

## CHAPTER 32-01-03 GENERAL RULES

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### **32-01-03-01. Comply with laws.**

All establishments and schools, licensees, student instructors, students, and apprentices shall comply with the rules contained in this title and all applicable federal, state, and local laws, ordinances, rules, regulations, and codes.

**History:** Amended effective July 1, 1990; December 1, 2005; January 1, 2012; January 1, 2017; January 1, 2026.

**General Authority:** NDCC 43-11-05

**Law Implemented:** NDCC 43-11-11, 43-11-12, 43-11-13, 43-11-14, 43-11-15, 43-11-16, 43-11-18, 43-11-19, 43-11-20, 43-11-20.1, 43-11-20.2, 43-11-20.3, 43-11-20.4, 43-11-21, 43-11-22, 43-11-23, 43-11-24, 43-11-25, 43-11-26, 43-11-27, 43-11-28, 43-11-29, 43-11-30, 43-11-31, 43-11-32, 43-11-33, 43-11-34, 43-11-35

### **32-01-03-02. Board determination.**

Repealed effective July 1, 1988.

### **32-01-03-03. Hearings and appeals.**

Repealed effective July 1, 1988.

### **32-01-03-04. Board to determine qualifications of applicant.**

The sufficiency of the qualifications of all applicants for admission to board examinations of all students, student instructors, and apprentices or for registration or licensing of students, student instructors, apprentices, apprentice trainers, instructors, cosmetologists, estheticians, advanced estheticians, and manicurists must be determined by the board. The board may delegate specific tasks to support staff as the board chooses. Any applicant feeling aggrieved by the decision may appeal pursuant to North Dakota Century Code chapter 28-32.

**History:** Amended effective July 1, 1990; December 1, 2005; January 1, 2012; January 1, 2017; April 1, 2022; January 1, 2026.

**General Authority:** NDCC 43-11-05

**Law Implemented:** NDCC 43-11-13, 43-11-15, 43-11-16, 43-11-19, 43-11-21, 43-11-22, 43-11-24, 43-11-25, 43-11-26, 43-11-27, 43-11-28, 43-11-29, 43-11-30, 43-11-31, 43-11-32, 43-11-35

### **32-01-03-05. Invalid rules.**

If any provision or section of the rules in this title is declared to be invalid or unlawful, the declaration must not operate to render the remaining rules of this title void.

**History:** Amended effective January 1, 2026.

**General Authority:** NDCC 43-11-05

**Law Implemented:** NDCC 43-11-11

### **32-01-03-06. Board member compensation.**

A board member may be compensated when actively engaged in any board-related meeting, duty, or activity as follows:

1. Up to 115 percent of the daily rate established in North Dakota Century Code section 54-35-10. This enhanced daily rate must be divided by eight to determine an hourly rate;
2. At a minimum of one hour any day a board member is actively engaged in board duties and compensation must be capped at eight hours per day; and
3. For out-of-state travel and participation in related events, at the same hourly rate, not to exceed a total of eight hours per day, regardless of the combined time spent traveling and attending the event.

**History:** Effective January 1, 2026.

**General Authority:** NDCC 43-11-05

**Law Implemented:** NDCC 43-11-06

### **32-01-03-07. Variances.**

The board may, at its discretion and upon written application, grant a variance from specific provisions of the rules only upon a clear showing of good cause.

A variance may be granted if:

1. The applicant demonstrates strict compliance would result in significant hardship;
2. The underlying intent of the rule will still be fulfilled; and
3. The variance will not compromise public health, safety, or the board's capacity to enforce and uphold its rules and regulatory duties.

A variance must not be used for expansion or change of any scope of practices under title 43.

**History:** Effective January 1, 2026.

**General Authority:** NDCC 43-11-05

**Law Implemented:** NDCC 43-11-05

### **32-01-03-08. Prohibition of unsafe procedures, techniques, or devices.**

The board may prohibit the use of any procedure, device, product, or modality the board determines to be unsafe, unprofessional, or beyond the scope of practice authorized under this title. This authority applies to both currently available procedures and devices, as well as new or emerging practices in the industry.

In making such determinations, the board may consider adverse event reports, regulatory guidance, expert input, and whether the procedure or device requires medical oversight or falls under another licensed profession.

The board shall provide notice of any such determinations and may issue guidance, or advisories as needed. Licensees are responsible for remaining informed of and complying with all such determinations made by the board.

**History:** Effective January 1, 2026.

**General Authority:** NDCC 43-11-05

**Law Implemented:** NDCC 43-11-05

### **32-01-03-09. Identity and United States residency verification.**

**Acceptable forms of identification.** For the purposes of verifying identity for licensure, examination, or other official processes of the board, applicants and licensees shall provide two forms of valid, unexpired identification from the lists below. At least one form of identification must be a primary form as listed in subsection 1, and the second form may be a primary or secondary form as listed in subsection 2.

1. Primary forms of identification must establish both identity and United States residency:
  - a. A valid United States passport or United States passport card;
  - b. A valid driver's license or identification card issued by a United States state, territory, or the District of Columbia that includes a photograph;
  - c. A certified copy of a birth certificate issued in a United States state, territory, or the District of Columbia, bearing an official seal, accompanied by a valid photo identification document;
  - d. A valid United States military identification card with photograph;
  - e. A certificate of United States citizenship; form N-560 or N-561;
  - f. A certificate of naturalization; form N-550 or N-570; or
  - g. A permanent resident card; green card, form I-551.
2. Secondary forms of identification must establish identity and may be used to supplement a primary form for residency if it contains a current address:
  - a. A valid photo identification card issued by a United States federal, state, or local government agency; or
  - b. A valid foreign passport with a valid United States visa and I-94 admission stamp or electronic I-94 record.

### **Requirements and procedures.**

1. All submitted identification documents must be valid and unexpired at the time of submission.
2. For initial application purposes, legible photocopies or digital photographs of the required primary and secondary identification documents may be accepted by the board. The board reserves the right to require the presentation of the original identification documents for in-person verification at any point during the application process. Failure to present the original documents if requested may result in the denial or delay of the application. All submitted identification documents must be legible and free from alterations or damage that obscures any information.
3. The board or its designee may make and retain photocopies or electronic scans of the submitted identification documents for recordkeeping purposes.

4. The board reserves the right to verify the authenticity of any submitted identification documents through appropriate means, whether originals or copies are initially provided. These means may include:
  - a. Manual review;
  - b. Electronic database checks;
  - c. In-person identity verification; or
  - d. Utilization of remote identity verification technology approved by the board.
5. If there are discrepancies between the information provided on the identification documents or if the board has reason to believe the documents are not valid, the board may require additional documentation or deny the application or process until the discrepancies are resolved.

**History:** Effective January 1, 2026.

**General Authority:** NDCC 43-11-05

**Law Implemented:** NDCC 43-11-05

### **32-01-03-10. Complaints and investigations.**

#### **1. Filing a complaint.**

- a. **Submission requirements.** All complaints alleging a violation of title 32 or North Dakota Century Code chapter 43-11 must be submitted to the board in writing and may be delivered by mail, electronic mail, or through the board website. The complaint must be legible, dated, and signed by the complainant.
- b. **Required information.** A written complaint must include the following information to the best of the complainant's ability:
  - (1) The full name, address, and contact information of the complainant;
  - (2) The full name, address, and, if known, the license number of the individual or the name and address of the establishment or school against whom the complaint is being made;
  - (3) A clear, concise, and detailed description of the alleged violation, including the date and location of the incident; and
  - (4) Any supporting documentation, such as, photographs, receipts, and witness statements, which the complainant believes is relevant to the complaint.
- c. **Public record.** Complaints filed with the board are considered public records in accordance with North Dakota law

#### **2. Complaint review and initial assessment.**

- a. **Initial review.** Upon receipt of a written complaint, board staff shall conduct an initial review to determine if the allegations constitute a potential violation of title 32 or North Dakota Century Code chapter 43-11.
- b. **Insufficient complaints.** If the complaint is incomplete, unclear, or does not allege a potential violation within the board's jurisdiction, the board or its designee may request additional information or may close the complaint without further action, providing written notification to the complainant of the reason for closure.

- c. **Referral to other agencies.** If the allegations in the complaint fall outside the board's jurisdiction, the board or its designee may refer the complaint to the appropriate local, state, or federal agency and shall notify the complainant of such referral.
3. **Investigation of complaints.**
- a. **Investigation authority.** The board or its designee has the authority to conduct investigations into alleged violations. This may include requesting information from the subject of the complaint, conducting interviews, reviewing records, and performing site inspections.
  - b. **Notification to subject.** Unless circumstances warrant otherwise such as immediate risk to public safety, the board or its designee shall provide written notification to the subject of the complaint that a complaint has been filed and provide them with a copy of the complaint. The subject must be given a reasonable opportunity to respond to the allegations in writing.
  - c. **Cooperation with investigation.** Licensees have a duty to cooperate fully with any investigation conducted by the board or its designee. Failure to cooperate may be grounds for disciplinary action.
  - d. **Investigative findings:** Upon completion of the investigation, board staff shall prepare a summary of the findings and present it to the board for review.
4. **Board action on complaints.**
- a. **Review of investigative findings.** The board shall review the findings of the investigation and determine whether probable cause exists to believe that a violation has occurred.
  - b. **Possible actions.** Based on its review, the board may take one or more of the following actions:
    - (1) Dismiss the complaint if no probable cause is found. The complainant and the subject of the complaint must be notified in writing of the dismissal.
    - (2) Issue a letter of warning or concern to the licensee or other party involved.
    - (3) Enter into a settlement agreement with the licensee or other party involved to resolve the complaint.
    - (4) Initiate formal disciplinary proceedings in accordance with North Dakota Century Code chapter 28-32 which may include suspension, revocation, or other sanctions against a license or permit.
    - (5) Refer the matter to the state's attorney or other appropriate legal authority for further action.

**History:** Effective January 1, 2026.

**General Authority:** NDCC 43-11-05

**Law Implemented:** NDCC 43-11-31, 43-11-38