

ARTICLE 32-03 ESTABLISHMENTS

Chapter
32-03-01 Establishments

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32-03-01-01. Establishment applications.

All individuals, firms, associations, corporations, partnerships, and other entities desiring to operate an establishment shall make application to the board for a license prior to commencing business. The application must be made to the board and must be accompanied by the appropriate fee.

All renewal applications of establishments must be made to the board before December thirty-first in each year and must be accompanied by the appropriate fee.

Prior to any change of ownership, location, or address, an establishment shall apply for a new license with the board. The board must be notified immediately of any establishment name change.

History: Amended effective July 1, 1988; January 1, 2002; December 1, 2005; January 1, 2017; April 1, 2022; January 1, 2026.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-13, 43-11-15, 43-11-28

32-03-01-02. Floor plan.

Every application for a license must be accompanied by a detailed floor plan of the proposed establishment premises. The floor plan must show entrances, exits, locations of equipment, reception area, supply area, toilet facilities, hallways, and facilities to maintain sanitary conditions. A revised floor plan must be filed with the board in the event of any major changes to the establishment's original floor plan.

History: Amended effective July 1, 1988; July 1, 1990; March 1, 1998; December 1, 2005; April 1, 2022; January 1, 2026.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-11

32-03-01-03. Zoning.

Repealed effective July 1, 1988.

32-03-01-03.1. Establishment ownership transfer.

Purchasers of existing establishments shall meet the requirements of a new establishment. The owner of the existing establishment shall complete an establishment closure form, which must accompany the purchaser's establishment application for licensure.

History: Effective July 1, 1988; amended effective January 1, 2026.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-11

32-03-01-04. License displayed.

Every establishment shall display its establishment license and the licenses of all licensed employees in clear view to the public. Every licensed establishment providing advanced esthetic procedures under the supervision of a health care provider shall prominently display the supervising health care provider's license in clear view to the public.

History: Amended effective January 1, 2017; April 1, 2022; January 1, 2026.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-14

32-03-01-05. Separate establishments.

Repealed effective January 1, 2026.

32-03-01-06. Changes in operators or manager-operators.

Repealed effective March 1, 1998.

32-03-01-07. Establishment management.

1. Every establishment, upon request, shall provide documented hours for master license applications. An establishment or manager may not decline to provide documentation for master cosmetologist, manicurist, or esthetician licensure. Establishments shall keep documented hour records for at least two years after any separation of employment.
2. Except as otherwise provided, if the owner of an establishment is dually licensed in, or employs an individual at the owner's establishment to engage in an activity that is not under the jurisdiction of this board, such as, tattooing, body piercing and massage therapy, the establishment shall:
 - a. Obtain and keep active any required license from the regulatory body that governs the other professional license and remain subject to the laws and regulations of this state applicable to such profession as well as to the laws and regulations to laws and rules outlined in this chapter;
 - b. Verify individual's professional license is active and in good standing;

- c. Tools, apparatuses and instruments specifically used in professions not under the jurisdiction of this board must be kept separate in an enclosed, locked cabinet when not in use.
- d. Licenses must be displayed in clear view of clients receiving services.

History: Amended effective July 1, 1988; March 1, 1998; July 1, 2000; January 1, 2017; April 1, 2022; January 1, 2026.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-15

32-03-01-08. Tools and supplies.

Each establishment shall maintain adequate tools, supplies, instruments, capes, towels, and linens to serve the public in cosmetology.

History: Amended effective January 1, 2012; January 1, 2017; January 1, 2026.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-11

32-03-01-09. Signs.

Every establishment shall display and maintain a sign indicating the name of the establishment, which is clearly visible to anyone approaching the entrance.

History: Amended effective July 1, 1988; March 1, 1998; January 1, 2017; January 1, 2026.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-11, 43-11-13

32-03-01-09.1. Advertising requirements.

Each establishment or school shall adhere to the following requirements to protect consumers from misleading claims, ensure public health and safety, and uphold professional standards:

1. **Truthful and accurate advertising.** All advertising for services, licensees, establishments, and schools must be truthful, accurate, and may not contain any false or misleading claims or information;
2. **Identification of licensee, establishment or school.** All advertising must clearly identify the name, as the name appears on the license of the licensed establishment, school or the name of the licensed individual providing the services;
3. **License specific services.** If an advertisement promotes services that are regulated by multiple regulatory jurisdictions, the advertisement clearly must separate and identify which services are provided under which regulatory jurisdiction; and
4. **Advertising of services requiring medical supervision.** For any services advertised being provided by a licensee which require the supervision of a licensed health care provider under applicable North Dakota law or rules, the advertisement clearly must identify the licensed health care provider by name, professional title.

History: Effective January 1, 2026.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-13

32-03-01-10. Independent licensee.

1. **Independent licensees.** Any establishment may be divided into independent licensee spaces. Each independent licensee must be individually licensed by the board as a separate entity and each independent licensee license only may be issued to a single individual licensee.
2. **Responsibilities of the independent licensee:**
 - a. Maintain an active North Dakota individual license and independent licensee license for each establishment.
 - b. Maintain an active lease arrangement with a licensed establishment, which serves as their primary affiliated location.
 - c. Adhere to all existing applicable laws and administrative rules, particularly within their workstation or suite and any shared space within the establishment.
 - d. Display the individual and independent licensee licenses in clear view in the immediate work area of the independent licensee.
 - e. Allow the board or its designees entry to workspace or suite to conduct inspections whether or not an independent licensee is on the premises. The board or its designees may inspect outside of the establishment service practices and associated equipment upon reasonable notice or in response to a complaint.
3. **Responsibilities of the licensed establishment:**
 - a. Maintain an active North Dakota establishment license in good standing.
 - b. Verify each licensee operating within the establishment's premises holds active North Dakota individual and independent licensee licenses at all times.
 - c. Provide each independent licensee a workspace, as agreed to in the lease agreement, which meets all requirements outlined in title 32 and North Dakota Century Code chapter 43-11 except that there may be common reception areas, common toilet facilities, common product dispensing area, and common entrances and exits.
 - d. Allow the board or its designees access to entire premises, including providing access to unattended independent licensee suites for inspection.

History: Amended effective February 1, 1996; March 1, 1998; December 1, 2005; January 1, 2017; April 1, 2022; January 1, 2026.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-11, 43-11-13, 43-11-15

32-03-01-10.1. Establishment spaces - Lease of space to certain persons.

1. Except as otherwise provided, if the owner of an establishment leases space at the owner's establishment to a person to engage in an activity that is not under the jurisdiction of the board, including tattooing, body piercing and massage therapy, the leased space must:
 - a. Be separated from the establishment by surrounding walls and a door that can be locked or on a floor different from which cosmetology services are performed;
 - b. Have sufficient signage to avoid creating the impression that the space is a part of the cosmetology establishment.

2. Each such professional must remain under the jurisdiction of the regulatory body which governs licensee's profession and remains subject to applicable laws and rules and will post and maintain proper licensing from that regulatory body.
3. A barber remains under the jurisdiction of the North Dakota board of barber examiners and remains subject to applicable laws and rules. Space leased to a barber does not need to be separated from the establishment by surrounding walls or a locking door.
4. Spaces leased may share entrances, exits, reception seating, bathroom, breakroom, and laundry facilities.
5. The establishment owner is responsible to ensure any lessee maintains proper, active licensure with the lessee's respective regulatory body.

History: Effective January 1, 2026.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-15

32-03-01-10.2. Establishments and independent licensees providing advanced esthetic procedures.

Authorization to perform procedures. Advanced esthetic procedures may be performed only by advanced estheticians licensed under North Dakota Century Code chapter 43-11 who possess any applicable certifications required by law or rule.

1. **Facility requirements.** Advanced esthetic procedures must be performed in a room that:
 - a. That is enclosed by floor-to-ceiling walls and a door;
 - b. That is physically separated from any area used for hair or nail services;
 - c. In which no food or beverages may be consumed by any person in the room; and
 - d. In which devices, instruments, and supplies are properly cleaned and stored.

Operational and personnel records must be maintained and made available to the board upon request.

2. **Equipment and instrumentation.** Device tips must be single use only. Once affixed to a handpiece, a device tip must not be removed and reused. Whether used or unused, the tip shall be disposed of in an appropriate waste container. All reusable instruments and equipment must be cleaned and disinfected in accordance with the manufacturer's instructions and applicable state and federal guidelines.
3. **Laser procedures.** Establishments or independent licensees performing nonablative laser procedures shall develop and maintain a laser safety program consistent with the American national standards institute Z136.3 guidelines. The laser safety program must be in writing and made available to the board upon request.
4. **Information and disclosure.** Educational and aftercare information must be readily available. Each client must be provided with written appropriate aftercare instructions, and include at minimum:
 - a. The name, address, and telephone number of the establishment and licensee; and
 - b. A statement advising the client to seek medical attention if necessary.

5. **Recordkeeping requirements.** Records must be maintained for all clients receiving advanced esthetic procedures for a period of no fewer than three years. Records must be stored securely in either physical or digital format to prevent unauthorized access. Each client record must include, at a minimum:
- A signed informed consent specific to the procedure performed;
 - The date, type, and area of the procedure performed;
 - The name and license number of the performing licensee;
 - Relevant medical history and screening for contraindications;
 - Acknowledgment of risks associated with the procedure; and
 - Documentation of any adverse event and actions taken.
6. **Infection control and safety protocols.** Establishments and independent licensees shall implement a written safety plan addressing at minimum:
- Protection of clients and personnel from bloodborne pathogens;
 - Handling, storage, and disposal of regulated waste;
 - Disinfection and sterilization of reusable instruments;
 - Use of single-use disposable instruments if appropriate;
 - Procedures for minimizing cross-contamination; and
 - Equipment maintenance and service logs.
- The infection control plan must comply with the occupational safety and health administration standard 29 CFR 1910.1030 and include:
- An exposure control plan;
 - Safety data sheets for all regulated products;
 - Regulated waste pickup receipts; and
 - Red bag documentation if applicable.
7. **Emergency preparedness.** Establishments or independent licensees shall develop and maintain written protocols for responding to common adverse events associated with advanced esthetic procedures, including:
- Allergic reactions;
 - Burns;
 - Excessive bleeding; and
 - Chemical or product-related sensitivities.
- Protocols must:
- Be posted in a conspicuous location within the procedure room;

- b. Include emergency contact information, including supervising health care provider if applicable;
 - c. Ensure availability of first-aid supplies appropriate to the procedures performed;
 - d. Be reviewed and understood by all personnel involved in advanced esthetic procedures.
8. **Adverse event reporting.** Any licensee or establishment aware of a serious adverse event resulting from an advanced esthetic procedure shall report such event to the board within ten business days. Serious adverse events requiring mandatory reporting include:
- a. Any outcome requiring medical or surgical intervention beyond routine aftercare;
 - b. Second degree or higher burns;
 - c. Significant or atypical scarring;
 - d. Infection requiring prescription medication;
 - e. Pigmentary changes requiring medical intervention;
 - f. Hospitalization due to the procedure; and
 - g. Permanent injury or disfigurement.

Reports must be submitted on a form provided by the board and must include:

- a. Client initials or unique identifier, age, and gender;
- b. Date of procedure and date the event was discovered;
- c. Type of procedure and products or devices used;
- d. Name and license number of the performing licensee;
- e. Supervising physician's name, if applicable;
- f. Description of the event and body area affected;
- g. Interventions performed and followup actions taken; and
- h. Known medical treatment received by the client outside the facility.

Client confidentiality must be preserved in all reports. Identifying information beyond initials or unique identifiers must not be submitted unless specifically requested by the board as part of an official investigation. All reporting must comply with applicable state open records laws.

History: Effective January 1, 2026.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-15

32-03-01-11. Establishment discontinuance.

Each establishment intending to discontinue its operation shall notify the board office by submitting an establishment closure form within ten business days of the final date of operation.

History: Amended effective July 1, 1988; March 1, 1998; January 1, 2017; January 1, 2026.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-13, 43-11-15

32-03-01-12. Application for license to practice cosmetology for the homebound.

Repealed effective April 1, 2022.

32-03-01-13. Brush rollers.

Repealed effective April 1, 2022.

32-03-01-14. Practice outside of establishment.

A licensee desiring to provide cosmetology, esthetic, or manicuring services outside of an establishment shall meet the following requirements:

1. The licensee must be:
 - a. An establishment owner;
 - b. A licensee who is employed by an establishment; or
 - c. An independent licensee.
2. The licensee follows all applicable North Dakota laws and rules;
3. The owner or manager notifies the board if licensees is practicing outside the establishment; and
4. The licensee must possess a kit. The kit must contain the following:
 - a. Adequate tools and supplies;
 - b. Individual license and independent licensee or establishment license;
 - c. Copy of rules of cleaning and disinfecting;
 - d. First-aid kit in compliance with this section; and
 - e. Separate labeled, enclosed containers for soiled and clean supplies.
5. Advanced esthetic procedures must not be practiced outside of a licensed establishment.

History: Effective July 1, 2000; amended effective December 1, 2005; January 1, 2017; April 1, 2022; January 1, 2026.

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

Law Implemented: NDCC 43-11-11

32-03-01-15. Licensee performing services in exempt facilities.

Each licensee providing services for compensation within a facility that is exempt from cosmetology establishment licensure under North Dakota Century Code chapter 43-11 shall adhere to the following:

1. Licensees performing services only on residents of exempt facilities shall:
 - a. Maintain and display current individual license;
 - b. Provide the board written notice of providing services at an exempt facility; and
 - c. Comply with all applicable laws and rules including section 32-03-01-14.

2. Licensees performing services on residents and nonresidents of an exempt facility shall:
 - a. Obtain an establishment or independent licensee license for the facility location;
 - b. Maintain and display current individual and establishment licenses; and
 - c. Comply with all applicable laws and rules including section 32-03-01-14.

History: Effective January 1, 2026.

General Authority: NDCC 43-11-05

Law Implemented: NDCC 43-11-02, 43-11-15.1