

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 735
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PROPOSED HOUSE COMMITTEE SUBSTITUTE S735-PCS45578-ROF-9

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.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. REFORM OLB FINANCIAL REPORTING**

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

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

16 **"§ 143B-426.39. Powers and duties of the State Controller.**

17 The State Controller shall:

- 18 (1) Prescribe, develop, operate, and maintain in accordance with generally
19 accepted principles of governmental accounting, a uniform state accounting
20 system for all state agencies. The system shall be designed to assure
21 compliance with all legal and constitutional requirements including those
22 associated with the receipt and expenditure of, and the accountability for
23 public funds. The State Controller may elect to review a State agency's
24 compliance with prescribed uniform State accounting system standards, as
25 well as applicable legal and constitutional requirements related to compliance
26 with such standards.
- 27 (2) On the recommendation of the State Auditor, prescribe and supervise the
28 installation of any changes in the accounting systems of an agency that, in the
29 judgment of the State Controller, are necessary to secure and maintain internal
30 control and facilitate the recording of accounting data for the purpose of
31 preparing reliable and meaningful statements and reports. The State Controller
32 shall be responsible for seeing that a new system is designed to accumulate
33 information required for the preparation of budget reports and other financial
34 reports.



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

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

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

14 **"§ 93B-2.1. Fiscal year.**

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

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

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

21 **"§ 93B-2. Annual reports and audits required; contents; open to inspection; sanction for**
22 **failure to report.**

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

27 (1) The address of the board, and the names of its members and officers.

28 (1a) The total number of licensees supervised by the board.

29 (2) The number of persons who applied to the board for examination.

30 (3) The number who were refused examination.

31 (4) The number who took the examination.

32 (5) The number to whom initial licenses were issued.

33 (5a) The number who failed the examination.

34 (6) The number who applied for license by reciprocity or comity.

35 (7) The number who were granted licenses by reciprocity or comity.

36 (7a) The number of official complaints received involving licensed and unlicensed
37 activities.

38 (7b) The number of disciplinary actions taken against licensees, or other actions
39 taken against nonlicensees, including injunctive relief.

40 (8) The number of licenses suspended or revoked.

41 (9) The number of licenses terminated for any reason other than failure to pay the
42 required renewal fee.

43 (10) The substance of any anticipated request by the occupational licensing board
44 to the General Assembly to amend statutes related to the occupational
45 licensing board.

46 (11) The substance of any anticipated change in rules adopted by the occupational
47 licensing board or the substance of any anticipated adoption of new rules by
48 the occupational licensing board.

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

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

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

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

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

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

23 "**§ 93B-4. Audit of Occupational Licensing Boards; Boards by the State Auditor; payment**
24 **of costs.**

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

32 (b) ~~Each occupational licensing board with a budget of at least fifty thousand dollars~~
33 ~~(\$50,000) shall conduct an annual financial audit of its operations and provide a copy to the State~~
34 ~~Auditor."~~

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

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

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

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

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

42 **Chapter 86B.**

43 **Barbers and Electrolysis Practice Act.**

44 **§ 86B-1. Short title.**

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

47 **§ 86B-2. Definitions.**

48 The following definitions apply in this Chapter:

49 (1) Barber. – A person engaged in any of the following practices:

50 a. Shaving or trimming the beard, or cutting the hair.

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

25 **"§ 86B-3. Creation and membership of the Board; term of office; removal.**

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

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

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

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

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

46 **"§ 86B-4. Powers and duties of the Board.**

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

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

4 **"§ 86B-5. Meetings and compensation of the Board; officers and executive director.**

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

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

15 (c) With the approval of the Director of the Budget and the Office of State Human
16 Resources, the Board may employ as many inspectors, investigators, attorneys, and other staff as
17 necessary to perform inspections and other duties prescribed by the Board. Inspectors and
18 investigators shall have authority to examine shops, offices, and schools during business hours
19 to determine compliance with this Chapter. The salaries of all employees of the Board, excluding
20 the executive director, shall be subject to the North Carolina Human Resources Act.

21 (d) The executive director may collect in the Board's name and on its behalf the fees
22 prescribed in this Chapter and shall turn these and any other monies paid to the Board over to the
23 State Treasurer. These funds shall be credited to the Board and shall be held and expended under
24 the supervision of the Director of the Budget only for the administration and enforcement of this
25 Chapter. Nothing in this Chapter shall authorize any expenditure in excess of the amount credited
26 to the Board and held by the State Treasurer as provided in this subsection. The State Budget Act
27 shall apply to the administration of this Chapter.

28 **"§ 86B-6. Qualifications for certificate as a registered barber.**

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

- 31 (1) Has attended an approved barber school for at least 1,528 hours.
- 32 (2) Has completed a 12-month apprenticeship under the supervision of a
33 registered barber, as provided in G.S. 86B-7.
- 34 (3) Has passed a clinical examination conducted by the Board.
- 35 (4) Has submitted to the Board the affidavit required by G.S. 86B-7(c) certifying
36 that the applicant has served the apprenticeship required by this section.

37 **"§ 86B-7. Qualifications for licensing barber apprentices.**

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

41 (b) An apprentice license expires on May 31 of each year. Every holder of an apprentice
42 license shall annually renew the apprentice license by the expiration date and pay the required
43 renewal fee. An apprentice license issued under this Chapter is automatically suspended by
44 operation of law after failure to renew the apprentice license by the expiration date. An apprentice
45 whose apprentice license has expired may have the certificate restored immediately upon paying
46 all lapsed renewal fees and the required late fee. The certificate of registration of an apprentice
47 is valid only so long as the apprentice works under the supervision of a registered barber. The
48 registered barber shall remain present on the premises of the barbershop at all times while the
49 apprentice is working. No apprentice shall operate a barbershop.

50 (c) On completion of at least one year's apprenticeship, evidenced by affidavit of the
51 supervising registered barber or barbers, and upon meeting the other requirements of this

1 Chapter, the apprentice shall be issued a license as a barber, pursuant to G.S. 86B-6. No licensed
2 apprentice may practice for a period exceeding three years without retaking and passing the
3 required examination to qualify as a registered barber.

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

14 **"§ 86B-8. Qualifications for licensure as an electrologist.**

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

- 17 (1) Submit an application on a form approved by the Board.
- 18 (2) Be 21 years of age or older.
- 19 (3) Meet the requirements of subsection (b) of this section.
- 20 (4) Pass an examination given by the Board.
- 21 (5) Submit the application and examination fees required in G.S. 86B-31.

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

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

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

31 **"§ 86B-9. Requirements for licensure as a laser hair practitioner; limitations on licensed
32 laser hair practitioners.**

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

- 35 (1) Be an electrologist licensed under this Chapter.
- 36 (2) Completed a minimum 30-hour laser, light source, or pulsed-light treatment
37 certification course approved by the Board and in accordance with rules
38 adopted by the Board.
- 39 (3) Be currently using or anticipate using laser, light source, or pulsed-light
40 devices that the person has been certified by a Board-approved school to
41 operate.

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

45 (c) Each laser hair practitioner shall practice laser, light source, or pulsed-light treatments
46 under the supervision of a physician licensed under Article 1 of Chapter 90 of the General
47 Statutes. The physician shall be readily available but not required to be on site when the laser,
48 light source, or pulsed-light treatments are being performed. However, the authority to regulate
49 laser clinicians shall remain with the Board.

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

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

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

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

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

13 (1) Possession of a high school diploma or a high school graduation equivalency
14 certificate.

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

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

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

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

23 **"§ 86B-11. Requirements for certification as an electrology instructor.**

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

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

27 (2) Be a licensed electrologist;

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

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

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

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

39 **"§ 86B-12. Requirements for licensure as a laser hair practitioner instructor.**

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

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

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

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

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

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

51 **"§ 86B-13. Temporary employment permit; extensions; limits on practice.**

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

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

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

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

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

15 (c) The holder of a temporary employment permit may practice only under the
16 supervision of a registered barber or the supervision of an electrologist or laser hair practioner,
17 as appropriate, and may not operate a barbershop or an electrologist or laser hair practitioner
18 office.

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

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

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

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

40 **"§ 86B-14. Applicants licensed in other states.**

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

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

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

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

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

50 (b) Instead of meeting the requirements in subsection (a) of this section, any applicant
51 who is licensed as a barber, electrologist, or laser hair practitioner in another state shall be

1 admitted to practice in this State under the same reciprocity or comity provisions that the state in
2 which the applicant is licensed grants to persons licensed in this State.

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

8 **"§ 86B-15. Licensing of barbershops.**

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

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

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

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

22 **"§ 86B-16. Practice outside barbershops.**

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

29 **"§ 86B-17. Licensing and regulation of barber schools.**

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

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

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

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

44 **"§ 86B-18. Bond required for private barber schools.**

45 (a) Each private barber school shall provide a guaranty bond unless the school has already
46 provided a bond or an alternative to a bond under G.S. 115D-95. The Board may restrict, suspend,
47 revoke, or refuse to renew or reinstate the license of a school that fails to maintain a bond or an
48 alternative to a bond pursuant to this section or G.S. 115D-95. A school shall provide a copy of
49 the bond letter or other guarantee authorized by this section to the Board.

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

- 1 (1) The applicant shall file the guaranty bond with the clerk of superior court in
2 the county in which the school is located. The bond shall be in favor of the
3 students. The bond shall be executed by the applicant as principal and by a
4 bonding company authorized to do business in this State. The bond shall be
5 conditioned to provide indemnification to any student or the student's parent
6 or guardian who has suffered loss of tuition or any fees by reason of the failure
7 of the school to offer or complete student instruction, academic services, or
8 other goods and services as related to course enrollment for any reason,
9 including suspension, revocation, or nonrenewal of a school's approval,
10 bankruptcy, foreclosure, or the school's ceasing to operate.
11 (2) The bond amount shall be at least equal to the maximum amount of prepaid
12 tuition held at any time by the school during the last fiscal year, but in no case
13 shall be less than ten thousand dollars (\$10,000). Each application for license
14 or license renewal shall include a letter signed by an authorized representative
15 of the school showing the calculations made and the method of computing the
16 amount of the bond in accordance with rules prescribed by the Board. If the
17 Board finds that the calculations made and the method of computing the
18 amount of the bond are inaccurate or that the amount of the bond is otherwise
19 inadequate to provide indemnification under the terms of the bond, the Board
20 may require the applicant to provide an additional bond.
21 (3) The bond shall remain in force and effect until canceled by the guarantor. The
22 guarantor may cancel the bond upon 30 days' notice to the Board. Cancellation
23 of the bond shall not affect any liability incurred or accrued prior to the
24 termination of the notice period.

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

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

40 **"§ 86B-19. Requirements for certification as a Board-approved school of electrology.**

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

- 43 (1) Submit an application on a form approved by the Board;
44 (2) Submit a detailed projected floor plan of the institutional area demonstrating
45 adequate school facilities to accommodate students for purposes of lectures,
46 classroom instruction, and practical demonstration;
47 (3) Submit a detailed list of the equipment to be used by the students in the
48 practical course of their studies;
49 (4) Submit a copy of the planned electrology curriculum consisting of the number
50 of hours and subject matter determined by the Board, provided that the number
51 of hours required shall not be less than 120 hours and not more than 600 hours;

- 1 (5) Submit a certified copy of the school manual of instruction;
2 (6) Submit the names and qualifications of the instructors certified in accordance
3 with G.S. 86B-11; and
4 (7) Any additional information the Board may require.

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

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

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

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

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

16 **"§ 86B-20. Requirements for certification as a Board-approved school of laser, light source,**
17 **or pulsed-light treatments.**

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

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

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

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

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

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

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

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

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

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

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

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

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

44 **"§ 86B-21. Barber Examinations.**

45 (a) The Board shall conduct examinations of applicants for certificates of registration to
46 practice as registered barbers and registered apprentices, not less than four times each year, at
47 such times and places as will prove most convenient and as the Board may determine. The Board
48 may adopt rules establishing procedures for the administration of examinations.

49 (b) An applicant shall make application and submit the examination fee to the Board for
50 examination on forms prepared by the Board. Applications for examination must be filed no later
51 than 30 days before the examination is held. An applicant for a licensure who fails to pass the

1 examination three times may not reapply to take the examination again until after the applicant
2 has successfully completed any additional requirements prescribed by the Board. The Board may
3 establish additional guidelines related to the examination of persons who completed coursework
4 greater than five years prior to submitting an application for examination.

5 **"§ 86B-22. Sanitary rules and regulations; inspections.**

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

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

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

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

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

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

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

50 (d) All schools and facilities where barbering, electrolysis, or laser, light source, or
51 pulsed-light treatment service is rendered shall be open for inspection at all times during business

1 hours to any members of the Board or its agents or assistants to determine compliance with the
2 provisions of this Chapter. Initial inspections conducted by the Board pursuant to this Chapter
3 shall not be delayed if the sole reason for delay is the lack of a certificate of occupancy by a unit
4 of local government. A copy of the sanitary rules set out in this section shall be furnished by the
5 Board to the owner or manager of each school, facility, or any other place where barbering,
6 electrolysis, or laser, light source, or pulsed-light treatment service is rendered in the State and
7 shall be posted in a conspicuous place.

8 **"§ 86B-23. Renewal requirements; expired licenses; inactive status.**

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

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

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

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

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

44 (b) The Board may charge renewal and late fees pursuant to G.S. 86B-30 and
45 G.S. 86B-31 and may establish rules for continuing education requirements for licensees under
46 this Chapter seeking renewal; provided, however, that no member of the Board may offer
47 continuing education courses. The Board may also establish rules requiring the submission of a
48 health certificate on a form to be provided by the Board.

49 (c) If a licensee under this Chapter fails to renew their license within five years following
50 the expiration date, the licensee shall be required to pass an examination as prescribed by the

1 Board before the license will be reinstated; provided, however, that no apprenticeship
2 requirement shall be required.

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

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

17 **"§ 86B-24. Revocation of licenses and other disciplinary measures.**

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

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

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

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

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

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

4 **"§ 86B-25. Misdemeanors.**

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

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

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

9 **"§ 86B-26. Licenses required.**

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

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

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

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

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

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

37 **"§ 86B-27. Enjoining illegal practices.**

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

43 **"§ 86B-28. Civil penalties; disciplinary costs.**

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

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

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

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

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

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

10 **"§ 86B-29. Persons exempt from the provisions of this Chapter.**

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

- 14 (1) Persons licensed to practice funeral service pursuant to Article 13A of Chapter
- 15 90 of the General Statutes.
- 16 (2) Persons authorized to practice medicine or surgery under Chapter 90 of the
- 17 General Statutes.
- 18 (3) Nurses licensed under Chapter 90 of the General Statutes.
- 19 (4) Commissioned medical or surgical officers of the United States Army, Air
- 20 Force, Navy, Marine, or Coast Guard.

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

- 22 (1) Any physician licensed in accordance with Article 1 and Article 11 of Chapter
- 23 90 of the General Statutes.
- 24 (2) A student at an approved school of electrology when electrolysis is performed
- 25 in the course of study.
- 26 (3) A person demonstrating on behalf of a manufacturer or distributor any
- 27 electrolysis equipment or supplies, if such demonstration is performed without
- 28 charge.
- 29 (4) An employee of a hospital licensed under Chapter 131E of the General
- 30 Statutes and working under the supervision of a physician licensed under
- 31 Article 1 of Chapter 90 of the General Statutes who is certified by the
- 32 American Board of Dermatology.

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

39 **"§ 86B-30. Fees required for barbering.**

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

- 42 (1) Examination to become a registered barber \$85.00
- 43 (2) Examination to become a registered apprentice barber \$85.00
- 44 (3) Examination to become a barber school instructor \$165.00

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

- 46 (1) Inspection of a newly established barbershop..... \$120.00
- 47 (2) Inspection of a newly established barber school \$220.00
- 48 (3) Reciprocity or certification applicant..... \$120.00

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

- 50 (1) Barber \$50.00 per year
- 51 (2) Barber apprentice \$50.00 per year

1	(3)	Barbershop	\$50.00 per year
2	(4)	Barber school	\$130.00 per year
3	(5)	Barber school instructor	\$85.00 per year
4	(6)	Student permit	\$25.00
5	(7)	Temporary permit.....	\$25.00
6	(8)	Duplicate license	\$10.00
7	(d)	The Board may require payment of late fees and reinstatement fees not to exceed the	
8		following:	
9	(1)	Barber and barber apprentice late renewal within one year	
10		\$35.00
11	(2)	Barber late renewal after one year but within five years	\$70.00
12	(3)	Barber apprentice late renewal after one year but within	
13		three years	\$45.00
14	(4)	Barbershop late renewal.....	\$45.00
15	(5)	Barber school late renewal.....	\$85.00
16	(6)	Barber school instructor late renewal within one year.....	\$45.00
17	(7)	Barber school instructor late renewal after one year but	
18		within three years	\$85.00
19	(e)	The Board may prorate fees as appropriate and may assess reasonable charges for	
20		certified copies of public documents and for duplication of other material.	
21	(f)	The Board may by rule waive or reduce license and renewal fees for licensees aged	
22		70 or older.	
23		<u>"§ 86B-31. Fees required for electrolysis and laser, light source, and pulsed-light treatment.</u>	
24		All fees may be calculated by the Board in amounts sufficient to pay the costs of	
25		administration of this act related to electrolysis and laser, light source, and pulsed-light treatment,	
26		but in no event may they exceed the following:	
27	(1)	Application for licensure as an electrologist	\$150.00
28	(2)	Initial license	\$125.00
29	(3)	Examination or reexamination.....	\$150.00
30	(4)	Licensure of electrology renewal.....	\$150.00
31	(5)	Application for licensure as an electrology	
32		instructor.....	\$150.00
33	(6)	Licensure of electrology instructor renewal	\$150.00
34	(7)	Application for certification as a	
35		Board-approved school of electrology	\$500.00
36	(8)	Application for licensure as laser hair practitioner.....	\$150.00
37	(9)	Licensure of laser hair practitioner renewal	\$150.00
38	(10)	Application for licensure as laser hair practitioner instructor	\$150.00
39	(11)	Licensure of laser hair practitioner instructor renewal	\$150.00
40	(12)	Application for certification as a Board-approved school of	
41		laser, light source, or pulsed-light treatments.....	\$500.00
42	(13)	Certificate of Board-approved school of laser, light source,	
43		or pulsed-light renewal	\$400.00
44	(14)	Certificate of Board-approved school of	
45		electrology renewal	\$250.00
46	(15)	Certification of out-of-state schools	\$150.00
47	(16)	Certification of out-of-state schools renewal	\$100.00
48	(17)	Office inspection or reinspection	\$100.00
49	(18)	License by reciprocity	\$150.00
50	(19)	Late renewal charge	\$125.00
51	(20)	Reinstatement of expired license or certification	\$250.00

1	<u>(21)</u>	Reactivation of license	\$200.00
2	<u>(22)</u>	Duplicate license or certification	\$25.00."

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

- 6 (1) Four barbers serving on the Board of Barber Examiners as of December 31,
 7 2018, until their current terms expire.
- 8 (2) One electrologist serving on the Board of Electrolysis Examiners as of
 9 December 31, 2018, as determined by the Governor, for a three-year term.
- 10 (3) One physician, appointed by the Governor, for a two-year term.
- 11 (4) One public member, appointed by the Governor, for a one-year term.

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

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

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

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

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

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

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

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

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

4
5 **PART III. VARIOUS ADMINISTRATIVE LAW CHANGES**

6
7 **AUTHORIZE RULE TECHNICAL CORRECTIONS**

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

9 **"§ 150B-21.5. Circumstances when notice and rule-making hearing not required.required;**
10 **circumstances when submission to the Commission not required.**

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

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

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

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

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

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

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

- 48 (1) A statement of the subject matter of the proposed rule making.
- 49 (2) A short explanation of the reason for the proposed action.
- 50 (3) A citation to the law that gives the agency the authority to adopt a rule on the
51 subject matter of the proposed rule making.

- 1 (4) The person to whom questions or written comments may be submitted on the
2 subject matter of the proposed rule making.

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

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

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

11 **"§ 150B-21.20. Codifier's authority to revise ~~form of~~ rules.**

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

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

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

47 **CLARIFY CONTESTED CASE POLICY**

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

49 **"§ 150B-22. Settlement; contested case.**

50 (a) It is the policy of this State that any dispute between an agency and another person
51 that involves the person's rights, duties, or privileges, including licensing or the levy of a

1 monetary penalty, should be settled through informal procedures. In trying to reach a settlement
 2 through informal procedures, the agency may not conduct a proceeding at which sworn testimony
 3 is taken and witnesses may be cross-examined.

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

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

11 **"§ 150B-43. Right to judicial review.**

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

23 24 **AMEND PERIODIC REVIEW OF RULES PROCESS**

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

26 **"§ 150B-21.3A. Periodic review and expiration of existing rules.**

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

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

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

31 (2a) Necessary rule. – Means any rule other than an unnecessary rule.

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

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

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

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

49 (b) Automatic Expiration. – Except as provided in subsection (e) of this section, any rule
 50 for which the agency that adopted the rule has not conducted a review in accordance with this

1 section shall expire on the date set in the schedule established by the Commission pursuant to
2 subsection (d) of this section.

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

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

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

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

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

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

1 (1) Rules adopted to conform to or implement federal law.

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

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

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

13 14 **PART IV. EXPANSION OF MASSAGE AND BODYWORK THERAPY BOARD**

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

16 **"§ 90-625. North Carolina Board of Massage and Bodywork Therapy.**

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

19 (1) Five members shall be massage and bodywork therapists who have been
20 licensed under this Article and have been in the practice of massage and
21 bodywork therapy for at least five of the last seven years prior to their serving
22 on the Board. Consideration shall be given to geographical distribution,
23 practice setting, clinical specialty, involvement in massage and bodywork
24 therapy education, and other factors that will promote diversity of the
25 profession on the Board. Two of the five members shall be appointed by the
26 General Assembly, upon the recommendation of the Speaker of the House of
27 Representatives, two shall be appointed by the General Assembly, upon the
28 recommendation of the President Pro Tempore of the Senate, and one shall be
29 appointed by the Governor.

30 (1a) Two members shall be persons holding a license to operate a massage and
31 bodywork therapy establishment under this Article. One of the two members
32 shall be appointed by the General Assembly upon the recommendation of the
33 Speaker of the House of Representatives and one shall be appointed by the
34 General Assembly upon the recommendation of the President Pro Tempore of
35 the Senate.

36 (2) One member shall be a physician licensed pursuant to Article 1 of Chapter 90
37 of the General Statutes or a person once licensed as a physician whose license
38 lapsed while the person was in good standing with the profession and eligible
39 for licensure. The appointment shall be made by the Governor and may be
40 made from a list provided by the North Carolina Medical Society.

41 (3) One member shall be a member of the general public who shall not be licensed
42 under Chapter 90 of the General Statutes or the spouse of a person who is so
43 licensed, or have any financial interest, directly or indirectly, in the profession
44 regulated under this Article. The appointment shall be made by the Governor.

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

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

50 "

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, 2018.

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.

38 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 VIII. EFFECTIVE DATE**

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