desires to be removed from the inactive list and return to active practice, the inactive licensee shall notify the Board of his or her desire to return to active status and pay the required fee as determined by the Board. As a condition of returning to active status, the Board may require the licensee to complete eight to 24 hours of continuing education pursuant to subsection (e) of this section. (1933, c. 179, ss. 1, 25; 1957, c. 1184, s. 4; 1973, c. 256, s. 3; c. 450, s. 3; c. 1481, ss. 1, 2; 1975, c. 7; c. 857, ss. 1, 7; 1977, cc. 155, 472; 1981, c. 615, ss. 1, 2; 1983 (Reg. Sess., 1984), c. 990; 1985, c. 125; 1985, c. 559, s. 3; (Reg. Sess., 1986), c. 833; 1987 (Reg. Sess., 1988), c. 965; 1993, c. 22, s. 2; c. 54, s. 1; 1995 (Reg. Sess., 1996), c. 605, s. 15; 1998-230, s. 2; 2004-142, s. 1; 2006-212, s. 6; 2007-198, s. 1; 2009-521, s. 9.)

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

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

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

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

(d) An individual licensed as an esthetician, natural hair care specialist, or manicurist may practice only that part of cosmetic art for which the individual is licensed.

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

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

(f) A violation of this Chapter is a Class 3 misdemeanor. (1933, c. 179, ss. 1, 11, 28; 1949, c. 505, s. 2; 1973, c. 476, s. 128; c. 1481, ss. 1, 2; 1975, c. 7; c. 857, ss. 1, 8; 1977, cc. 155, 472; 1981, c. 614, s. 2; c. 615, ss. 1, 2, 17; 1983 (Reg. Sess., 1984), c. 990; 1985, c. 125; 1985 (Reg. Sess., 1986), c. 833; 1987 (Reg. Sess., 1988), c. 965; 1989 (Reg. Sess., 1990), c. 1013, s. 3; 1993, c. 22, s. 2; c. 54, s. 1; c. 539, s. 608; 1994, Ex. Sess., c. 24, s. 14(c); 1995 (Reg. Sess., 1996), c. 605, s. 15; 1998-230, s. 2; 2006-212, s. 4; 2009-521, s. 10.)

§ 88B-23. Licenses to be posted.

(a) Every apprentice, cosmetologist, esthetician, manicurist, natural hair care specialist, 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. (1933, c. 179, s. 24; 1998-230, s. 2; 2009-521, s. 11.)

§ 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. 86A-15 by a cosmetologist, esthetician, natural hair care specialist, or manicurist licensed by the Board and practicing cosmetic art in a barber shop. (1933, c. 179, ss. 23, 26, 28; 1935, c. 54, s. 5; 1941, c. 234, s. 4; 1949, c. 505, s. 2; 1973, c. 476, s. 128; 1975, c. 857, ss. 8, 9; 1981, c. 614, ss. 1, 2; c. 615, ss. 14, 15, 17; 1989 (Reg. Sess., 1990), c. 1013, ss. 2, 3; 1993, c. 539, 608; 1994, Ex. Sess., c. 24, s. 14(c); 1995 (Reg. Sess., 1996), c. 605, s. 16.; 1998-230, s. 2; 2009-521, s. 12.)

§ 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. (1933, c. 179, ss. 1, 22; 1973, c. 1481, ss. 1, 2; 1975, c. 7; c. 857, s. 1; 1977, cc. 155, 472; 1981, c. 615, ss. 1, 2; 1983 (Reg. Sess., 1984), c. 990; 1985, c. 125; 1985 (Reg. Sess.,

1986), c. 833; 1987 (Reg. Sess., 1988), c. 965; 1993, c. 22, s. 2; c. 54, s. 1; 1995 (Reg. Sess., 1996), c. 605, s. 15; 1998-230, s. 2.)

§ 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. (1933, c. 179, s. 23; 1935, c. 54, s. 5; 1973, c. 476, s. 128; 1975, c. 857, s. 9; 1981, c. 614, s. 1; c. 615, s. 14; 1995 (Reg. Sess., 1996), c. 605, s. 16; 1998-230, s. 2.)

§ 88B-27. Inspections.

Any inspector or other authorized representative of the Board may enter any cosmetic art shop or school to inspect it for compliance with this Chapter and the Board's rules. All persons practicing cosmetic art in a shop or school shall, upon request, present satisfactory proof of identification. Satisfactory proof shall be in the form of a photographic driver's license or photographic identification card issued by any state, federal, or other government entity. The Board may require a cosmetic art shop or school to be inspected as a condition for license renewal. (1933, c. 179, ss. 15, 23; 1935, c. 54, ss. 3, 5; 1941, c. 234, s. 2; 1943, c. 354, s. 2; 1957, c. 1184, s. 2; 1971, c. 355, ss. 2, 3; c. 616, ss. 1, 3; 1973, c. 476, s. 128; c. 1360, s. 2; 1975, c. 857, ss. 4, 9; 1981, c. 614, s. 1; c. 615, ss. 11, 14; 1983, c. 913, s. 9; 1989, c. 650, s. 2; 1995 (reg. Sess., 1996), c. 605, s. 16; 1998-230, s. 2.)

§ 88B-28. Restraining orders.

The Board, the Department of Health and Human Services, or any county or district health director may apply to the superior court for an injunction to restrain any person from violating the provisions of this Chapter or the Board's rules. Actions under this section shall be brought in the county where the defendant resides or maintains his or her principal place of business or where the alleged acts occurred. (1949, c. 505, s. 1; 1973, c. 476, s. 128; 1975, c. 857, s. 10; 1981, c. 614, s. 3; c. 615, s. 18; 1997-443, s. 11A.118(a); 1997-502, s. 8; 1998-230, s. 2.)

§ 88B-29. Civil penalties.

(a) Authority to Assess Civil Penalties. – In addition to taking any of the actions permitted under G.S. 88B-24, the Board may assess a civil penalty not in excess of one thousand dollars (\$1,000) for the violation of any section of this Chapter or the violation of any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

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

- (1) The nature, gravity, and persistence of the particular violation.
- (2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
- (3) Whether the violation was willful and malicious.

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

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

(d) Costs. – The Board may in a disciplinary proceeding charge costs, including reasonable attorneys' fees, to the licensee against whom the proceedings were brought. (1998-230, s. 2; 2004-142, s. 2.)