

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 735*
Judiciary Committee Substitute Adopted 6/7/18
Third Edition Engrossed 6/11/18
House Committee Substitute Favorable 6/14/18
Fifth Edition Engrossed 6/15/18

Short Title: Various OLB and Administrative Law Changes.

(Public)

Sponsors:

Referred to:

May 24, 2018

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS OCCUPATIONAL LICENSING BOARD AND
3 ADMINISTRATIVE LAW CHANGES AND TO REQUIRE DISPLAY OF THE
4 NATIONAL MOTTO AND STATE MOTTO IN PUBLIC SCHOOLS AND DIRECTING
5 THE STATE BOARD OF EDUCATION TO GRANT A LICENSE TO PRACTICE AS A
6 SCHOOL PSYCHOLOGIST TO ANY INDIVIDUALS WHO HOLD THE NATIONALLY
7 CERTIFIED SCHOOL PSYCHOLOGIST CREDENTIAL.

8 The General Assembly of North Carolina enacts:

9
10 **PART I. REFORM OLB FINANCIAL REPORTING**

11 **SECTION 1.1.** The Joint Legislative Administrative Procedure Oversight
12 Committee shall study whether the definition of "occupational licensing board" under G.S. 93B-1
13 and the definition of "occupational licensing agency" under G.S. 150B-2 should include specific
14 lists of occupational licensing boards in order to clarify which State agencies should be
15 considered occupational licensing boards for purposes of Chapter 93B and Chapter 150B of the
16 General Statutes. If the Committee determines that the definitions should include such lists, the
17 Committee shall recommend which State agencies should be included under each definition. The
18 Committee shall report the results of its study to the 2019 General Assembly.

19 **SECTION 1.2.** G.S. 143B-426.39 reads as rewritten:

20 **"§ 143B-426.39. Powers and duties of the State Controller.**

21 The State Controller shall:

- 22 (1) Prescribe, develop, operate, and maintain in accordance with generally
23 accepted principles of governmental accounting, a uniform state accounting
24 system for all state agencies. The system shall be designed to assure
25 compliance with all legal and constitutional requirements including those
26 associated with the receipt and expenditure of, and the accountability for
27 public funds. The State Controller may elect to review a State agency's
28 compliance with prescribed uniform State accounting system standards, as
29 well as applicable legal and constitutional requirements related to compliance
30 with such standards.
- 31 (2) On the recommendation of the State Auditor, prescribe and supervise the
32 installation of any changes in the accounting systems of an agency that, in the
33 judgment of the State Controller, are necessary to secure and maintain internal



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control and facilitate the recording of accounting data for the purpose of preparing reliable and meaningful statements and reports. The State Controller shall be responsible for seeing that a new system is designed to accumulate information required for the preparation of budget reports and other financial reports.

...
 (19) Develop and prescribe a uniform format for the financial statements of the annual financial audits required by G.S. 93B-2(b). The State Controller shall prescribe the form of the financial statements, the categories and line items to be reported, the accounting method to be used by the occupational licensing boards, and any other criteria the State Controller deems necessary."

SECTION 1.3. In developing the financial statement audit reporting format for occupational licensing boards required by Section 1.2 of this act, the State Controller shall consult with the State Auditor and solicit feedback from occupational licensing boards. The State Controller shall make the financial statement audit reporting format effective for reports submitted for the 2019-2020 fiscal year at the latest.

SECTION 1.4. Chapter 93B of the General Statutes is amended by adding a new section to read:

"§ 93B-2.1. Fiscal year.

Each occupational licensing board shall operate based on a fiscal year beginning on July 1 and ending on June 30."

SECTION 1.5. The State Controller shall consider whether to integrate occupational licensing board data reports into any new standard accounting system or accounting software acquired and utilized by the State.

SECTION 1.6. G.S. 93B-2 reads as rewritten:

"§ 93B-2. Annual reports and audits required; contents; open to inspection; sanction for failure to report.

(a) No later than October 31 of each year, each occupational licensing board shall file electronically with ~~the Secretary of State, the Attorney General,~~the Attorney General and the Joint Legislative Administrative Procedure Oversight Committee an annual report containing all of the following information:

- (1) The address of the board, and the names of its members and officers.
- (1a) The total number of licensees supervised by the board.
- (2) The number of persons who applied to the board for examination.
- (3) The number who were refused examination.
- (4) The number who took the examination.
- (5) The number to whom initial licenses were issued.
- (5a) The number who failed the examination.
- (6) The number who applied for license by reciprocity or comity.
- (7) The number who were granted licenses by reciprocity or comity.
- (7a) The number of official complaints received involving licensed and unlicensed activities.
- (7b) The number of disciplinary actions taken against licensees, or other actions taken against nonlicensees, including injunctive relief.
- (8) The number of licenses suspended or revoked.
- (9) The number of licenses terminated for any reason other than failure to pay the required renewal fee.
- (10) The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board.

1 (11) The substance of any anticipated change in rules adopted by the occupational
2 licensing board or the substance of any anticipated adoption of new rules by
3 the occupational licensing board.

4 (12) The number of applicants who applied for licensure pursuant to
5 G.S. 93B-15.1(k).

6 (13) The number of licenses granted pursuant to G.S. 93B-15.1(k).

7 (b) No later than October 31 of each year, each occupational licensing board with a
8 budget of at least one hundred thousand dollars (\$100,000) shall file electronically with the
9 Secretary of State, the Attorney General, conduct an annual financial audit of its operations and
10 provide an electronic copy of the audit to the State Auditor, the State Controller, the Office of
11 State Budget and Management, and the Joint Legislative Administrative Procedure Oversight
12 Committee a financial report that includes the source and amount of all funds credited to the
13 occupational licensing board and the purpose and amount of all funds disbursed by the
14 occupational licensing board during the previous fiscal year. Committee. The audit shall be
15 conducted in compliance with the Generally Accepted Government Auditing Standards
16 developed by the United States Government Accountability Office and provided in a form as
17 prescribed by the State Controller pursuant to G.S. 143B-426.39.

18 (c) The reports required by this section shall be open to public inspection.

19 (d) The Joint Legislative Administrative Procedure Oversight Committee shall notify any
20 board that fails to file the reports required by this section. Failure of a board to comply with the
21 reporting requirements of this section by October 31 of each year shall result in a suspension of
22 the board's authority to expend any funds until such time as the board files the required reports.
23 Suspension of a board's authority to expend funds under this subsection shall not affect the
24 board's duty to issue and renew licenses or the validity of any application or license for which
25 fees have been tendered in accordance with law. Each board shall adopt rules establishing a
26 procedure for implementing this subsection and shall maintain an escrow account into which any
27 fees tendered during a board's period of suspension under this subsection shall be deposited."

28 **SECTION 1.7.** G.S. 93B-4 reads as rewritten:

29 "**§ 93B-4. Audit of Occupational Licensing Boards; Boards by the State Auditor; payment**
30 **of costs.**

31 (a) The State Auditor shall audit occupational licensing boards from time to time to
32 ensure their proper operation. The books, records, and operations of each occupational licensing
33 board shall be subject to ~~the oversight of audit~~ by the State Auditor pursuant to Article 5A of
34 Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7(b), the State Auditor may
35 contract with independent professionals to meet the requirements of this section. The State
36 Auditor may perform an audit pursuant to this section upon the recommendation of the Joint
37 Legislative Administrative Procedure Oversight Committee.

38 (b) ~~Each occupational licensing board with a budget of at least fifty thousand dollars~~
39 ~~(\$50,000) shall conduct an annual financial audit of its operations and provide a copy to the State~~
40 ~~Auditor."~~

41 **SECTION 1.8.** Sections 1.4, 1.6, and 1.7 of this part become effective July 1, 2019,
42 and apply to the fiscal year beginning on that date. The remainder of this part is effective when
43 it becomes law.

44 **PART II. MERGER OF BARBER AND ELECTROLYSIS BOARDS**

45 **SECTION 2.1.(a)** Chapter 86A of the General Statutes is repealed.

46 **SECTION 2.1.(b)** Chapter 88A of the General Statutes is repealed.

47 **SECTION 2.2.** The General Statutes are amended by adding a new Chapter to read:

48 **"Chapter 86B.**

49 **"Barbers and Electrolysis Practice Act.**

50 **"§ 86B-1. Short title.**

1 This Chapter shall be known and may be cited as the "North Carolina Barbers and Electrolysis
2 Practice Act."

3 **"§ 86B-2. Definitions.**

4 The following definitions apply in this Chapter:

- 5 (1) Barber. – A person engaged in any of the following practices:
6 a. Shaving or trimming the beard, or cutting the hair.
7 b. Dyeing the hair or applying hair tonics, permanent waving or
8 marcelling the hair.
9 c. Giving facial or scalp massages or treatments with oils, creams,
10 lotions, or other preparations either by hand or with mechanical
11 appliances.
- 12 (2) Barber apprentice. – A person who is engaged in learning the practice of
13 barbering under the direction and supervision of a registered barber.
- 14 (3) Board. – The North Carolina Board of Barber and Electrolysis Examiners.
- 15 (4) Electrolysis. – The permanent removal of hair by the application of an
16 electrical current to the dermal papilla by a filament to cause decomposition,
17 coagulation, or dehydration within the hair follicle as approved by the Food
18 and Drug Administration of the United States Government.
- 19 (5) Electrologist or electrolocist. – A person who engages in the practice of
20 electrolysis for permanent hair removal.
- 21 (6) Electrology. – The art and practice relating to the removal of hair from the
22 normal skin of the human body by application of an electric current to the hair
23 papilla by means of a needle or needles so as to cause growth inactivity of the
24 hair papilla and thus permanently remove the hair.
- 25 (7) Laser hair practitioner. – A person who engages in laser, light source, or
26 pulsed-light treatments for the removal of hair.
- 27 (8) Laser, light source, or pulsed-light devices. – A device used exclusively in the
28 nonablative procedure for the removal of hair.
- 29 (9) Laser, light source, or pulsed-light treatments. – The use of laser or
30 pulsed-light devices for nonablative procedures for the removal of hair.

31 **"§ 86B-3. Creation and membership of the Board; term of office; removal.**

32 (a) The North Carolina Board of Barber and Electrolysis Examiners is established. The
33 Board shall be appointed by the Governor for three-year terms, consisting of seven members as
34 follows:

- 35 (1) Four registered barbers.
36 (2) One electrologist who has engaged in the practice of electrolysis for at least
37 five years.
38 (3) One physician licensed under Chapter 90 of the General Statutes who shall be
39 nominated by the North Carolina Medical Board.
40 (4) One public member not licensed under this chapter or under Chapter 90 of the
41 General Statutes.

42 (b) The Governor may remove any member of the Board for good cause. Vacancies for
43 Board positions shall be filled by the Governor and appointees shall serve the remainder of the
44 unexpired term. No Board member may serve more than three consecutive terms, except that
45 each member shall serve until a successor is appointed and qualified.

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

49 (d) The Board shall not issue a license to teach barbering, pursuant to G.S. 86B-10, to
50 any Board member during that member's term on the Board. No Board member may be employed
51 by the Board for at least one year after that member's term expires.

"§ 86B-4. Powers and duties of the Board.

(a) The Board shall have all powers and duties necessary to carry out the provisions of this Chapter. The Board may, in accordance with Chapter 150B of the General Statutes, adopt rules necessary to carry out the provisions of this Chapter.

(b) Whenever the Board has reasonable cause to believe that a violation of any of the provisions of this Chapter may have occurred, the Board may, upon its own motion or upon complaint of any person, investigate any operator to determine whether a violation has occurred.

"§ 86B-5. Meetings and compensation of the Board; officers and executive director.

(a) The Board shall maintain its office in Raleigh, North Carolina, and shall adopt and use a common seal for the authentication of its orders and records. Each member of the Board shall receive compensation for services and expenses as provided in G.S. 93B-5 in furtherance of official business of the Board. The Board shall hold four regular meetings a year in the months of January, April, July, and October. The chair may call additional meetings of the Board when necessary. The Board shall keep minutes of all its proceedings.

(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. The executive director shall serve at the pleasure of 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, attorneys, and other staff as necessary to perform inspections and other duties prescribed by the Board. Inspectors and investigators shall have authority to examine shops, offices, and schools during business hours to determine compliance with this Chapter. The salaries of all employees of the Board, excluding the executive director, shall be subject to the North Carolina Human Resources Act.

(d) 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. The State Budget Act shall apply to the administration of this Chapter.

"§ 86B-6. Qualifications for certificate as a registered barber.

The Board shall issue a license to practice as a barber to any person who meets all of the following qualifications:

(1) Has attended an approved barber school for at least 1,528 hours.

(2) Has completed a 12-month apprenticeship under the supervision of a registered barber, as provided in G.S. 86B-7.

(3) Has passed a clinical examination conducted by the Board.

(4) Has submitted to the Board the affidavit required by G.S. 86B-7(c) certifying that the applicant has served the apprenticeship required by this section.

"§ 86B-7. Qualifications for licensing barber apprentices.

(a) Before being issued an apprentice license, an applicant must pass an examination conducted by the Board to determine competence, including knowledge of barbering, sanitary rules and regulations, and knowledge of diseases of the face, skin, and scalp.

(b) An apprentice license expires on May 31 of each year. Every holder of an apprentice license shall annually renew the apprentice license by the expiration date and pay the required renewal fee. An apprentice license issued under this Chapter is automatically suspended by operation of law after failure to renew the apprentice license by the expiration date. An apprentice whose apprentice license has expired may have the certificate restored immediately upon paying all lapsed renewal fees and the required late fee. The certificate of registration of an apprentice is valid only so long as the apprentice works under the supervision of a registered barber. The

1 registered barber shall remain present on the premises of the barbershop at all times while the
2 apprentice is working. No apprentice shall operate a barbershop.

3 (c) On completion of at least one year's apprenticeship, evidenced by affidavit of the
4 supervising registered barber or barbers, and upon meeting the other requirements of this
5 Chapter, the apprentice shall be issued a license as a barber, pursuant to G.S. 86B-6. No licensed
6 apprentice may practice for a period exceeding three years without retaking and passing the
7 required examination to qualify as a registered barber.

8 (d) Applicants who pass the initial written examination and pass the practical
9 examination with a score of eighty-five percent (85%) or higher shall be exempt from the
10 apprenticeship requirement and shall be allowed to apply for a temporary permit pursuant to
11 G.S. 86B-13(g). Applicants who pass the initial written examination and pass the initial practical
12 examination with a score of less than eighty-five percent (85%) shall be permitted to retake the
13 initial practical examination no more than two additional times upon payment of the fee
14 authorized under G.S. 86B-30. Individuals holding a current and valid apprentice license that
15 have passed the initial written examination and have passed the initial practical examination with
16 a score of eighty-five percent (85%) or higher shall be entitled to obtain a temporary permit
17 pursuant to this subsection upon payment of the fee authorized under G.S. 86B-30.

18 **"§ 86B-8. Qualifications for licensure as an electrologist.**

19 (a) Any person who desires to be licensed as an "electrologist" pursuant to this Chapter
20 shall:

21 (1) Submit an application on a form approved by the Board.

22 (2) Be 21 years of age or older.

23 (3) Meet the requirements of subsection (b) of this section.

24 (4) Pass an examination given by the Board.

25 (5) Submit the application and examination fees required in G.S. 86B-31.

26 (b) An applicant for licensure under this section shall provide proof of graduation from a
27 school certified by the Board pursuant to G.S. 86B-19.

28 (c) At least twice each year, the Board shall give an examination to applicants for
29 licensure to determine the applicants' knowledge of the basic and clinical sciences relating to the
30 theory and practice of electrology. The Board shall give applicants notice of the date, time, and
31 place of the examination at least 60 days in advance.

32 (d) When the Board determines that an applicant has met all the requirements for
33 licensure and has submitted the initial license fee required in G.S. 86B-31, the Board shall issue
34 a license to the applicant.

35 **"§ 86B-9. Requirements for licensure as a laser hair practitioner; limitations on licensed**
36 **laser hair practitioners.**

37 (a) Any person seeking licensure by the Board as a laser hair practitioner shall have met
38 the following requirements at the time the license is requested:

39 (1) Be an electrologist licensed under this Chapter.

40 (2) Completed a minimum 30-hour laser, light source, or pulsed-light treatment
41 certification course approved by the Board and in accordance with rules
42 adopted by the Board.

43 (3) Be currently using or anticipate using laser, light source, or pulsed-light
44 devices that the person has been certified by a Board-approved school to
45 operate.

46 (b) When the Board determines that an applicant has met all the requirements for
47 licensure and has submitted the initial license fee required in G.S. 86B-31, the Board shall issue
48 a license to the applicant.

49 (c) Each laser hair practitioner shall practice laser, light source, or pulsed-light treatments
50 under the supervision of a physician licensed under Article 1 of Chapter 90 of the General
51 Statutes. The physician shall be readily available but not required to be on site when the laser,

1 light source, or pulsed-light treatments are being performed. However, the authority to regulate
2 laser clinicians shall remain with the Board.

3 (d) A laser hair practitioner shall not dispense or administer medication or provide advice
4 regarding the use of medication, whether prescription or over-the-counter, in connection with
5 laser, light source, or pulsed-light treatments.

6 (e) All laser hair practitioners shall use laser, light source, or pulsed-light devices
7 approved by the federal Food and Drug Administration and comply with all applicable federal
8 and State regulations, rules, and laws. Any licensed laser hair practitioner violating this
9 subsection shall have his or her license revoked by the Board.

10 (f) Only a licensed physician may use laser, light source, or pulsed-light devices for
11 ablative procedures.

12 **"§ 86B-10. Qualifications for licensing barbering instructors.**

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

15 (1) Possession of a high school diploma or a high school graduation equivalency
16 certificate.

17 (2) Payment of the fees required by G.S. 86B-30.

18 (b) The Board shall issue a barbering instructor's license to any individual who meets all
19 of the following:

20 (1) Is a currently registered barber who has passed an instructor's examination
21 given by the Board that covers subject matter determined by the Board as well
22 as the subjects in the Textbook of Barber-Styling approved by the Board.

23 (2) Submits an application, on a form to be furnished by the Board, and pays the
24 fee required by G.S. 86B-30.

25 **"§ 86B-11. Requirements for certification as an electrology instructor.**

26 (a) Any person who desires to be certified as an "electrology instructor" pursuant to this
27 Chapter shall:

28 (1) Submit an application on a form approved by the Board;

29 (2) Be a licensed electrologist;

30 (3) Have practiced electrology actively for at least five years immediately before
31 the application; and

32 (4) Pass a written examination given by the Board.

33 (b) At least twice each year, the Board shall give an examination to applicants for
34 certification as an electrology instructor. The examination shall consist of written and verbal
35 sections testing the applicants' knowledge of the basic and clinical sciences relating to the theory
36 and practice of electrology. The Board shall give applicants notice of the date, time, and place of
37 the examination at least 60 days in advance.

38 (c) When the Board determines that an applicant has met all the qualifications for
39 certification as an electrology instructor and has submitted the required fee, the Board shall issue
40 an instructor's certificate to the applicant.

41 **"§ 86B-12. Requirements for licensure as a laser hair practitioner instructor.**

42 (a) Any person who desires licensure as a laser practitioner instructor pursuant to this
43 Chapter shall meet the following requirements:

44 (1) Submit an application on a form approved by the Board.

45 (2) Be an electrologist licensed under this Chapter or a physician licensed under
46 Article 1 of Chapter 90 of the General Statutes.

47 (3) Have practiced laser and light-based treatments actively for at least five years
48 immediately before applying for licensure.

49 (4) Have at least 100 hours of training in laser and light-based treatments.

1 (b) When the Board determines that an applicant has met all qualifications for licensure
2 as a laser hair practitioner instructor and has submitted the required fee, the Board shall issue an
3 instructor's license to the applicant.

4 **"§ 86B-13. Temporary employment permit; extensions; limits on practice.**

5 (a) The Board shall issue a temporary employment permit to an applicant seeking
6 licensure pursuant to this Chapter who meets all of the following:

7 (1) Has completed the required hours of a barber school, electrolysis school, or
8 laser hair practitioner school curriculum in the area in which the applicant
9 wishes to be licensed.

10 (2) Has applied to take the examination within three months of completing the
11 required hours for the area in which the applicant wishes to be licensed.

12 (3) Is qualified to take the examination and has paid the examination fee.

13 (b) A temporary employment permit shall expire six months from the date of graduation
14 from a barber school, electrolysis school, or laser hair practitioner school unless it is revoked or
15 suspended by the Board. The Board may renew a temporary employment permit no more than
16 once, except in cases of undue hardship as the Board may determine. A renewed temporary
17 employment permit shall remain valid only until the date of the next succeeding Board
18 examination of applicants for the area in which the applicant wishes to be licensed.

19 (c) The holder of a temporary employment permit may practice only under the
20 supervision of a registered barber or the supervision of an electrologist or laser hair practitioner,
21 as appropriate, and may not operate a barbershop or an electrologist or laser hair practitioner
22 office.

23 (d) The Board may grant a temporary employment permit to one whose license has been
24 expired for more than five years in this State, provided application for examination to restore has
25 been filed and fee paid. The permit is valid only until the date of the next succeeding Board
26 examination of applicants for the area in which the applicant wishes to be licensed, except in
27 cases of undue hardship as the Board may determine, unless it is revoked or suspended earlier by
28 the Board.

29 (e) The Board may grant a temporary employment permit to persons licensed in another
30 state who come to this State for the purpose of teaching or demonstrating their skills. The Board
31 shall also inspect and approve the area where the demonstration is to be given if it is not an
32 already approved shop, office, or school. This permit shall be limited to the specific days of
33 demonstration and shall be of no validity before or after.

34 (f) The Board may grant a temporary employment permit to persons licensed in another
35 state and seeking permanent licensure in North Carolina under G.S. 86B-14.

36 (g) Notwithstanding the apprenticeship requirements in this Chapter, for graduates of a
37 barber school that pass the initial written examination and pass the initial practical examination
38 with a score of eighty-five percent (85%) or higher, the Board shall grant a temporary permit
39 upon payment of the fee authorized under G.S. 86B-30. One year after receiving a temporary
40 permit pursuant to this subsection, the permittee may apply for examination and certification to
41 become registered pursuant to this Chapter. A temporary permit issued pursuant to this
42 subsection shall remain valid until the first Board examination of applicants for certification is
43 held that is more than one year after issuance of the temporary permit.

44 **"§ 86B-14. Applicants licensed in other states.**

45 (a) The Board shall issue a license to an applicant licensed in another state if the applicant
46 demonstrates all of the following:

47 (1) The applicant is a licensed practitioner in good standing.

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

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

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

3 (b) Instead of meeting the requirements in subsection (a) of this section, any applicant
4 who is licensed as a barber, electrologist, or laser hair practitioner in another state shall be
5 admitted to practice in this State under the same reciprocity or comity provisions that the state in
6 which the applicant is licensed grants to persons licensed in this State.

7 (c) The Board may establish standards for issuing a license to an applicant who is licensed
8 as an instructor in another state. These standards shall include a requirement that the licensure
9 requirements in the state in which the instructor is licensed shall be substantially equivalent to
10 those required in this State and that the applicant shall be licensed by the Board to practice in the
11 area in which the applicant is licensed to teach.

12 **"§ 86B-15. Licensing of barbershops.**

13 (a) The Board shall issue a license to operate a barbershop to any applicant who submits
14 a properly completed application on a form approved by the Board, pays the required fee, and is
15 determined, after inspection, to be in compliance with the provisions of this Chapter and the
16 Board's rules. The Board may renew licenses that have lapsed after the barbershop has been
17 inspected and all renewal and late fees have been paid.

18 (b) A license to operate a barbershop shall not be transferable from one location to
19 another or from one owner to another.

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

24 (d) A registered barbershop shall not be permitted to operate in a location licensed as a
25 barber school.

26 **"§ 86B-16. Practice outside barbershops.**

27 Notwithstanding any provision in this Chapter to the contrary, an individual licensed under
28 this Chapter may visit the residences of individuals who are sick or disabled and confined to their
29 places of residence in order to attend to their barbering needs. A licensed individual may also
30 visit hospitals, nursing homes, rest homes, retirement homes, mental institutions, correctional
31 facilities, funeral homes, and similar institutions to attend to the barbering needs of those in these
32 institutions.

33 **"§ 86B-17. Licensing and regulation of barber schools.**

34 (a) The Board shall issue a license to any barber school that submits a properly completed
35 application on a form approved by the Board, pays the required license fee, and is determined by
36 the Board, after inspection, to be in compliance with the provisions of this Chapter and the
37 Board's rules. The Board may renew licenses that have lapsed after the barber school has been
38 inspected and all renewal and late fees have been paid.

39 (b) No person may open, reopen, or operate a barber school before the Board has
40 approved a license for the school. The Board shall not issue a license before a barber school has
41 been inspected and determined to be in compliance with the provisions of this Chapter and the
42 Board's rules.

43 (c) Barber schools located in this State shall be licensed by the Board before any credit
44 may be given for curriculum hours taken in the school. The Board may establish standards for
45 approving hours from schools in other states that are licensed.

46 (d) A registered barber school shall not be permitted to operate in a location licensed as
47 a barbershop.

48 **"§ 86B-18. Bond required for private barber schools.**

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

1 alternative to a bond pursuant to this section or G.S. 115D-95. A school shall provide a copy of
2 the bond letter or other guarantee authorized by this section to the Board.

3 (b) A guaranty bond obtained pursuant to this section shall meet all of the following
4 criteria:

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

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

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

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

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

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

44 **"§ 86B-19. Requirements for certification as a Board-approved school of electrology.**

45 (a) Any school in this State or another state that desires to be certified as a
46 Board-approved school of electrology shall:

47 (1) Submit an application on a form approved by the Board;

48 (2) Submit a detailed projected floor plan of the institutional area demonstrating
49 adequate school facilities to accommodate students for purposes of lectures,
50 classroom instruction, and practical demonstration;

- 1 (3) Submit a detailed list of the equipment to be used by the students in the
2 practical course of their studies;
3 (4) Submit a copy of the planned electrology curriculum consisting of the number
4 of hours and subject matter determined by the Board, provided that the number
5 of hours required shall not be less than 120 hours and not more than 600 hours;
6 (5) Submit a certified copy of the school manual of instruction;
7 (6) Submit the names and qualifications of the instructors certified in accordance
8 with G.S. 86B-11; and
9 (7) Any additional information the Board may require.

10 (b) When the Board determines that an applicant has met all the qualifications for
11 certification as a Board-approved school of electrology and has submitted the required fee, the
12 Board shall issue a certificate to the applicant.

13 (c) A school's certification is only valid for the location named in the application. When
14 a school desires to change locations, an application shall be submitted to the Board on a form
15 furnished by the Board and the fee shall be paid for certificate renewal.

16 (d) A school's certification is not transferrable. Schools must immediately notify the
17 Board in writing of any sale, transfer, or change in ownership or management.

18 (e) Every school shall display its certification in a manner prescribed by the Board.

19 (f) All epilators used in the school must be approved by the federal Food and Drug
20 Administration.

21 **"§ 86B-20. Requirements for certification as a Board-approved school of laser, light source,**
22 **or pulsed-light treatments.**

23 (a) Any school in this State or another state that desires to be certified as a
24 Board-approved school of laser, light source, or pulsed-light treatments shall:

25 (1) Submit an application on a form approved by the Board;

26 (2) Submit a detailed projected floor plan of the institutional area demonstrating
27 adequate school facilities to accommodate students for purposes of lectures,
28 classroom instruction, and practical demonstration;

29 (3) Submit a detailed list of the equipment to be used by the students in the
30 practical course of their studies;

31 (4) Submit a copy of the planned laser, light source, or pulsed-light curriculum
32 consisting of the number of hours and subject matter determined by the Board,
33 provided that the number of hours required shall not be less than 30 hours
34 pursuant to rules adopted by the Board;

35 (5) Submit a certified copy of the school manual of instruction;

36 (6) Submit the names and qualifications of the instructors certified; and

37 (7) Submit any additional information the Board may require.

38 (b) When the Board determines that an applicant has met all the qualifications for
39 certification as a Board-approved school of laser, light source, or pulsed-light treatments and has
40 submitted the required fee, the Board shall issue a certificate to the applicant.

41 (c) A school's certification is only valid for the location named in the application. When
42 a school desires to change locations, an application shall be submitted to the Board on a form
43 furnished by the Board, and the fee shall be paid for certificate renewal.

44 (d) A school's certification is not transferable. Schools shall immediately notify the Board
45 in writing of any sale, transfer, or change in ownership or management.

46 (e) Every school shall display its certification in a manner prescribed by the Board.

47 (f) All laser, light source, or pulsed-light devices used in the school shall be approved by
48 the federal Food and Drug Administration.

49 **"§ 86B-21. Barber Examinations.**

50 (a) The Board shall conduct examinations of applicants for certificates of registration to
51 practice as registered barbers and registered apprentices, not less than four times each year, at

1 such times and places as will prove most convenient and as the Board may determine. The Board
2 may adopt rules establishing procedures for the administration of examinations.

3 (b) An applicant shall make application and submit the examination fee to the Board for
4 examination on forms prepared by the Board. Applications for examination must be filed no later
5 than 30 days before the examination is held. An applicant for a licensure who fails to pass the
6 examination three times may not reapply to take the examination again until after the applicant
7 has successfully completed any additional requirements prescribed by the Board. The Board may
8 establish additional guidelines related to the examination of persons who completed coursework
9 greater than five years prior to submitting an application for examination.

10 **"§ 86B-22. Sanitary rules and regulations; inspections.**

11 (a) The Board shall adopt rules establishing sanitary rules applicable to licensees under
12 this Chapter for the following categories:

13 (1) The provision of proper facilities, to include the following conditions:

- 14 a. The location and construction of buildings and structures where
15 barbering, electrolysis, or laser, light source, or pulsed-light treatment
16 service is rendered.
17 b. The layout of areas where barbering, electrolysis, or laser, light source,
18 or pulsed-light treatment service is rendered or where a combination
19 of barbering, electrolysis, and laser, light source, and pulsed-light
20 treatment service is rendered to ensure proper separation of functions.
21 c. The minimum sanitary conditions for walls, floors, and fixtures,
22 including tanks and lavatories.
23 d. The provision and location of sinks and running water, hot and cold,
24 to enable proper handwashing, and the provision of proper drainage
25 for the facility.
26 e. The compliance with applicable building and fire codes and
27 regulations.

28 (2) The use of equipment, material, and instruments, to include the following
29 conditions:

- 30 a. The standards for use, storage, cleaning, and sterilization of combs,
31 hairbrushes, lather brushes, mugs, razors, tweezers, combs, and
32 contact cups or pads.
33 b. The standards for construction, sanitary preparation, and cleanup of
34 chairs, receptacles, workstations, and other surfaces.
35 c. The standards for storing, providing, handling, and laundering clean
36 towels or linens for each patron.
37 d. The standards for proper use and cleaning of hair cloths and other
38 protective material to prevent the hair cloth from touching the skin of
39 the patron.
40 e. The standards for proper hygiene and handwashing prior to contact
41 with each patron.
42 f. The standards for serving patrons with an infectious or communicable
43 disease.
44 g. The standards for obtaining appropriate health certification for
45 shampooing.

46 (b) The Board shall adopt rules (i) prohibiting the use of commercial chemicals of
47 unknown content by persons licensed under this Chapter and (ii) instructing persons registered
48 under this Chapter in the proper use and application of commercial chemicals where no
49 manufacturer's instructions are included. For purposes of this subsection, "commercial
50 chemicals" are those products sold only through beauty and barber supply houses and not
51 available to the general public.

1 (c) Electrolysis shall be practiced by a licensed person only in a permanent establishment,
2 referred to in this Chapter as an office. The Board shall adopt reasonable rules and regulations
3 concerning the sanitation standards, equipment, and supplies to be used and observed in offices.

4 (d) All schools and facilities where barbering, electrolysis, or laser, light source, or
5 pulsed-light treatment service is rendered shall be open for inspection at all times during business
6 hours to any members of the Board or its agents or assistants to determine compliance with the
7 provisions of this Chapter. Initial inspections conducted by the Board pursuant to this Chapter
8 shall not be delayed if the sole reason for delay is the lack of a certificate of occupancy by a unit
9 of local government. A copy of the sanitary rules set out in this section shall be furnished by the
10 Board to the owner or manager of each school, facility, or any other place where barbering,
11 electrolysis, or laser, light source, or pulsed-light treatment service is rendered in the State and
12 shall be posted in a conspicuous place.

13 **"§ 86B-23. Renewal requirements; expired licenses; inactive status.**

14 (a) Each license issued pursuant to this Chapter shall be renewed as follows:

15 (1) Barbers and Barber Schools. – Any license not renewed by May 31 of each
16 year shall expire and a late fee shall be charged for renewal.

17 (2) Electrologists and laser hair practitioners. – Every electrologist license or laser
18 hair practitioner license issued pursuant to this Chapter must be renewed
19 annually. On or before the date the current license expires, a person who
20 desires to continue to practice electrology or as a laser hair practitioner shall
21 apply for license renewal to the Board on forms approved by the Board,
22 provide evidence of the successful completion of a continuing educational
23 program approved by the Board, meet the criteria for renewal established by
24 the Board, and pay the required fee. The Board may provide for the late
25 renewal of licensure upon payment of a late fee as set by the Board, but late
26 renewal may not be granted more than 90 days after expiration of the license.
27 Any person who has failed to renew his or her license for more than 90 days
28 after expiration may have it reinstated by applying to the Board for
29 reinstatement on a form approved by the Board, furnishing a statement of the
30 reason for failure to apply for renewal prior to the deadline, and paying the
31 required fee. The Board may require evidence of competency to resume
32 practice before reinstating the applicant's license.

33 (3) Schools of electrology and schools of laser, light source, and pulsed-light
34 treatments. – Every certificate for a school of electrology or a school of laser,
35 light source, and pulsed-light treatment shall be renewed annually. On or
36 before the date the current certificate expires, the applicant must submit an
37 application for renewal of certification on a form approved by the Board, meet
38 criteria for renewal established by the Board, and pay the required fee. Failure
39 to renew the certificate within 90 days after the expiration date shall result in
40 automatic forfeiture of any certification issued pursuant to this Chapter.

41 (4) Electrology or laser hair practitioner instructors. – An electrology or laser hair
42 practitioner instructor's license shall be renewed annually. On or before the
43 date the current license expires, the applicant must submit an application for
44 renewal of licensure on a form approved by the Board, meet criteria for
45 renewal established by the Board, and pay the required fee. Any person whose
46 instructor's license has expired for a period of three years or more shall be
47 required to take and pass the instructor's examination before the license can
48 be renewed.

49 (b) The Board may charge renewal and late fees pursuant to G.S. 86B-30 and
50 G.S. 86B-31 and may establish rules for continuing education requirements for licensees under
51 this Chapter seeking renewal; provided, however, that no member of the Board may offer

1 continuing education courses. The Board may also establish rules requiring the submission of a
2 health certificate on a form to be provided by the Board.

3 (c) If a licensee under this Chapter fails to renew their license within five years following
4 the expiration date, the licensee shall be required to pass an examination as prescribed by the
5 Board before the license will be reinstated; provided, however, that no apprenticeship
6 requirement shall be required.

7 (d) Upon request by a licensee for inactive status, the Board may place the licensee's
8 name on the inactive list so long as the licensee is in good standing with the Board. An inactive
9 licensee is not required to complete continuing education requirements. An inactive licensee shall
10 not practice within their licensed trade for consideration. However, the inactive licensee may
11 continue to purchase supplies as accorded an active licensee. When the inactive licensee desires
12 to be removed from the inactive list and return to active practice, the inactive licensee shall notify
13 the Board of the desire to return to active status and pay the required fee as determined by the
14 Board. As a condition of returning to active status, the Board may require the licensee to complete
15 continuing education pursuant to subsection (b) of this section.

16 (e) All persons serving in the Armed Forces of the United States and persons whose
17 licenses as a barber, electrologist, or laser hair practitioner were in force one year prior to entering
18 service may, without taking the required examination, renew their licensure within 90 days after
19 receiving a discharge under honorable conditions by paying the current annual license fee and
20 furnishing the Board with any necessary additional information or documentation.

21 **"§ 86B-24. Revocation of licenses and other disciplinary measures.**

22 (a) The Board may restrict, suspend, revoke, or refuse to issue, renew, or reinstate any
23 license for any of the following:

- 24 (1) Gross malpractice or gross incompetency as determined by the Board.
- 25 (2) Advertising by means of knowingly false or deceptive statements.
- 26 (3) Practicing or permitting any individual under one's employ to practice
27 barbering, electrolysis, or laser, light source, or pulsed-light treatment without
28 a license or temporary employment permit, with an expired license or
29 temporary employment permit, or with an invalid license or temporary
30 employment permit.
- 31 (4) Obtaining or attempting to obtain a license for money or other thing of value
32 other than the required fee or by fraudulent misrepresentation.
- 33 (5) Practicing or attempting to practice by fraudulent misrepresentation.
- 34 (6) Willful failure to display a certificate of license as required by this Chapter.
- 35 (7) Continued practice by a person knowingly having an infectious or contagious
36 disease after being warned in writing by the Board to cease practice.
- 37 (8) Continued violation of any one or more of the sanitary rules and regulations
38 established by the Board or by statute.
- 39 (9) Willful violation of the rules adopted by the Board.

40 (b) The Board may also restrict, suspend, revoke, or refuse to issue, renew, or reinstate
41 any license upon conviction of a felony shown by certified copy of the record of the court of
42 conviction. Prior to taking action against a licensee for a felony conviction, the Board shall
43 consider all of the following factors regarding the conviction:

- 44 (1) The level of seriousness of the crime.
- 45 (2) The date of the crime.
- 46 (3) The age of the person at the time of conviction.
- 47 (4) The circumstances surrounding the commission of the crime, if known.
- 48 (5) The nexus between the criminal conduct of the person and the duties of the
49 licensee.
- 50 (6) The person's prison, jail, probation, parole, rehabilitation, and employment
51 records since the date the crime was committed.

1 (c) The Board may not restrict, suspend, revoke, or refuse to issue, renew, or reinstate a
2 license except in accordance with its rules and the provisions of Chapter 150B of the General
3 Statutes.

4 (d) The Board shall keep a record of its proceedings relating to the issuance, renewal,
5 denial, restriction, suspension, and revocation of licenses. This record shall also contain each
6 licensee's name, address, license number, and the date the license was issued.

7 **"§ 86B-25. Misdemeanors.**

8 Each of the following acts constitutes a Class 3 misdemeanor:

9 (1) Violation of any of the provisions of G.S. 86B-26.

10 (2) Violation of any of the provisions described in subdivisions (3) through (6) of
11 G.S. 86B-24(a).

12 **"§ 86B-26. Licenses required.**

13 (a) Except as provided in this Chapter, no person may practice or attempt to practice
14 barbering, electrolysis, or laser, light source, or pulsed-light treatments for pay or reward in any
15 form, either directly or indirectly, without being licensed by the Board pursuant to this Chapter.
16 An individual licensed by the Board for a particular specialty may practice only that part of
17 barbering, electrolysis, or laser, light source, or pulsed-light treatments for which the individual
18 is licensed.

19 (b) Except as provided in this Chapter, no person may open or operate a barbershop, or
20 electrologist or laser hair practitioner office, or practice barbering, electrolysis, or laser, light
21 source, or pulsed-light treatments in any form, for pay or reward in any form, either directly or
22 indirectly, outside of a facility licensed by the Board pursuant to this Chapter.

23 (c) No person may teach barbering, electrolysis, or laser, light source, or pulsed-light
24 treatments in a Board-approved school unless the person is an instructor licensed pursuant to this
25 Chapter. A guest lecturer may be exempt from the requirements of this subsection upon approval
26 by the Board.

27 (d) An apprentice licensed under the provisions of this Chapter shall apprentice under the
28 supervision of a registered barber or the supervision of an electrologist or laser hair practioner,
29 as appropriate. An apprentice shall not operate a barbershop or an electrologist or laser hair
30 practitioner office.

31 (e) Nothing in this Chapter shall be construed to prohibit a member of a family from
32 practicing barbering, electrolysis, or laser, light source, or pulsed-light treatments on a family
33 member. For purposes of this subsection, a "family member" means a spouse, brother, sister,
34 parent, grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law,
35 son-in-law, stepparent, or stepchild.

36 (f) Every person licensed under this Chapter shall display the license issued by the Board
37 in the location in which the person works. Every license to operate a barbershop, electrologist or
38 laser hair practitioner office, barber school, or electrologist or laser hair practitioner school shall
39 be conspicuously posted in the location for which it is issued.

40 **"§ 86B-27. Enjoining illegal practices.**

41 The Board, the Department of Health and Human Services, or any county or district health
42 director may apply to the superior court for an injunction to restrain any person from violating
43 the provisions of this Chapter or the Board's rules. Actions under this section shall be brought in
44 the county where the defendant resides or maintains the defendant's principal place of business
45 or where the alleged acts occurred.

46 **"§ 86B-28. Civil penalties; disciplinary costs.**

47 (a) The Board may assess a civil penalty not in excess of five hundred dollars (\$500.00)
48 per offense for the violation of any section of this Chapter or the violation of any rules adopted
49 by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted
50 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

1 (b) Before imposing and assessing a civil penalty, the Board shall consider the following
2 factors:

- 3 (1) The nature, gravity, and persistence of the particular violation.
- 4 (2) The appropriateness of the imposition of a civil penalty when considered alone
5 or in combination with other punishment.
- 6 (3) Whether the violation was willful and malicious.
- 7 (4) Any other factors that would tend to mitigate or aggravate the violations found
8 to exist.

9 (c) The Board shall establish a schedule of civil penalties for violations of this Chapter
10 and rules adopted by the Board.

11 (d) The Board may in a disciplinary proceeding charge costs, including reasonable
12 attorneys' fees, to the licensee against whom the proceedings were brought.

13 **"§ 86B-29. Persons exempt from the provisions of this Chapter.**

14 (a) The following persons and those working under their supervision or direct supervision
15 are exempt from the barbering provisions of this Chapter while engaged in the proper discharge
16 of their duties:

- 17 (1) Persons licensed to practice funeral service pursuant to Article 13A of Chapter
18 90 of the General Statutes.
- 19 (2) Persons authorized to practice medicine or surgery under Chapter 90 of the
20 General Statutes.
- 21 (3) Nurses licensed under Chapter 90 of the General Statutes.
- 22 (4) Commissioned medical or surgical officers of the United States Army, Air
23 Force, Navy, Marine, or Coast Guard.

24 (b) The following persons shall be permitted to practice electrology without a license:

- 25 (1) Any physician licensed in accordance with Article 1 and Article 11 of Chapter
26 90 of the General Statutes.
- 27 (2) A student at an approved school of electrology when electrolysis is performed
28 in the course of study.
- 29 (3) A person demonstrating on behalf of a manufacturer or distributor any
30 electrolysis equipment or supplies, if such demonstration is performed without
31 charge.
- 32 (4) An employee of a hospital licensed under Chapter 131E of the General
33 Statutes and working under the supervision of a physician licensed under
34 Article 1 of Chapter 90 of the General Statutes who is certified by the
35 American Board of Dermatology.

36 (c) The electrology and laser, light source, and pulsed-light treatment requirements of
37 this Chapter shall not apply to any person licensed or approved by the North Carolina Medical
38 Board to practice medicine or perform medical acts, tasks, or functions pursuant to Article 1 of
39 Chapter 90 of the General Statutes or any person employed and working under the direct
40 supervision of a physician licensed to practice medicine pursuant to Article 1 of Chapter 90 of
41 the General Statutes.

42 **"§ 86B-30. Fees required for barbering.**

43 (a) The Board may charge the applicant the actual cost of preparation, administration,
44 and grading of examinations in addition to its other fees.

- 45 (1) Examination to become a registered barber \$85.00
- 46 (2) Examination to become a registered apprentice barber \$85.00
- 47 (3) Examination to become a barber school instructor \$165.00

48 (b) The Board may charge application fees not to exceed the following:

- 49 (1) Inspection of a newly established barbershop..... \$120.00
- 50 (2) Inspection of a newly established barber school..... \$220.00
- 51 (3) Reciprocity or certification applicant..... \$120.00

(c) The Board may charge license fees not to exceed the following:

- (1) Barber \$50.00 per year
- (2) Barber apprentice \$50.00 per year
- (3) Barbershop \$50.00 per year
- (4) Barber school \$130.00 per year
- (5) Barber school instructor \$85.00 per year
- (6) Student permit \$25.00
- (7) Temporary permit..... \$25.00
- (8) Duplicate license \$10.00

(d) The Board may require payment of late fees and reinstatement fees not to exceed the following:

- (1) Barber and barber apprentice late renewal within one year \$35.00
- (2) Barber late renewal after one year but within five years \$70.00
- (3) Barber apprentice late renewal after one year but within three years \$45.00
- (4) Barbershop late renewal \$45.00
- (5) Barber school late renewal \$85.00
- (6) Barber school instructor late renewal within one year \$45.00
- (7) Barber school instructor late renewal after one year but within three years \$85.00

(e) The Board may prorate fees as appropriate and may assess reasonable charges for certified copies of public documents and for duplication of other material.

(f) The Board may by rule waive or reduce license and renewal fees for licensees aged 70 or older.

"§ 86B-31. Fees required for electrolysis and laser, light source, and pulsed-light treatment.

All fees may be calculated by the Board in amounts sufficient to pay the costs of administration of this act related to electrolysis and laser, light source, and pulsed-light treatment, but in no event may they exceed the following:

- (1) Application for licensure as an electrologist \$150.00
- (2) Initial license \$125.00
- (3) Examination or reexamination..... \$150.00
- (4) Licensure of electrology renewal..... \$150.00
- (5) Application for licensure as an electrology instructor \$150.00
- (6) Licensure of electrology instructor renewal \$150.00
- (7) Application for certification as a Board-approved school of electrology \$500.00
- (8) Application for licensure as laser hair practitioner..... \$150.00
- (9) Licensure of laser hair practitioner renewal \$150.00
- (10) Application for licensure as laser hair practitioner instructor \$150.00
- (11) Licensure of laser hair practitioner instructor renewal \$150.00
- (12) Application for certification as a Board-approved school of laser, light source, or pulsed-light treatments \$500.00
- (13) Certificate of Board-approved school of laser, light source, or pulsed-light renewal \$400.00
- (14) Certificate of Board-approved school of electrology renewal \$250.00
- (15) Certification of out-of-state schools \$150.00
- (16) Certification of out-of-state schools renewal \$100.00
- (17) Office inspection or reinspection \$100.00

1	(18)	License by reciprocity	\$150.00
2	(19)	Late renewal charge	\$125.00
3	(20)	Reinstatement of expired license or certification	\$250.00
4	(21)	Reactivation of license	\$200.00
5	(22)	Duplicate license or certification	\$25.00."

6 **SECTION 2.3.** Notwithstanding G.S. 86B-3, as enacted by Section 2.2 of this act,
 7 the initial appointments to the North Carolina Board of Barber and Electrolysis Examiners are as
 8 follows:

- 9 (1) Four barbers serving on the Board of Barber Examiners as of December 31,
 10 2018, until their current terms expire.
- 11 (2) One electrologist serving on the Board of Electrolysis Examiners as of
 12 December 31, 2018, as determined by the Governor, for a three-year term.
- 13 (3) One physician, appointed by the Governor, for a two-year term.
- 14 (4) One public member, appointed by the Governor, for a one-year term.

15 The initial appointments required by G.S. 86B-3, as enacted by Section 2.2 of this act,
 16 shall be made on or before October 1, 2018, and the initial terms of the appointees shall begin on
 17 January 1, 2019. Once these initial terms expire, all vacancies will be filled according to the
 18 provision of G.S. 86B-3, as enacted by Section 2.2 of this act.

19 **SECTION 2.4.(a)** The North Carolina Board of Barber and Electrolysis Examiners,
 20 established by Section 2.2 of this act, shall review the licensing fee limitations, established by
 21 Section 2.2 of this act, and the fees adopted by rule by the State Board of Barber Examiners and
 22 the North Carolina Board of Electrolysis Examiners and determine whether the fee limitations
 23 and fees should be reduced to reflect savings and efficiencies generated by the consolidation of
 24 the Boards. No later than March 1, 2019, the North Carolina Board of Barber and Electrolysis
 25 Examiners shall report its findings and recommendations to the Joint Legislative Administrative
 26 Procedure Oversight Committee.

27 **SECTION 2.4.(b)** The North Carolina Board of Barber and Electrolysis Examiners,
 28 established by Section 2.2 of this act, shall review the licenses established by Section 2.2 of this
 29 act and determine whether certain licenses could be consolidated or eliminated as a result of the
 30 consolidation of the State Board of Barber Examiners and the North Carolina Board of
 31 Electrolysis Examiners. No later than March 1, 2019, the North Carolina Board of Barber and
 32 Electrolysis Examiners shall report its findings and recommendations to the Joint Legislative
 33 Administrative Procedure Oversight Committee.

34 **SECTION 2.5.(a)** Licenses and registrations issued by the State Board of Barber
 35 Examiners and the North Carolina Board of Electrolysis Examiners, prior to the effective date of
 36 this act, shall remain in full force and confer the same authority as when they were issued until
 37 those licenses and registrations expire, are revoked, or are renewed by the North Carolina Board
 38 of Barber and Electrolysis Examiners.

39 **SECTION 2.5.(b)** All property and assets owned by the State Board of Barber
 40 Examiners and the North Carolina Board of Electrolysis Examiners shall be vested in and
 41 transferred to the North Carolina Board of Barber and Electrolysis Examiners.

42 **SECTION 2.5.(c)** Any litigation, disciplinary action, or other proceeding pending as
 43 of the effective date of this act, in the name of or against the State Board of Barber Examiners or
 44 the North Carolina Board of Electrolysis Examiners, shall continue in the name of the North
 45 Carolina Board of Barber and Electrolysis Examiners.

46 **SECTION 2.5.(d)** The Department of State Treasurer shall hold funds received in
 47 the name of the North Carolina Board of Barber and Electrolysis Examiners separate from the
 48 funds received in the name of the State Board of Barber Examiners or the North Carolina Board
 49 of Electrolysis Examiners prior to the effective date of this act.

1 **SECTION 2.5.(e)** Rules adopted by the State Board of Barber Examiners and the
2 North Carolina Board of Electrolysis Examiners shall remain in effect as provided in
3 G.S. 150B-21.7.

4 **SECTION 2.6.** Section 2.3 of this part is effective when it becomes law. The
5 remainder of this part becomes effective January 1, 2019, and applies to applications for
6 licensure, examination, and renewal submitted on or after that date.

7 8 **PART III. VARIOUS ADMINISTRATIVE LAW CHANGES**

9 10 **AUTHORIZE RULE TECHNICAL CORRECTIONS**

11 **SECTION 3.1.(a)** G.S. 150B-21.5 reads as rewritten:

12 **"§ 150B-21.5. Circumstances when notice and rule-making hearing not ~~required~~required;**
13 **circumstances when submission to the Commission not required.**

14 (a) Amendment. – An agency is not required to publish a notice of text in the North
15 Carolina ~~Register or Register~~, hold a public ~~hearing~~hearing, or ~~submit the amended rule to the~~
16 Commission for review when it proposes to amend a rule to do one of the following:

- 17 (1) Reletter or renumber the rule or subparts of the rule.
- 18 (2) Substitute one name for another when an organization or position is renamed.
- 19 (3) Correct a citation in the rule to another rule or law when the citation has
20 become inaccurate since the rule was adopted because of the repeal or
21 renumbering of the cited rule or law.
- 22 (4) Change information that is readily available to the public, such as an ~~address~~
23 ~~or address~~, a telephone ~~number~~number, or a ~~Web site~~.
- 24 (5) Correct a ~~typographical error in the North Carolina Administrative~~
25 ~~Code~~typographical error.
- 26 (6) ~~Change a rule in response to a request or an objection by the Commission,~~
27 ~~unless the Commission determines that the change is substantial.~~

28 (a1) Response to Commission. – An agency is not required to publish a notice of text in
29 the North Carolina Register or hold a public hearing when it proposes to change the rule in
30 response to a request or an objection by the Commission unless the Commission determines that
31 the change is substantial.

32 (b) Repeal. – An agency is not required to publish a notice of text in the North Carolina
33 Register or hold a public hearing when it proposes to repeal a rule as a result of any of the
34 following:

- 35 (1) The law under which the rule was adopted is repealed.
- 36 (2) The law under which the rule was adopted or the rule itself is declared
37 unconstitutional.
- 38 (3) The rule is declared to be in excess of the agency's statutory authority.

39 (c) OSHA Standard. – The Occupational Safety and Health Division of the Department
40 of Labor is not required to publish a notice of text in the North Carolina Register or hold a public
41 hearing when it proposes to adopt a rule that concerns an occupational safety and health standard
42 and is identical to a federal regulation promulgated by the Secretary of the United States
43 Department of Labor. The Occupational Safety and Health Division is not required to submit to
44 the Commission for review a rule for which notice and hearing is not required under this
45 subsection.

46 (d) State Building Code. – The Building Code Council is not required to publish a notice
47 of text in the North Carolina Register when it proposes to adopt a rule that concerns the North
48 Carolina State Building Code. The Building Code Council is required to publish a notice in the
49 North Carolina Register when it proposes to adopt a rule that concerns the North Carolina State
50 Building Code. The notice must include all of the following:

- 51 (1) A statement of the subject matter of the proposed rule making.

- 1 (2) A short explanation of the reason for the proposed action.
 2 (3) A citation to the law that gives the agency the authority to adopt a rule on the
 3 subject matter of the proposed rule making.
 4 (4) The person to whom questions or written comments may be submitted on the
 5 subject matter of the proposed rule making.

6 The Building Code Council is required to submit to the Commission for review a rule for
 7 which notice of text is not required under this subsection. In adopting a rule, the Council shall
 8 comply with the procedural requirements of G.S. 150B-21.3.

9 (e) An agency that adopts or amends a rule pursuant to subsection (a) or (c) of this section
 10 shall notify the Codifier of Rules of its actions. When notified of an agency action taken pursuant
 11 to subsection (a) or (c) of this section, the Codifier of Rules shall make the appropriate change
 12 to the North Carolina Administrative Code."

13 **SECTION 3.1.(b)** G.S. 150B-21.20 reads as rewritten:

14 "**§ 150B-21.20. Codifier's authority to revise form of rules.**

15 (a) Authority. – After consulting with the agency that adopted the rule, the Codifier of
 16 Rules may revise ~~the form of a rule submitted for inclusion in the North Carolina Administrative~~
 17 ~~Code~~ a rule to do one or more of the following:

- 18 (1) Rearrange the order of the rule in the Code or the order of the subsections,
 19 subdivisions, or other subparts of the rule.
 20 (2) Provide a catch line or heading for the rule or revise the catch line or heading
 21 of the rule.
 22 (3) Reletter or renumber the rule or the subparts of the rule in accordance with a
 23 uniform system.
 24 (4) Rearrange definitions and lists.
 25 (5) Make other changes in arrangement or in form that do not change the
 26 substance of the rule and are necessary or desirable for a clear and orderly
 27 arrangement of the rule.
 28 (6) Omit from the published rule a map, a diagram, an illustration, a chart, or other
 29 graphic material, if the Codifier of Rules determines that the Office of
 30 Administrative Hearings does not have the capability to publish the material
 31 or that publication of the material is not practicable. When the Codifier of
 32 Rules omits graphic material from the published rule, the Codifier must insert
 33 a reference to the omitted material and information on how to obtain a copy
 34 of the omitted material.
 35 (7) Substitute one name for another when an organization or position is renamed.
 36 (8) Correct a citation in the rule to another rule or law when the citation has
 37 become inaccurate since the rule was adopted because of the repeal or
 38 renumbering of the cited rule or law.
 39 (9) Change information that is readily available to the public, such as an address,
 40 a telephone number, or a Web site.
 41 (10) Correct a typographical error.

42 (b) Effect. – Revision of a rule by the Codifier of Rules under this section does not affect
 43 the effective date of the rule or require the agency to readopt or resubmit the rule. When the
 44 Codifier of Rules revises the form of a rule, the Codifier of Rules must send the agency that
 45 adopted the rule a copy of the revised rule. The revised rule is the official rule, unless the rule
 46 was revised under subdivision (a)(6) of this section to omit graphic material. When a rule is
 47 revised under that subdivision, the official rule is the published text of the rule plus the graphic
 48 material that was not published.
 49

50 **CLARIFY CONTESTED CASE POLICY**

51 **SECTION 3.2.(a)** G.S. 150B-22 reads as rewritten:

"§ 150B-22. Settlement; contested case.

(a) It is the policy of this State that any dispute between an agency and another person that involves the person's rights, duties, or privileges, including licensing or the levy of a monetary penalty, should be settled through informal procedures. In trying to reach a settlement through informal procedures, the agency may not conduct a proceeding at which sworn testimony is taken and witnesses may be cross-examined.

(b) If the agency and the other person do not agree to a resolution of the dispute through informal procedures, either the agency or the person may commence an administrative proceeding to determine the person's rights, duties, or privileges, at which time the dispute becomes a "contested case." A party or person aggrieved shall not be required to petition an agency for rule making or to seek or obtain a declaratory ruling before commencing a contested case pursuant to G.S. 150B-23.

SECTION 3.2.(b) G.S. 150B-43 reads as rewritten:

"§ 150B-43. Right to judicial review.

Any party or person aggrieved by the final decision in a contested case, and who has exhausted all administrative remedies made available to the party or person aggrieved by statute or agency rule, is entitled to judicial review of the decision under this Article, unless adequate procedure for judicial review is provided by another statute, in which case the review shall be under such other statute. Nothing in this Chapter shall prevent any party or person aggrieved from invoking any judicial remedy available to the party or person aggrieved under the law to test the validity of any administrative action not made reviewable under this Article. ~~Absent a specific statutory requirement, nothing in this Chapter shall require a~~ A party or person aggrieved shall not be required to petition an agency for rule making or to seek or obtain a declaratory ruling before obtaining judicial review of a final decision or order made pursuant to G.S. 150B-34.

AMEND PERIODIC REVIEW OF RULES PROCESS

SECTION 3.3. G.S. 150B-21.3A reads as rewritten:

"§ 150B-21.3A. Periodic review and expiration of existing rules.

(a) Definitions. – For purposes of this section, the following definitions apply:

(1) Commission. – Means the Rules Review Commission.

(2) Committee. – Means the Joint Legislative Administrative Procedure Oversight Committee.

(2a) Necessary rule. – Means any rule other than an unnecessary rule.

(3) ~~Necessary with substantive public interest.~~ – ~~Means any rule for which the agency has received public comments within the past two years. A rule is also "necessary with substantive public interest" if the rule affects the property interest of the regulated public and the agency knows or suspects that any person may object to the rule.~~

(4) ~~Necessary without substantive public interest.~~ – ~~Means a rule for which the agency has not received a public comment concerning the rule within the past two years. A "necessary without substantive public interest" rule includes a rule that merely identifies information that is readily available to the public, such as an address or a telephone number.~~

(5) Public comment. – Means written comments objecting to the rule, in whole or in part, or objecting to an agency's determination of the rule as necessary or unnecessary, received by an agency from any member of the public, including an association or other organization representing the regulated community or other members of the public.

(6) Unnecessary rule. – Means a rule that the agency determines to be obsolete, redundant, or otherwise not needed.

1 (b) Automatic Expiration. – Except as provided in subsection (e) of this section, any rule
2 for which the agency that adopted the rule has not conducted a review in accordance with this
3 section shall expire on the date set in the schedule established by the Commission pursuant to
4 subsection (d) of this section.

5 (c) Review Process. – Each agency subject to this Article shall conduct a review of the
6 agency's existing rules at least once every 10 years in accordance with the following process:

7 (1) Step 1: The agency shall conduct an analysis of each existing rule and make
8 an initial determination as to whether the rule is ~~(i) necessary with substantive~~
9 ~~public interest, (ii) necessary without substantive public interest, or~~
10 ~~(iii) necessary or unnecessary.~~ The agency shall then post the results of the
11 initial determination on its Web site and invite the public to comment on the
12 rules and the agency's initial determination. The agency shall also submit the
13 results of the initial determination to the Office of Administrative Hearings
14 for posting on its Web site. The agency shall accept public comment for no
15 less than 60 days following the posting. The agency shall review the public
16 comments and prepare a brief response addressing the merits of each
17 comment. After completing this process, the agency shall submit a report to
18 the Commission. The report shall include the following items:

- 19 a. The agency's initial determination.
- 20 b. All public comments received in response to the agency's initial
21 determination.
- 22 c. The agency's response to the public comments.

23 (2) Step 2: The Commission shall review the reports received from the agencies
24 pursuant to subdivision (1) of this subsection. If a public comment relates to
25 a rule that the agency determined to be ~~necessary and without substantive~~
26 ~~public interest or unnecessary,~~ the Commission shall determine whether the
27 public comment has merit and, if so, designate the rule as ~~necessary with~~
28 ~~substantive public interest.~~ necessary. For purposes of this subsection, a public
29 comment has merit if it addresses the specific substance of the ~~rule and relates~~
30 ~~to any of the standards for review by the Commission set forth in G.S.~~
31 ~~150B-21.9(a)-rule.~~ The Commission shall prepare a final determination report
32 and submit the report to the Committee for consultation in accordance with
33 subdivision (3) of this subsection. The report shall include the following
34 items:

- 35 a. The agency's initial determination.
- 36 b. All public comments received in response to the agency's initial
37 determination.
- 38 c. The agency's response to the public comments.
- 39 d. A summary of the Commission's determinations regarding public
40 comments.
- 41 e. ~~A determination that all rules that the agency determined to be~~
42 ~~necessary and without substantive public interest and for which no~~
43 ~~public comment was received or for which the Commission~~
44 ~~determined that the public comment was without merit be allowed to~~
45 ~~remain in effect without further action.~~
- 46 f. A determination that all rules that the agency determined to be
47 unnecessary and for which no public comment was received or for
48 which the Commission determined that the public comment was
49 without merit shall expire on the first day of the month following the
50 date the report becomes effective in accordance with this section.

- 1 g. A determination that all rules that the agency determined to be
2 necessary ~~with substantive public interest~~ or that the Commission
3 designated as necessary ~~with public interest as provided in this~~
4 ~~subdivision~~ shall be readopted as though the rules were new rules in
5 accordance with this Article.
- 6 (3) Step 3: The final determination report shall not become effective until the
7 agency has consulted with the Committee. The determinations contained in
8 the report pursuant to sub-subdivisions ~~e., f., f.~~ and g. of subdivision (2) of
9 this subsection shall become effective on the date the report is reviewed by
10 the Committee. If the Committee does not hold a meeting to hear the
11 consultation required by this subdivision within 60 days of receipt of the final
12 determination report, the consultation requirement is deemed satisfied, and the
13 determinations contained in the report become effective on the 61st day
14 following the date the Committee received the report. If the Committee
15 disagrees with a determination regarding a specific rule contained in the
16 report, the Committee may recommend that the General Assembly direct the
17 agency to conduct a review of the specific rule in accordance with this section
18 in the next year following the consultation.
- 19 (d) Timetable. – The Commission shall establish a schedule for the review and readoption
20 of existing rules in accordance with this section on a decennial basis as follows:
- 21 (1) With regard to the review process, the Commission shall assign each Title of
22 the Administrative Code a date by which the review required by this section
23 must be completed. In establishing the schedule, the Commission shall
24 consider the scope and complexity of rules subject to this section and the
25 resources required to conduct the review required by this section. The
26 Commission shall have broad authority to modify the schedule and extend the
27 time for review in appropriate circumstances. Except as provided in
28 subsections (e) and (f) of this section, if the agency fails to conduct the review
29 by the date set by the Commission, the rules contained in that Title which have
30 not been reviewed will expire. The Commission shall report to the Committee
31 any agency that fails to conduct the review. The Commission may exempt
32 rules that have been adopted or amended within the previous 10 years from
33 the review required by this section. However, any rule exempted on this basis
34 must be reviewed in accordance with this section no more than 10 years
35 following the last time the rule was amended.
- 36 (2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g.
37 of this section, once the final determination report becomes effective, the
38 Commission shall establish a date by which the agency must readopt the rules.
39 The Commission shall consult with the agency and shall consider the agency's
40 rule-making priorities in establishing the readoption date. The agency may
41 amend a rule as part of the readoption process. If a rule is readopted without
42 substantive change or if the rule is amended to impose a less stringent burden
43 on regulated persons, the agency is not required to prepare a fiscal note as
44 provided by G.S. 150B-21.4.
- 45 (e) ~~Rules to Conform to or Implement Federal Law. — Rules adopted to conform to or~~
46 ~~implement federal law shall not expire as provided by this section. The Commission shall report~~
47 ~~annually to the Committee on any rules that do not expire pursuant to this subsection.~~
- 48 (e1) ~~Rules to Protect Inchoate or Accrued Rights of Retirement Systems Members. — Rules~~
49 ~~deemed by the Boards of Trustees established under G.S. 128-28 and G.S. 135-6 to protect~~
50 ~~inchoate or accrued rights of members of the Retirement Systems administered by the State~~
51 ~~Treasurer shall not expire as provided by this section. The Commission shall report annually to~~

~~the Committee on any rules that do not expire pursuant to this subsection.~~Exclusions. – The Commission shall report annually to the Committee on any rules that do not expire pursuant to this subsection. The following rules shall not expire as provided in this section:

- (1) Rules adopted to conform to or implement federal law.
- (2) Rules deemed by the Boards of Trustees established under G.S. 128-28 and G.S. 135-6 to protect inchoate or accrued rights of members of the Retirement Systems administered by the State Treasurer.

(f) Other Reviews. – Notwithstanding any provision of this section, an agency may subject a rule that it determines to be unnecessary to review under this section at any time by notifying the Commission that it wishes to be placed on the schedule for the current year. The Commission may also subject a rule to review under this section at any time by notifying the agency that the rule has been placed on the schedule for the current year."

SECTION 3.4. This part is effective when it becomes law. Section 3.3 of this part applies to agency rule reports submitted to the Office of Administrative Hearings pursuant to G.S. 150B-21.3A(c)(1) on or after January 1, 2019.

PART IV. EXPANSION OF MASSAGE AND BODYWORK THERAPY BOARD

SECTION 4.1. G.S. 90-625 reads as rewritten:

"§ 90-625. North Carolina Board of Massage and Bodywork Therapy.

(a) The North Carolina Board of Massage and Bodywork Therapy is created. The Board shall consist of seven members who are residents of this State and are as follows:

- (1) ~~Five-Four~~ members shall be massage and bodywork therapists who have been licensed under this Article and have been in the practice of massage and bodywork therapy for at least five of the last seven years prior to their serving on the Board. Consideration shall be given to geographical distribution, practice setting, clinical specialty, involvement in massage and bodywork therapy education, and other factors that will promote diversity of the profession on the Board. ~~Two-One~~ of the ~~five-four~~ members shall be appointed by the General Assembly, upon the recommendation of the Speaker of the House of Representatives, two shall be appointed by the General Assembly, upon the recommendation of the President Pro Tempore of the Senate, and one shall be appointed by the Governor.
 - (1a) One member shall be a person holding a license to operate a massage and bodywork therapy establishment under this Article. This member shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
 - (2) One member shall be a physician licensed pursuant to Article 1 of Chapter 90 of the General Statutes or a person once licensed as a physician whose license lapsed while the person was in good standing with the profession and eligible for licensure. The appointment shall be made by the Governor and may be made from a list provided by the North Carolina Medical Society.
 - (3) One member shall be a member of the general public who shall not be licensed under Chapter 90 of the General Statutes or the spouse of a person who is so licensed, or have any financial interest, directly or indirectly, in the profession regulated under this Article. The appointment shall be made by the Governor.

(b) Legislative appointments shall be made in accordance with G.S. 120-121. A vacancy in a legislative appointment shall be filled in accordance with G.S. 120-122.

(c) Each member of the Board shall serve for a term of three years, ending on June 30 of the last year of the term. A member shall not be appointed to serve more than two consecutive terms.

...."

1 **SECTION 4.2.** The initial appointments required by G.S. 90-625(1a), as enacted by
2 Section 4.1 of this act, shall be made on or before October 1, 2018, and the initial terms of the
3 appointees shall begin on that date. The initial term of the member appointed by the General
4 Assembly on the recommendation of the Speaker of the House of Representatives shall end on
5 June 30, 2019, and a replacement appointed in accordance with G.S. 90-625(1a). The initial term
6 of the member appointed by the General Assembly on the recommendation of the President Pro
7 Tempore of the Senate shall end on June 30, 2020, and a replacement appointed in accordance
8 with G.S. 90-625(1a).

9 **SECTION 4.3.** This part becomes effective July 1, 2019.

10
11 **PART V. VARIOUS CHANGES TO THE MEDICINE AND ALLIED OCCUPATIONS**
12 **STATUTES**

13
14 **MODIFY THE PSYCHOLOGY PRACTICE ACT**

15 **SECTION 5.1.(a)** Article 18A of Chapter 90 of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 90-270.14A. Inactive status.**

18 (a) The Board shall place a license on inactive status upon request of a licensee and
19 payment of the inactive status fee prescribed in G.S. 90-270.18(b)(10). No person shall practice
20 psychology in North Carolina unless that person holds a current active license. The Board may
21 investigate complaints and take disciplinary action against an inactive status licensee. An inactive
22 status license shall only be issued to a person who has previously been issued a license to practice
23 psychology in North Carolina. Licensees on inactive status shall not hold themselves out to the
24 public as licensed by the Board.

25 (b) In order to maintain inactive status, the inactive status fee prescribed in
26 G.S. 90-270.18(b)(10) shall be paid at every renewal period. The inactive status licensee is
27 exempt from continuing education requirements set forth in G.S. 90-270.14(a)(2).

28 (c) A licensee on inactive status may reactivate licensure by completing an application
29 for reactivation, paying the reactivation fee prescribed in G.S. 90-270.18(b)(11), and completing
30 any other reactivation requirements set forth by Board rules, which may include a criminal
31 history record check, continuing education, fitness to practice evaluation, examination, and
32 supervision."

33 **SECTION 5.1.(b)** G.S. 90-270.15(a) reads as rewritten:

34 **"§ 90-270.15. Denial, suspension, or revocation of licenses and health services provider**
35 **certification, and other disciplinary and remedial actions for violations of the**
36 **Code of Conduct; relinquishing of license.**

37 (a) Any applicant for licensure or health services provider certification and any person
38 licensed or certified under this Article shall have behaved in conformity with the ethical and
39 professional standards specified in this Code of Conduct and in the rules of the Board. The Board
40 may deny, suspend, or revoke licensure and certification, and may discipline, place on probation,
41 limit practice, and require examination, remediation, and rehabilitation, or any combination
42 thereof, all as provided for in subsection (b) below. The Board shall act upon proof that the
43 applicant or licensee engaged in illegal, immoral, dishonorable, unprofessional, or unethical
44 conduct by violating any of the provisions of the Code of Conduct as follows:

45 ...

46 (6) Has had a license or certification for the practice of psychology or other
47 mental health profession in this State or in any other jurisdiction suspended or
48 revoked, or has been disciplined by ~~the~~ a licensing or certification board in
49 this State or in any other jurisdiction for conduct which would subject him or
50 her to discipline under this Article;

51 ...

(18) Except when prevented from doing so by circumstances beyond the psychologist's control, has failed to retain securely and confidentially the complete case record for at least seven years from the date of the last provision of psychological services; ~~or, except when prevented from doing so by circumstances beyond the psychologist's control, has failed to retain securely and confidentially the complete case record for three years from the date of the attainment of majority age by the patient or client or for at least seven years from the date of the last provision of psychological services, whichever is longer;~~ services or, except when prevented from doing so by circumstances beyond the psychologist's control, has failed to retain securely and confidentially the complete case record indefinitely if there are pending legal or ethical matters or if there is any other compelling circumstance;

...."

SECTION 5.1.(c) G.S. 90-270.18(b) reads as rewritten:

"(b) Fees for activities specified by this Article are as follows:

- (1) Application fees for licensed psychologists and licensed psychological associates per G.S. 90-270.11(a) and (b)(1), or G.S. 90-270.13, shall ~~not exceed one hundred dollars (\$100.00)~~ be the cost of application as set by the vendor, if applicable, plus an additional fee not to exceed three hundred dollars (\$300.00). The Board may require applicants to pay the fee directly to the vendor.
- (2) Fees for the national written examination shall be the cost of the examination as set by the vendor plus an additional fee not to exceed fifty dollars (\$50.00). The Board may require applicants to pay the fee directly to the vendor.
- (3) Fees for additional examinations shall be as prescribed by the Board.
- (4) Fees for the renewal of licenses, per G.S. 90-270.14(a)(1), shall not exceed ~~two hundred fifty dollars (\$250.00)~~ four hundred dollars (\$400.00) per biennium. This fee may not be prorated.
- (5) Late fees for license renewal, per G.S. 90-270.14(a)(1), shall be ~~twenty-five dollars (\$25.00)~~ seventy-five dollars (\$75.00).
- (6) Fees for the reinstatement of a license, per G.S. 90-270.15(f), shall not exceed ~~one hundred dollars (\$100.00)~~ two hundred dollars (\$200.00).
- (7) Fees for a duplicate license, per G.S. 90-270.14(b), shall be ~~twenty-five dollars (\$25.00)~~ seventy-five dollars (\$75.00).
- (8) Fees for a temporary license, per G.S. 90-270.5(f) and 90-270.5(g), shall be ~~thirty-five dollars (\$35.00)~~ fifty dollars (\$50.00).
- (9) Application fees for a health services provider certificate, per G.S. 90-270.20, shall be ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00).
- (10) Fees to place a license on inactive status, per G.S. 90-270.14A, shall not exceed one hundred dollars (\$100.00) for every renewal period.
- (11) Fees for reactivation of an inactive status license, per G.S. 90-270.14A(c), shall not exceed three hundred dollars (\$300.00)."

SECTION 5.1.(d) G.S. 90-270.22(a) reads as rewritten:

"§ 90-270.22. **Criminal history record checks of applicants for licensure and licensees.**

(a) The Board may request that an applicant for ~~licensure or reinstatement of a license~~ licensure, reinstatement, or reactivation of a license, or that a licensed psychologist or psychological associate currently under investigation by the Board for allegedly violating this ~~Article~~ Article, consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny ~~licensure or reinstatement~~ licensure, reinstatement, or reactivation of a license to an applicant or take disciplinary action against a licensee, including revocation of a license. The Board shall be responsible for providing to the

1 North Carolina Department of Public Safety the fingerprints of the applicant or licensee to be
2 checked, a form signed by the applicant or licensee consenting to the criminal record check and
3 the use of fingerprints and other identifying information required by the State or National
4 Repositories, and any additional information required by the Department of Public Safety. The
5 Board shall keep all information obtained pursuant to this section confidential.

6 The Board shall collect any fees required by the Department of Public Safety and shall remit
7 the fees to the Department of Public Safety for the cost of conducting the criminal history record
8 check."
9

10 **MODIFY THE PODIATRY ACT**

11 **SECTION 5.2.** G.S. 90-202.10 reads as rewritten:

12 "**§ 90-202.10. Annual fee; cancellation or renewal of license.**

13 On or before the first day of July of each year every podiatrist engaged in the practice of
14 podiatry in this State shall transmit to the secretary-treasurer of the said North Carolina State
15 Board of Podiatry Examiners his signature and post-office address, the date and year of his or
16 her certificate, together with a fee to be set by the Board of Podiatry Examiners not to exceed
17 ~~two hundred dollars (\$200.00)~~ three hundred fifty dollars (\$350.00) and receive therefor a
18 renewal certificate. Any license or certificate granted by said Board under or by virtue of this
19 section shall automatically be cancelled and annulled if the holder thereof fails to secure the
20 renewal herein provided for within a period of 30 days after the first day of July of each year,
21 and such delinquent podiatrist shall pay a penalty for reinstatement of twenty-five dollars
22 (\$25.00) for each succeeding month of delinquency until a six-month period of delinquency
23 exists. After a six-month period of delinquency exists or after January 1 following the July 1
24 deadline, the said podiatrist must appear before the North Carolina Board of Podiatry Examiners
25 and take a new examination before being allowed to practice podiatry in the State of North
26 Carolina."
27

28 **MODIFY THE FEE-BASED PRACTICING PASTORAL COUNSELOR** 29 **CERTIFICATION ACT**

30 **SECTION 5.3.** G.S. 90-389 reads as rewritten:

31 "**§ 90-389. Renewal of certificate.**

32 A certificate issued under this Article must be renewed annually on or before the first day of
33 January of each year. Each application for renewal must be accompanied by a renewal fee set by
34 the Board of not more than ~~one hundred dollars (\$100.00)~~ three hundred dollars (\$300.00). If a
35 certificate is not renewed on or before the first day of January of each year, an additional fee of
36 not more than twenty-five dollars (\$25.00) as set by the Board shall be charged for late renewal.
37 The Board may establish requirements for continuing education for pastoral counselors and
38 pastoral counseling associates certified in this State as an additional condition for renewal."
39

40 **SECTION 5.4.** This part becomes effective October 1, 2018.

41 **PART VI. OCCUPATIONAL LICENSING BOARDS AND BOARD RULE MAKING**

42 **SECTION 6.1.** G.S. 150B-3 reads as rewritten:

43 "**§ 150B-3. Special provisions on licensing.**

44 ...

45 (c) If the agency finds that the public health, safety, or welfare requires emergency action
46 and incorporates this finding in its order, summary suspension of a license or occupational license
47 may be ordered effective on the date specified in the order or on service of the certified copy of
48 the order at the last known address of the licensee, whichever is later, and effective during the
49 proceedings. The proceedings shall be promptly commenced and determined. An occupational
50 licensing agency, as defined in G.S. 150B-2(4b), shall not summarily suspend an occupational

1 license unless the occupational licensing agency has first adopted rules governing the conduct of
2 its hearings in accordance with G.S. 150B-38(h).

3 Nothing in this subsection shall be construed as amending or repealing any special statutes,
4 in effect prior to February 1, 1976, which provide for the summary suspension of a license.

5"

6 **SECTION 6.2.** G.S. 93B-5 reads as rewritten:

7 **"§ 93B-5. Compensation, employment, and training of board members.**

8 (a) ~~Board~~ Notwithstanding the provisions of G.S. 138-5, board members shall receive as
9 compensation for their services per diem not to exceed ~~one-two~~ hundred dollars (~~\$100.00~~)
10 (\$200.00) for each day during which they are engaged in the official business of the board.

11 ...

12 (g) Within six months of a board member's initial appointment to the board, and at least
13 once within every two calendar years thereafter, a board member shall receive training, either
14 from the board's staff, including its legal advisor, or from an outside educational institution such
15 as the School of Government of the University of North Carolina, on the statutes governing the
16 board and rules adopted by the board, as well as the following State and federal laws, in order to
17 better understand the obligations and limitations of a State agency:

18 (1) Chapter 150B, The Administrative Procedure Act.

19 (2) Chapter 132, The Public Records Law.

20 (3) Article 33C of Chapter 143, The Open Meetings Act.

21 (4) Articles 31 and 31A of Chapter 143, The State Tort Claims Act and The
22 Defense of State Employees Law.

23 (5) Chapter 138A, The State Government Ethics Act.

24 (6) Chapter 120C, Lobbying.

25 (7) Antitrust law and State action immunity.

26 Completion of the training requirements contained in Chapter 138A and Chapter 120C of the
27 General Statutes satisfies the requirements of subdivisions (5) and (6) of this subsection."

28 **SECTION 6.3.(a)** Chapter 93B of the General Statutes is amended by adding six
29 new sections to read:

30 **"§ 93B-17. Occupational licensing board rule making.**

31 (a) Each occupational licensing board shall adopt rules for the receipt and resolution of
32 complaints, for taking disciplinary or enforcement actions against its licensees, and for taking
33 enforcement actions against persons not licensed by the board. No occupational licensing board
34 shall summarily suspend a license unless the licensing board has adopted rules governing the
35 conduct of its hearings in accordance with G.S. 150B-38(h).

36 (b) Any interpretation, clarification, or other delineation of the scope of practice of an
37 occupational licensing board shall be adopted as a rule.

38 **"§ 93B-18. Unlicensed activity.**

39 (a) An occupational licensing board shall have the authority to investigate unlicensed
40 activity and notify unlicensed persons and entities of the possible violation of the law and
41 administrative rules and any civil action or criminal penalty that may be imposed by a court. The
42 notification shall not indicate that the occupational licensing board has made any finding of a
43 violation but may indicate the board's belief or opinion that a particular act may violate the
44 board's enabling statutes, include factual information regarding legislation and court proceedings
45 concerning the potential violation, and provide notice of the board's intention to pursue
46 administrative remedies or court proceedings with regard to the potential violation.

47 (b) Any occupational licensing board providing notification to unlicensed persons and
48 entities of a possible violation of the law and administrative rules and any civil action or criminal
49 penalty that may be imposed by a court shall include the following statement in the notification:

50 "You are hereby notified that the opinion expressed herein is not a legal
51 determination. An occupational licensing board does not have the authority to

1 order you to discontinue your current practices. Only a court may determine that
2 you have violated or are violating any law and, if appropriate, impose a remedy
3 or penalty for the violation. Further, pursuant to G.S. 150B-4, you may have the
4 right, prior to initiation of any court action by the occupational licensing board, to
5 request a declaratory ruling regarding whether your particular conduct is lawful.
6 You are further notified that any right to a declaratory ruling supplements any
7 other legal rights that you may already have to establish the legality of your
8 conduct with respect to the goods or services you offer or provide."

9 **"§ 93B-19. Venue for court enforcement.**

10 The venue for occupational licensing boards seeking a court order for injunctive relief or to
11 show cause for failure to comply with a subpoena lawfully issued by the occupational licensing
12 board shall be in the superior court of the county where the defendant resides or in the county
13 where the occupational licensing board has its principal place of business.

14 **"§ 93B-20. Injunctive relief.**

15 An occupational licensing board may appear in its own name in superior court in actions for
16 injunctive relief to restrain the violation of the provisions of a statute administered by the board
17 or a rule or order of the board. The superior court shall have the jurisdiction to grant these
18 injunctions or restraining orders or take other appropriate action even if criminal prosecution has
19 been or may be instituted as a result of the violations, or whether the person is a licensee of the
20 board. No board shall issue such orders independently of the superior court unless specifically
21 authorized to do so by law.

22 **"§ 93B-21. Jurisdictional disputes between boards.**

23 It is the policy of the State that jurisdictional disputes among occupational licensing boards
24 shall be resolved through informal procedures. If a jurisdictional dispute among occupational
25 licensing boards cannot be resolved through informal procedures, any affected board may
26 commence an administrative proceeding to resolve the jurisdictional dispute by filing a petition
27 with the Office of Administrative Hearings and serving the petition on all affected boards. Once
28 the petition is filed and the required fee is paid, the dispute shall become a contested case and
29 shall be conducted by the Office of Administrative Hearings under Articles 3 and 4 of Chapter
30 150B of the General Statutes.

31 **"§ 93B-22. Complaint process.**

32 Each occupational licensing board shall develop and implement a complaint process that
33 provides for all of the following:

- 34 (1) A description of the complaint process on the board's Web site, including the
35 types of violations that are under the jurisdictional authority of the board.
- 36 (2) Electronic complaint submission via the board's Web site, including a
37 prominently displayed link to a complaint form.
- 38 (3) The ability to provide complainants with a written description of the final
39 disposition of each complaint."

40 **SECTION 6.3.(b)** The complaint process provided for in G.S. 93B-22 shall be
41 implemented and active on each board's Web site no later than January 1, 2019.

42 **SECTION 6.4.** G.S. 150B-45 reads as rewritten:

43 **"§ 150B-45. Procedure for seeking review; waiver.**

44 (a) Procedure. – To obtain judicial review of a final decision under this Article, the person
45 seeking review must file a petition within 30 days after the person is served with a written copy
46 of the decision. The petition must be filed as follows:

- 47 (1) Contested tax cases. – A petition for review of a final decision in a contested
48 tax case arising under G.S. 105-241.15 must be filed in the Superior Court of
49 Wake County.
- 50 (2) Other final decisions. – A petition for review of any other final decision under
51 this Article must be filed in the superior court of the county where the person

1 aggrieved by the administrative decision resides, in the county where the
2 agency has its principal place of business, or in the case of a person residing
3 outside the State, in the county where the contested case which resulted in the
4 final decision was filed. If a petitioner files a petition in a county other than as
5 provided in this subdivision, the superior court may order a change of venue
6 pursuant to G.S. 1-83; provided, however, that improper venue shall not be
7 grounds for dismissal of the petition.

8 (b) Waiver. – A person who fails to file a petition within the required time waives the
9 right to judicial review under this Article. For good cause shown, however, the superior court
10 may accept an untimely petition."

11 **SECTION 6.5.** The Joint Legislative Administrative Procedure Oversight
12 Committee shall continue to monitor and study the effects of the opinion in *North Carolina State*
13 *Board of Dental Examiners v. Federal Trade Commission* and other issues related to the scope
14 of practice jurisdiction of occupational licensing boards.

15 **SECTION 6.6.** G.S. 143B-68 reads as rewritten:

16 "**§ 143B-68. Public Librarian Certification Commission – members; selection; quorum;**
17 **compensation.**

18 The Public Librarian Certification Commission of the Department of Natural and Cultural
19 Resources shall consist of five members as follows: (i) ~~the chairman of the North Carolina~~
20 ~~Association of Library Trustees,~~ (ii) the chairman of the public libraries section of the North
21 Carolina Library Association, ~~(iii) an individual~~ (ii) two individuals named by the Governor upon
22 the nomination of the North Carolina Library Association, ~~(iv)~~ (iii) the dean of a State or
23 regionally accredited graduate school of librarianship in North Carolina appointed by the
24 ~~Governor~~ Governor, and ~~(v)~~ (iv) one member at large appointed by the Governor.

25 The members shall serve four-year terms or while holding the appropriate chairmanships.
26 Any appointment to fill a vacancy created by the resignation, dismissal, death or disability of a
27 member shall be for the balance of the unexpired term.

28 The Governor shall have the power to remove any member of the Commission from office
29 for misfeasance, malfeasance, and nonfeasance according to the provisions of G.S. 143B-13 of
30 the Executive Organization Act of 1973.

31 The members of the Commission shall receive per diem, and necessary travel expenses in
32 accordance with the provisions of G.S. 138-5.

33 A majority of the Commission shall constitute a quorum for the transaction of business.

34 All clerical and other services required by the Commission shall be supplied by the Secretary
35 of the Department through the regular staff of the Department."

36 **SECTION 6.7.** Except as otherwise provided, this part is effective when it becomes
37 law and applies to licensing board actions occurring on or after that date.

39 **PART VII. STUDY OBSTACLES TO ENTRY INTO LICENSED TRADES AND** 40 **PROFESSIONS**

41 **SECTION 7.1.** The Joint Legislative Administrative Procedure Oversight
42 Committee shall study the following issues related to obstacles to entry into licensed trades and
43 professions:

- 44 (1) Whether and under what circumstances occupational licensing boards should
45 waive fees for certain low-income individuals, military families, and young
46 workers.
- 47 (2) The extent to which licensure should be denied based on criminal history.
- 48 (3) Whether and to what extent apprenticeship paths into licensed trades and
49 professions should be created or expanded.

50 **SECTION 7.2.** The Joint Legislative Administrative Procedure Oversight
51 Committee shall submit an interim report, including any legislative proposals, to the 2019

1 General Assembly, upon its convening, and a final report, including any legislative proposals, to
2 the 2020 Regular Session of the 2019 General Assembly, upon its convening.

3
4 **PART VII-A. CHANGE REQUIRED OFFICE LOCATION FOR THE NORTH**
5 **CAROLINA BOARD OF COSMETIC ART EXAMINERS FROM RALEIGH TO WAKE**
6 **COUNTY**

7 **SECTION 7.3.** G.S. 88B-6(a) reads as rewritten:

8 "(a) The Board shall maintain its office in Raleigh, Wake County, North Carolina."

9
10 **PART VII-B. REQUIRE DISPLAY OF THE NATIONAL MOTTO AND STATE**
11 **MOTTO IN PUBLIC SCHOOLS**

12 **SECTION 7.5.(a)** G.S. 115C-47(29a) reads as rewritten:

13 "(29a) To Require the Display of the United States and North Carolina Flags, the
14 Display of the National and State Mottos, and ~~to Require~~ the Recitation of the
15 Pledge of Allegiance. – Local boards of education shall adopt policies to ~~(i)~~
16 ~~require~~ do the following:

- 17 a. Require the display of the United States and North Carolina flags in
18 each classroom, when available, ~~(ii) require available.~~
19 b. Require the display of the national motto, "In God We Trust," and the
20 State motto, "esse quam videri," and its English translation, "To Be
21 Rather Than to Seem," in at least one prominent location of each
22 school, such as an entry way, cafeteria, or other common area. The
23 display shall state each motto and, underneath that motto, designate
24 whether it is the national or State motto.
25 c. Require that recitation of the Pledge of Allegiance be scheduled on a
26 daily basis, and ~~(iii) provide basis.~~
27 d. Provide age-appropriate instruction on the meaning and historical
28 origins of the flag-flags, mottos, and the Pledge of Allegiance.

29 These policies shall not compel any person to stand, salute the flag, or recite
30 the Pledge of Allegiance. If flags are donated or are otherwise available, flags
31 shall be displayed in each classroom."

32 **SECTION 7.5.(b)** G.S. 115C-218.80 reads as rewritten:

33 **"§ 115C-218.80. Display of the United States and North Carolina ~~flags-flags,~~ display of the**
34 **national and State mottos, and the recitation of the Pledge of Allegiance.**

35 (a) A charter school shall ~~(i) display~~ do the following:

- 36 (1) Display the United States and North Carolina flags in each classroom
37 classroom, when available, ~~(ii) require available.~~
38 (2) Display the national motto, "In God We Trust," and the State motto, "esse
39 quam videri," and its English translation, "To Be Rather Than to Seem," in at
40 least one prominent location of each school, such as an entry way, cafeteria,
41 or other common area. The display shall state each motto and, underneath that
42 motto, designate whether it is the national or State motto.
43 (3) Require that the recitation of the Pledge of Allegiance be scheduled on a daily
44 basis, and ~~(iii) provide basis.~~
45 (4) Provide age-appropriate instruction on the meaning and historical origins of
46 the flag-flags, mottos, and the Pledge of Allegiance.

47 (b) A charter school shall not compel any person to stand, salute the flag, or recite the
48 Pledge of Allegiance.

49 (c) If flags are donated or are otherwise available, flags shall be displayed in each
50 classroom."

51 **SECTION 7.5.(c)** G.S. 116-69.1 reads as rewritten:

1 **"§ 116-69.1. Display of the United States and North Carolina ~~flags~~ flags, display of the**
 2 **national and State mottos, and the recitation of the Pledge of Allegiance.**

3 (a) The school shall ~~(i) display~~ do the following:

4 (1) Display the United States and North Carolina flags in each ~~classroom~~
 5 classroom, when available, (ii) ~~require~~ available.

6 (2) Display the national motto, "In God We Trust," and the State motto, "esse
 7 quam videri," and its English translation, "To Be Rather Than to Seem," in at
 8 least one prominent location of the school, such as an entry way, cafeteria, or
 9 other common area. The display shall state each motto and, underneath that
 10 motto, designate whether it is the national or State motto.

11 (3) Require the recitation of the Pledge of Allegiance on a daily ~~basis, and (iii)~~
 12 provide basis.

13 (4) Provide instruction on the meaning and historical origins of the ~~flag~~ flags,
 14 mottos, and the Pledge of Allegiance.

15 (b) The school shall not compel any person to stand, salute the flag, or recite the Pledge
 16 of Allegiance.

17 (c) If flags are donated or are otherwise available, flags shall be displayed in each
 18 classroom."

19 **SECTION 7.5.(d)** G.S. 116-235(i) reads as rewritten:

20 "(i) The Display of the United States and North Carolina ~~Flags~~ Flags, Display of the
 21 National and State Mottos, and the Recitation of the Pledge of Allegiance. – The Board of
 22 Trustees shall adopt policies to require (i) ~~the display~~ the following:

23 (1) Display of the United States and North Carolina flags in each ~~classroom~~
 24 classroom, when available, (ii) ~~the recitation~~ available.

25 (2) Display of the national motto, "In God We Trust," and the State motto, "esse
 26 quam videri," and its English translation, "To Be Rather Than to Seem," in at
 27 least one prominent location of the school, such as an entry way, cafeteria, or
 28 other common area. The display shall state each motto and, underneath that
 29 motto, designate whether it is the national or State motto.

30 (3) Recitation of the Pledge of Allegiance on a daily basis.

31 (4) ~~and (iii) the instruction~~ Instruction on the meaning and historical origins of
 32 the ~~flag~~ flags, mottos, and the Pledge of Allegiance.

33 These policies shall not compel any person to stand, salute the flag, or recite the Pledge of
 34 Allegiance. If flags are donated or are otherwise available, flags shall be displayed in each
 35 classroom."

36 **SECTION 7.5.(e)** This section becomes effective when it becomes law and applies
 37 beginning December 1, 2018.

38
 39 **PART VII-C. WORKER CLASSIFICATION FOR DIGITAL PLATFORMS**

40 **SECTION 7.6.(a)** G.S. 95-25.2 reads as rewritten:

41 **"§ 95-25.2. Definitions.**

42 In this Article, unless the context otherwise requires:

43 ...

44 (19) "Marketplace contractor" means a person that enters into an agreement with a
 45 marketplace platform to use the platform's online-enabled application,
 46 software, Web site, or system to receive service requests from third parties
 47 and does not perform any of the service requests at or from a physical business
 48 location operated by the marketplace platform.

49 (20) "Marketplace platform" means a person that operates an online-enabled
 50 application, software, Web site, or system that facilitates the provision of
 51 services by marketplace contractors to individuals or entities seeking such

1 services and accepts service requests from the public only through its
2 online-enabled application, software, Web site, or system."

3 **SECTION 7.6.(b)** G.S. 95-25.14(a) reads as rewritten:

4 **"§ 95-25.14. Exemptions.**

5 (a) The provisions of G.S. 95-25.3 (Minimum Wage), G.S. 95-25.4 (Overtime), and
6 G.S. 95-25.5 (Youth Employment), and the provisions of G.S. 95-25.15(b) (Record Keeping) as
7 they relate to these exemptions, do not apply to:

8 ...

9 (9) Any marketplace contractor where an employer-employee relationship is
10 deemed not to exist pursuant to G.S. 95-25.24B(a)."

11 **SECTION 7.6.(c)** Article 2A of Chapter 95 of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 95-25.24B. Marketplace contractor status.**

14 (a) A marketplace contractor shall not be deemed to be an employee of a marketplace
15 platform if the marketplace contractor enters into a written contract with the marketplace
16 platform that provides for all of the following:

17 (1) The marketplace contractor shall be an independent contractor with respect to
18 the marketplace platform.

19 (2) The marketplace platform shall not unilaterally prescribe specific hours during
20 which the marketplace contractor must be available to accept service requests
21 from third-party individuals or entities submitted through the marketplace
22 platform's online-enabled application, software, Web site, or system.

23 (3) The marketplace platform shall not prohibit the marketplace contractor from
24 using any online-enabled application, software, Web site, or system offered
25 by other marketplace platforms.

26 (4) The marketplace platform shall not restrict the contractor from engaging in
27 any other occupation or business.

28 (5) The marketplace contractor shall bear all or substantially all of the contractor's
29 own expenses that are incurred by the contractor in performing the services.

30 (6) The marketplace platform shall not provide on-site supervision during the
31 performance of the services by the marketplace contractor.

32 (7) The marketplace contractor shall not require the contractor to use specific
33 materials, supplies, or equipment in performing the services.

34 (8) The marketplace contractor is obligated to pay federal and State income tax
35 on any moneys earned pursuant to the contract relationship.

36 (b) Nothing in this section shall be construed to prohibit a marketplace platform from
37 establishing that an employer-employee relationship does not exist with a marketplace contractor
38 pursuant to any other provision of law if the conditions of subsection (a) of this section are not
39 met.

40 (c) Subsection (a) of this section shall not apply to a marketplace contractor where the
41 services performed by the marketplace contractor are performed at or from a physical business
42 location operated by the marketplace platform or when the services performed consist of
43 transporting freight, sealed and closed envelopes, boxes, parcels, or other sealed and closed
44 containers for compensation.

45 (d) Nothing in this section shall be construed to affect the assessment, collection, or
46 reporting of sales or income tax from a marketplace contractor or marketplace platform."

47 **SECTION 7.6.(e)** G.S. 97-13 reads as rewritten:

48 **"§ 97-13. Exceptions from provisions of Article.**

49 ...

50 (e) Marketplace Contractors. – This Article shall not apply to marketplace contractors
51 where an employer-employee relationship is deemed not to exist pursuant to G.S. 95-25.24B(a)."

1 SECTION 7.6.(f) This section becomes effective July 1, 2018.

2
3 **PART VII-D. EFFECTIVE DATE**

4 SECTION 7.7. Except as otherwise provided, this act is effective when it becomes
5 law.

6
7 **PART VII-E. RECREATIONAL THERAPY AND MUSIC THERAPY LICENSURE ACT**

8 SECTION 7.8. Chapter 90C of the General Statutes reads as rewritten:

9 **"Chapter 90C.**

10 **"North Carolina Recreational Therapy Licensure and Music Therapy Licensure Act.**

11 **"§§ 90C-1 through 90C-19:** Repealed by Session Laws 2005-378, s. 1, effective October 5,
12 2005.

13 **"§ 90C-20. Short title.**

14 This Chapter shall be known as the "North Carolina Recreational Therapy Licensure and
15 Music Therapy Licensure Act".

16 **"§ 90C-21. Purpose.**

17 It is the purpose and intent of the Recreational Therapy Licensure and Music Therapy
18 Licensure Act to safeguard the health and safety of the public and to protect the public from harm
19 by unqualified persons by establishing a minimum level of education, experience, and
20 competence to assure the highest degree of professional care and conduct on the part of licensed
21 recreational therapists and licensed recreational therapy assistants-therapists, licensed
22 recreational therapy assistants, and licensed professional music therapists.

23 **"§ 90C-22. Definitions.**

24 In this Chapter, unless the context otherwise requires, the following definitions shall apply:

25 (1) Board. – The North Carolina ~~Board of Recreational Therapy~~
26 ~~Licensure-Recreational Therapy Licensure and Music Therapy Licensure~~
27 Board.

28 (1a) Licensed professional music therapist. – A person who holds a license
29 pursuant to this Chapter as a music therapist. A person licensed as a
30 professional music therapist may:

31 a. Accept referrals for music therapy services from medical,
32 developmental, mental health, or education professionals; family
33 members; clients; caregivers; or others involved and authorized with
34 provision of client services. Before providing music therapy services
35 to a client for an identified clinical or developmental need, the
36 therapist collaborates, as applicable, with the primary care provider(s)
37 to review the client's diagnosis, treatment needs, and treatment plan.
38 During the provision of music therapy services to a client, the therapist
39 collaborates, as applicable, with the client's treatment team.

40 b. Conduct a music therapy assessment of a client to determine if
41 treatment is indicated. If treatment is indicated, the therapist collects
42 systematic, comprehensive, and accurate information to determine the
43 appropriateness and type of music therapy services to provide for the
44 client.

45 c. Develop an individualized music therapy treatment plan for the client
46 that is based upon the results of the music therapy assessment. The
47 music therapy treatment plan includes individualized goals and
48 objectives that focus on the assessed needs and strengths of the client
49 and specify music therapy approaches and interventions to be used to
50 address these goals and objectives.

- 1 d. Implement an individualized music therapy treatment plan that is
- 2 consistent with any other developmental, rehabilitative, habilitative,
- 3 medical, mental health, preventive, wellness care, or educational
- 4 services being provided to the client.
- 5 e. Evaluate the client's response to music therapy and the music therapy
- 6 treatment plan, documenting change and progress and suggesting
- 7 modifications, as appropriate.
- 8 f. Develop a plan for determining when the provision of music therapy
- 9 services is no longer needed in collaboration with the client, physician,
- 10 or other provider of healthcare or education of the client, family
- 11 members of the client, and any other appropriate person upon whom
- 12 the client relies for support.
- 13 g. Minimize any barriers to ensure that the client receives music therapy
- 14 services in the least restrictive environment.
- 15 h. Collaborate with and educate the client and the family, caregiver of
- 16 the client, or any other appropriate person regarding the needs of the
- 17 client that are being addressed in music therapy and the manner in
- 18 which the music therapy treatment addresses those needs.
- 19 i. Utilize appropriate knowledge and skills to inform practice including
- 20 use of research, reasoning, and problem solving skills to determine
- 21 appropriate actions in the context of each specific clinical setting.
- 22 (2) Licensed recreational therapist. – A person who holds a license pursuant to
- 23 this Chapter as a recreational therapist. A person licensed as a "Recreational
- 24 Therapist" under this Chapter may practice in clinical, residential, educational,
- 25 and community settings and may:
- 26 a. Conduct an individualized patient or client assessment for the purpose
- 27 of collecting systematic, comprehensive, and accurate data necessary
- 28 to determine a course of action and subsequent individualized
- 29 treatment plan.
- 30 b. Plan and develop the individualized treatment plan that identifies a
- 31 patient or client's goals, objectives, and treatment intervention
- 32 strategies.
- 33 c. Implement the individualized treatment plan that is consistent with the
- 34 overall patient or client treatment program.
- 35 d. Systematically evaluate and compare the patient or client's response to
- 36 the individualized treatment plan and suggest modifications as
- 37 appropriate.
- 38 e. Develop a discharge plan in collaboration with the patient or client, his
- 39 or her ~~family, caregivers,~~ and other treatment team members.
- 40 f. Serve as a resource for patient or client recreation opportunities to
- 41 promote or improve his or her general health and well-being.
- 42 g. Deliver services in accordance with the professional standards of
- 43 practice and codes of ethics promulgated by national or State
- 44 professional organizations.
- 45 h. Manage delivery of services in accordance with a written plan of
- 46 operation based upon standards advanced by appropriate membership,
- 47 regulatory, and credentialing agencies.
- 48 i. Provide professional and preprofessional education and training of
- 49 recreational therapists or recreational therapy assistants.
- 50 j. Conduct research in the field of recreational therapy or therapeutic
- 51 recreation.

- 1 (3) Licensed recreational therapy assistant. – A person who holds a license
2 pursuant to this Chapter as a recreational therapy assistant to act under the
3 supervision of a licensed recreational therapist as defined by rule. A person
4 licensed as a "Recreational Therapy Assistant" under this Chapter may assist
5 in the practice of recreational therapy in clinical, residential, educational, and
6 community settings under the supervision of a licensed recreational therapist
7 and in accordance with a recreational therapy assistant's training, education,
8 and scope of practice, as defined by rule.
- 9 (3a) Music therapy. – The clinical and evidence-based use of music interventions
10 to accomplish individualized goals for people of all ages and ability levels
11 within a therapeutic relationship by a licensed professional music therapist.
- 12 (4) Person. – Any individual, corporation, partnership, association, unit of
13 government, or other legal entity.
- 14 (5) Recreational therapy. – A treatment service designed to restore, remediate, or
15 rehabilitate a patient or client's level of functioning and independence in life
16 activities, as well as reduce or eliminate the activity limitations and
17 restrictions to participation in life situations caused by an illness or disabling
18 condition.
- 19 (6) Recreational therapy aide. – Any nonlicensed person who aids in the provision
20 of recreational therapy services under the provisions of this Chapter, and who
21 acts under the direction and on-site supervision of a licensed recreational
22 therapist or licensed recreational therapy assistant. A recreational therapy aide
23 may perform recreational therapy related duties and functions which are
24 assigned and are commensurate with an aide's training and competency. An
25 aide's work shall not include responding to a physician's orders; designing,
26 conducting, or interpreting individualized recreational therapy patient or
27 client assessment; determining or modifying recreational therapy treatment
28 plans or interventions; or any independent practice or performance of
29 recreational therapy services.
- 30 (6a) Scope of music therapy – The practice of music therapy includes development
31 of music therapy treatment plans specific to the needs and strengths of the
32 client who may be seen individually or in groups. The goals, objectives, and
33 potential strategies of the music therapy services are appropriate for the client
34 and setting. Music therapy strategies may include music improvisation,
35 receptive music listening, song writing, lyric discussion, music and imagery,
36 singing, music performance, learning through music, music combined with
37 other arts, music-assisted relaxation, music-based patient education,
38 electronic music technology, adapted music intervention, and movement to
39 music. Music therapy clinical practice may be in developmental,
40 rehabilitative, habilitative, medical, mental health, preventive, wellness care,
41 or educational areas. The practice of music therapy does not include the
42 diagnosis or assessment of any physical, mental, or communication disorder.
43 Scope is inclusive of professional and preprofessional education and training
44 in music therapy and related research.
- 45 (7) Scope of recreational therapy. – The practice of recreational therapy includes
46 all direct patient or client services of assessment, planning, design,
47 implementation, evaluation, and documentation of specific interventions,
48 management, consultation, research, and education for either individuals or
49 groups that require specific therapeutic recreation or recreational therapy
50 intervention representing the process and knowledge base delineated in the
51 most recent National Council for Therapeutic Recreation Certification

1 (NCTRC) Job Analysis Study and professional standards of practice. Scope is
2 inclusive of professional and preprofessional education and training in
3 recreational therapy, therapeutic recreation, and related research.

- 4 (8) Therapeutic recreation. – The provision of treatment services and the
5 provision of recreation services to persons with illnesses or disabling
6 conditions. The primary purposes of treatment services, which are often
7 referred to as recreational therapy, are to restore, remediate, or rehabilitate in
8 order to improve functioning and independence as well as reduce or eliminate
9 the effects of illness or disability. The primary purposes of recreation services
10 are to provide recreation resources and opportunities in order to improve
11 health and well-being. Therapeutic recreation is provided by professionals
12 who are trained and certified, registered, or licensed to ~~provided~~provide
13 therapeutic recreation.

14 **"§ 90C-23. North Carolina Recreational Therapy Licensure and Music Therapy Licensure**
15 **Board is created.**

16 (a) The North Carolina Recreational Therapy Licensure and Music Therapy Licensure
17 Board is created.

18 (b) Composition. – The Board shall consist of ~~eight~~nine members appointed as follows:

- 19 (1) ~~Three~~Two practicing recreational therapists, ~~one of whom shall be appointed~~
20 ~~by the Governor, therapists,~~ one of whom shall be appointed by the General
21 Assembly upon the recommendation of the President Pro Tempore of the
22 Senate, and one of whom shall be appointed by the General Assembly upon
23 the recommendation of the Speaker of the House of Representatives.
- 24 (2) One licensed practicing recreational therapy assistant appointed by the
25 Governor.
- 26 (3) One licensed practicing recreational therapist who is engaged primarily in
27 providing education or training for recreational therapists or recreational
28 therapy assistants appointed by the Governor.
- 29 (4) One physician licensed pursuant to Article 1 of Chapter 90 of the General
30 Statutes appointed by the Governor.
- 31 (5) Two public members, one of whom shall be appointed by the General
32 Assembly upon the recommendation of the President Pro Tempore of the
33 Senate and one of whom shall be appointed by the General Assembly upon
34 the recommendation of the Speaker of the House of Representatives.
- 35 (6) Two practicing music therapists, one of whom shall be appointed by the
36 General Assembly upon the recommendation of the President Pro Tempore of
37 the Senate and one of whom shall be appointed by the General Assembly upon
38 the recommendation of the Speaker of the House of Representatives.

39 The Governor shall make appointments after consultation with the North Carolina
40 Recreational Therapy Licensure and Music Therapy Licensure Board and other interested
41 persons.

42 (c) Qualifications. – The nonpublic recreational therapist or recreational therapy assistant
43 members of the Board shall hold a current license. Each nonpublic recreational therapist or
44 recreational therapy assistant member of the Board, at the time of his or her appointment and for
45 at least two years before, shall have been actively engaged in North Carolina in the practice of
46 recreational therapy or therapeutic recreation, in the education and training of graduate or
47 undergraduate students of recreational therapy or therapeutic recreation, or in recreational
48 therapy or therapeutic recreation research.

49 The initial music therapist Board members do not have to be licensed upon appointment.
50 However, once licensure requirements are established, the music therapist Board members shall
51 satisfy the applicable requirements for licensure pursuant to this Chapter.

1 One public member shall not be a licensed health care professional or an agent or employee
2 of any health care institution, health care insurer, health care professional school, or a member
3 of any allied health profession. One public member shall have received recreational ~~therapy or~~
4 ~~therapeutic recreation services.~~ therapy, therapeutic recreation services, or music therapy. For
5 purposes of this subsection, a person enrolled in a program to prepare him or her to be a licensed
6 health care professional or an allied health professional shall not be eligible to serve as a public
7 member of the Board. The spouse of any person who would be prohibited by this subsection from
8 serving on the Board as a public member shall not serve as a public member of the Board. Public
9 members shall reasonably reflect the population of this State.

10 (d) Term. – Members of the Board shall serve three-year staggered terms and shall serve
11 until a successor is appointed and qualified. No member shall serve more than two consecutive
12 full terms. Members of the North Carolina Recreational Therapy Licensure Board as of
13 December 31, 2018, shall continue to serve on the Board until their terms expire. Vacancies on
14 the Board created by the expiration of those terms shall be filled in accordance with subsection
15 (a) of this section.

16 (e) Vacancies. – The Governor shall fill vacancies to the Board positions for which the
17 Governor is the appointing authority within 30 days after a position is vacated. The General
18 Assembly shall fill vacancies for which it is the appointing authority in accordance with
19 G.S. 120-122. Appointees shall serve the remainder of the unexpired term and until their
20 successors have been appointed and qualified.

21 (f) Removal. – The Board may remove any of its members for gross neglect of duty,
22 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall be
23 disqualified from Board business until the charges are resolved. The Governor may also remove
24 any member for gross neglect of duty, incompetence, or unprofessional conduct.

25 (g) Compensation. – Each member of the Board shall receive such per diem
26 compensation and reimbursement for travel and subsistence as shall be set for licensing Board
27 members generally, as provided in G.S. 93B-5.

28 (h) Officers. – The officers of the Board shall be a chairman, a vice-chairman, and other
29 officers deemed necessary by the Board to carry out the purposes of this Chapter. All officers
30 shall be elected annually by the Board for one-year terms and shall serve until their successors
31 are elected and qualified.

32 (i) Meetings. – The Board shall hold at least two meetings each year to conduct business
33 and shall adopt rules governing the calling, holding, and conducting of regular and special
34 meetings. A majority of the Board members shall constitute a quorum.

35 (j) Employees. – The Board may employ necessary personnel for the performance of its
36 functions and fix their compensation within the limits of the funds available to the Board.

37 (k) The total expense of the administration of this Chapter shall not exceed the total
38 income from fees collected pursuant to this Chapter. None of the expenses of the Board, or the
39 compensation or expenses of any officer or any employee of the Board, shall be paid or payable
40 out of the General Fund. Neither the Board nor any of its officers or employees may incur any
41 expense, debt, or other financial obligation binding upon the State.

42 **"§ 90C-24. Powers of the Board.**

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

44 (1) To administer this Chapter.

45 (2) To issue interpretations of this Chapter.

46 (3) To adopt, amend, or repeal rules and regulations in the manner prescribed by
47 Chapter 150B of the General Statutes, as may be necessary to carry out the
48 provisions of this Chapter.

49 (4) To establish qualifications of, employ, and set the compensation of the
50 Executive Director who shall not be a member of the Board.

- 1 (5) To employ and fix the compensation of the personnel that the Board
2 determines are necessary to carry out the provisions of this Chapter and to
3 incur other expenses necessary to effectuate this Chapter.
- 4 (6) To determine the qualifications of persons who are licensed pursuant to this
5 Chapter.
- 6 (7) To issue, renew, deny, suspend, or revoke licenses and carry out any of the
7 other actions authorized by this Chapter.
- 8 (8) To conduct investigations for the purpose of determining whether violations
9 of this Chapter are grounds for revoking, denying, suspending, or refusing to
10 renew the licenses of persons licensed pursuant to this Chapter.
- 11 (9) To maintain a record of all proceedings and make available to persons who
12 hold a license and other concerned parties an annual report of all Board action.
- 13 (10) To set fees for licensure, license renewal, and other services deemed necessary
14 to carry out the purpose of this Chapter.
- 15 (11) To adopt a seal containing the name of the Board to be used on licenses and
16 official reports it issues.
- 17 (12) To issue annually a list stating the names of persons currently licensed under
18 the privilege of this Chapter.
- 19 (13) To establish or approve, as defined by rule, reasonable competency
20 requirements for licensure, including the power to adopt or use examination
21 materials, study or training courses, and standards of recognized accrediting
22 and credentialing agencies and professional associations and the power to
23 establish or approve, as defined by rule, reasonable standards for renewal of
24 licensure, including requirements for continuing ~~recreational therapy or~~
25 ~~therapeutic recreation education~~ education for individuals licensed pursuant
26 to this Chapter.

27 (b) The powers and duties enumerated above are granted for the purpose of enabling the
28 Board to protect the public from misrepresentation of licensure status as provided in this Chapter
29 and shall be liberally construed to accomplish this objective.

30 **"§ 90C-25. Executive Director.**

31 The Executive Director shall deposit all fees payable to the Board in financial institutions
32 designated by the Board as official depositories. The funds shall be deposited in the name of the
33 Board and shall be used to pay all expenses incurred by the Board in carrying out the purposes
34 of this Chapter. The State Auditor shall audit the Board annually.

35 **"§ 90C-26. The Board may accept contributions, etc.**

36 The Board may accept grants, contributions, devises, and gifts that shall be kept in a separate
37 fund and shall be used by it to publicize the licensure program and its protective benefits to the
38 public.

39 **"§ 90C-27. Requirements for licensure.**

40 (a) The Board shall license any person as a "Licensed Recreational Therapist" who meets
41 the following education, credential, and experience requirements:

- 42 (1) Passage of an appropriate examination as a therapeutic recreation specialist or
43 a recreational therapist by the North Carolina Recreational Therapy Licensure
44 and Music Therapy Licensure Board ~~or~~ and current certification as a
45 "Certified Therapeutic Recreation Specialist" by the National Council for
46 Therapeutic Recreation Certification.
- 47 (2) A minimum level of education or experience, as defined by rules of the Board,
48 inclusive of practice competency standards or guidelines promulgated by
49 professional associations and credentialing and accrediting organizations.
- 50 (3) For purposes of this subsection, an academic major or specialization shall be
51 defined by rules of the Board and shall be inclusive of information gathered

1 through surveys of educational institutions in the State having a bachelors or
 2 masters degree with a specialization in recreational therapy or therapeutic
 3 recreation.

4 (b) The Board shall license any person as a "Licensed Recreational Therapy Assistant"
 5 who meets the following education and experience requirements:

6 (1) A minimum level of education or experience, as defined by rules of the Board,
 7 inclusive of practice competency standards or guidelines promulgated by
 8 professional associations and credentialing and accrediting organizations as
 9 deemed appropriate by the Board.

10 (2) For purposes of this section, an academic major or specialization shall be
 11 defined by rules of the Board and shall be inclusive of information gathered
 12 through surveys of educational institutions in the State having associate
 13 degree curricula in recreational therapy or therapeutic recreation.

14 (c) The Board shall license any person as a "Licensed Professional Music Therapist" who
 15 passes an appropriate examination as a music therapist offered by a certifying agency or provides
 16 proof to the Board of holding a current music therapy credential issued by a certifying agency
 17 acceptable to the Board.

18 **"§ 90C-28. Licensure fees.**

19 Applications for licensure shall be made on forms prescribed and furnished by the Board.
 20 The Board may establish fees for the actual cost of duplication services, materials, and returned
 21 bank items. All fees derived from services provided by the Board under the provisions of this
 22 Chapter shall be nonrefundable. The Board shall establish the amount of fees as defined by rule
 23 not to exceed the following amounts:

24	(1)	Initial application for licensure fee	\$200.00
25	(2)	Licensure renewal -renewal/continuing education fee	\$200.00
26	(3)	Record maintenance fee	\$100.00
27	(4)	Inactive fee	\$50.00 -\$50.00
28	(5)	<u>Training fee</u>	<u>\$100.00.</u>

29 **"§ 90C-29. License renewal.**

30 Every license issued pursuant to this Chapter shall be renewable every two years. Within 30
 31 days before the expiration date, a person who desires to continue to be licensed in the field of
 32 ~~therapeutic recreation or recreational therapy~~recreation, recreational therapy, or music therapy
 33 shall apply for license renewal on forms furnished by the Board. The applicant shall meet criteria
 34 for renewal, including continuing education, established by the Board as defined by rule and shall
 35 pay the required fee established by the Board pursuant to this Chapter. Failure to renew the
 36 license before the expiration date shall result in automatic forfeiture of any license issued
 37 pursuant to this Chapter.

38 The Executive Director shall notify, in writing, every person at his or her last known address
 39 of the expiration of his or her license and the amount that is required for its two-year renewal.

40 Record maintenance fees are due within 30 days before the expiration date of a license in any
 41 year in which a renewal fee is not due. A person who desires to continue to be licensed in the
 42 field of recreational therapy, therapeutic recreation, or music therapy shall apply for license
 43 record maintenance on forms furnished by the Board and pay any Record Maintenance fees
 44 which are due.

45 **"§ 90C-30. Reinstatement.**

46 A person who has allowed his or her license to lapse by failure to renew it pursuant to this
 47 Chapter must apply for licensure on a reinstatement form provided by the Board. The Board shall
 48 require the applicant to return the completed reinstatement licensure form including renewal
 49 requirements established by the Board as defined by rule. If the license has lapsed for more than
 50 two years, the Board shall require the applicant to successfully demonstrate competency as

1 defined by rules established by the Board. If the Board determines that the license should be
2 reinstated, it shall issue a license renewal to the applicant.

3 **"§ 90C-31. Inactive list.**

4 When a person licensed by the Board submits a request for inactive status and pays the
5 inactive fee, the Board shall issue to the person a statement of inactive status and shall place the
6 person's name on the "Inactive Status" list. While on that list, the person shall not hold himself
7 or herself out as licensed pursuant to this Chapter. When that person desires to be removed from
8 the inactive list and returned to an active list, an application shall be submitted to the Board on a
9 form furnished by the Board, and the fee shall be paid for license renewal. The Board shall require
10 evidence of competency as defined by rule to resume practice before returning the applicant to
11 the active status.

12 **"§ 90C-32. Revocation, suspension, or denial of licensure.**

13 The Board may require remedial education, issue of a letter of reprimand, restrict, revoke, or
14 suspend any license issued pursuant to this Chapter or deny any application for licensure if the
15 Board determines that the licensee or applicant has done any of the following:

- 16 (1) Given false information or withheld material information from the Board in
17 procuring or attempting to procure a license pursuant to this Chapter.
- 18 (2) Been convicted of, or pleaded guilty or nolo contendere to, any crime that
19 indicates that the person is unfit or incompetent to be licensed pursuant to this
20 Chapter.
- 21 (3) Is unable to perform the functions for which a license has been issued due to
22 impairment of mental or physical faculties.
- 23 (4) Engaged in conduct that endangers the public health.
- 24 (5) Is unfit or incompetent to be licensed pursuant to this Chapter by reason of
25 deliberate or negligent acts or omissions regardless of whether active injury
26 to the patient or client is established.
- 27 (6) Engages in conduct that deceives, defrauds, or harms the public in the course
28 of claiming licensed status or practicing recreational ~~therapy~~-therapy or music
29 therapy.
- 30 (7) Willfully violated any provision of this Chapter, rules, or code of ethics
31 enacted by the Board.
- 32 (8) Aided, abetted, or assisted any person in violating the provisions of this
33 Chapter.
- 34 (9) Has a recreational therapy or music therapy license revoked or suspended or
35 is subject to other disciplinary action in this State or another jurisdiction.

36 The Board may reinstate a revoked license or remove licensure restrictions when it finds that the
37 reasons for revocation or restriction no longer exist and that the person can reasonably be
38 expected to safely and properly practice recreational ~~therapy~~-therapy or music therapy.

39 **"§ 90C-33. Reciprocity.**

40 The Board may grant a license, without examination or by special examination, to any person
41 who, at the time of application, is licensed as a recreational ~~therapist or therapeutic recreation~~
42 ~~specialist-therapist, therapeutic recreation specialist, recreational therapy assistant, or music~~
43 therapist by a similar Board of another country, state, or territory whose licensing standards are
44 substantially equivalent to or higher than those required by this Chapter. The Board shall
45 determine the substantial equivalence upon which reciprocity is based.

46 **"§ 90C-34. Persons and practices not affected.**

47 Nothing in this Chapter shall be construed to prevent or restrict:

- 48 (1) Any person qualified, registered, certified, or licensed to engage in another
49 profession or occupation or any person working under the supervision of a
50 person registered, certified, or licensed to engage in another profession or
51 occupation in this State from performing work incidental to the practice of

1 that profession or occupation as long as that person does not represent himself
2 or herself as a recreational therapy ~~assistant or recreational therapist assistant,~~
3 ~~recreational therapist, or music therapist~~ or the work to be recreational ~~therapy~~
4 ~~or therapeutic recreation therapy, therapeutic recreation, or music therapy~~ as
5 defined by this Chapter.

6 (2) Any person employed as a ~~therapeutic recreation specialist, therapeutic~~
7 ~~recreation assistant, or recreational therapist or therapist,~~ a recreational therapy
8 ~~assistant assistant, or music therapist~~ by the government of the United States,
9 if he or she provides therapeutic ~~recreation or recreation,~~ recreational ~~therapy~~
10 ~~therapy, or music therapy~~ solely under the direction and control of the
11 organization by which he or she is employed.

12 (3) Any person pursuing a course of study leading to a degree in recreational
13 ~~therapy or therapeutic recreation therapy, therapeutic recreation, or music~~
14 ~~therapy~~ at an accredited college or university that meets the minimum
15 academic requirements for a major or specialization in recreational ~~therapy~~
16 ~~therapy, therapeutic recreation, or music therapy~~ as defined by the rules and
17 regulations of the Board.

18 (4) Any person fulfilling the supervised fieldwork experience required for a
19 degree and for licensure, as defined by the rules of the Board, if the person is
20 designated by a title that clearly indicates his or her status as a student.

21 (5) Expired.

22 **"§ 90C-35. Reports; immunity from suit.**

23 Any person who has reasonable cause to suspect malpractice, misconduct, or incapacity of a
24 person who is licensed pursuant to this Chapter or who has reasonable cause to suspect that any
25 person is in violation of this Chapter should report the relevant facts to the Board. Upon receipt
26 of a charge or upon its own initiative, the Board may give notice of an administrative hearing
27 pursuant to Chapter 150B of the General Statutes or may, after diligent investigation, dismiss
28 unfounded charges. Any person making a report pursuant to this section shall be immune from
29 criminal prosecution or civil liability based on that report unless the person knew the report was
30 false or acted in reckless disregard of whether or not the report was false.

31 **"§ 90C-36. Violations and penalties.**

32 Any person not licensed under this Chapter ~~as a Licensed Recreational Therapist or a~~
33 ~~Licensed Recreational Therapy Assistant~~ who holds himself or herself out to be licensed ~~as a~~
34 ~~Licensed Recreational Therapist or a Licensed Recreational Therapy Assistant~~ under this Chapter
35 or who practices recreational therapy or therapeutic recreation shall be guilty of a Class 1
36 misdemeanor. Any fine imposed as a result of conviction shall not exceed five hundred dollars
37 (\$500.00). ~~Any person not licensed as a Licensed Professional Music Therapist under this~~
38 ~~Chapter who holds himself or herself out to be licensed as a Licensed Professional Music~~
39 ~~Therapist or a North Carolina Licensed Professional Music Therapist or who uses the initials~~
40 ~~"LPMT" or "NCLPMT" shall be guilty of a Class 1 misdemeanor. Any fine imposed as a result~~
41 ~~of conviction shall not exceed five hundred dollars (\$500.00).~~

42 **"§ 90C-37. Enjoining illegal practices.**

43 (a) If the Board finds that a person is violating any of the provisions of this Chapter, it
44 may apply in its own name to the superior court for a temporary or permanent restraining order
45 or an injunction to prevent that person from continuing the illegal practices. The court is
46 empowered to grant an injunction regardless of whether criminal prosecution or other action has
47 been or may be instituted as a result of the violation. All actions by the Board shall be governed
48 by the Rules of Civil Procedure.

49 (b) The venue for actions brought under this Chapter shall be in the county where the
50 defendant resides or the county where the violation occurs."

51 **SECTION 7.9.** This part is effective January 1, 2019.

1
2 **PART VII-F. EFFECTIVE DATE**

3 **SECTION 7.10.** Except as otherwise provided, this act is effective when it becomes
4 law.

5
6 **PART VII-G. SCHOOLS PSYCHOLOGIST LICENSES**

7 **SECTION 7.11.(a)** G.S. 115C-270.20(b) is repealed.

8 **SECTION 7.11.(b)** The catch line of G.S. 115C-270.20 reads as rewritten:

9 "**§ 115C-270.20. Licensure-Teacher licensure requirements.**"

10 **SECTION 7.11.(c)** Article 17E of Chapter 115C of the General Statutes is amended
11 by adding a new section to read:

12 "**§ 115C-270.21. Administrator and student services personnel licensure requirements.**

13 (a) Administrators. – The State Board shall establish classification and levels of
14 preparation necessary for issuance of licenses for administrators, as provided in this Chapter.

15 (b) Student Services Personnel. – The State Board shall establish classification and levels
16 of preparation necessary for issuance of licenses for student services personnel, as provided in
17 this Article.

18 The State Board of Education shall issue a school psychologist license to an individual who
19 does any of the following: (i) meets the criteria for licensure as a school psychologist established
20 by the State Board or (ii) holds the Nationally Certified School Psychologist credential issued by
21 the National Association of School Psychologists. For any individual that holds the Nationally
22 Certified School Psychologist credential, a school psychologist license shall be issued to the
23 individual within 60 days of submission of a completed application that includes documentation
24 verifying that credential."

25 **SECTION 7.11.(d)** This section is effective when it becomes law and applies to
26 applications for licensure submitted on or after that date.

27
28 **PART VIII. EFFECTIVE DATE**

29 **SECTION 8.** Except as otherwise provided, this act is effective when it becomes
30 law.