

Disposition of Bills Recommended by APO to the 2016 Short Session

September 6, 2016

Authorize APO Studies

House Bill 948 (Authorize APO Studies)

Passed the House; Referred to Senate Health Care

Senate Bill 743 (Authorize APO Studies)

Referred to Senate Finance

Occupational Licensing Board Contact Info

House Bill 949 (Occupational Licensing Board Contact Info)

Passed the House; Referred to Senate Rules

Senate Bill 744 (Occupational Licensing Board Contact Info)

Referred to Senate Finance

Amend Occupational Licensing Board Statutes

House Bill 1007 (Amend Occupational Licensing Board Statutes)

Passed the House; Referred to Senate Finance

Senate Bill 783 (Amend Occupational Licensing Board Statutes)

Referred to Senate Rules



FULL SITE SEARCH: <input type="text" value="type search criteria"/>	<input type="button" value="Go"/>
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<< H947

House Bill 948 (= S743)

H949 >>

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Last Action: [Ref To Com On Health Care on 06/29/2016](#)

Sponsors: Jordan; (Primary)
Cleveland; Faircloth; Floyd; Harrison; Jones; Szoka;

Attributes: Public; Text has changed; Requests Study

Counties: No counties specifically cited

Statutes: 90-85.15 (Section)

Keywords: ADMIN, PROCEDURE OVERSIGHT COMM., ATTORNEYS, BOARDS, COMMITTEES, CRIMINAL RECORDS, EMERGENCY SERVICES, EMPLOYMENT, FEES, FINGERPRINTING, GENERAL ASSEMBLY, HEALTH SERVICES, ID SYSTEMS, LICENSING & CERTIFICATION, OCCUPATIONS, PHARMACEUTICALS, PHARMACISTS, PHARMACY BOARD, PUBLIC, PUBLIC SAFETY DEPT., RECORDS, STATE BAR, STUDIES

Vote History

Date	Subject	RCS #	Aye	No	N/V	Exc. Abs.	Exc. Vote	Total	Result
06/28/2016 4:41PM	Second Reading	[H] - 1375	112	0	1	7	0	112	PASS

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History

Date	Chamber	Action	Documents	Vote
04/25/2016	House	Filed	DRH40535-SBz-25A	
04/26/2016	House	Passed 1st Reading		
04/26/2016	House	Ref To Com On Rules, Calendar, and Operations of the House		
06/02/2016	House	Withdrawn From Com		
06/02/2016	House	Re-ref Com On Judiciary II		
06/07/2016	House	Reptd Fav Com Substitute	H948-PCS40648-TQf-36	
06/07/2016	House	Re-ref Com On Finance		
06/28/2016	House	Reptd Fav		
06/28/2016	House	Cal Pursuant Rule 36(b)		
06/28/2016	House	Added to Calendar		
06/28/2016	House	Passed 2nd Reading		PASS: 112-0
06/28/2016	House	Passed 3rd Reading		
06/28/2016	House	Special Message Sent To Senate		
06/29/2016	Senate	Special Message Received From House		
06/29/2016	Senate	Passed 1st Reading		
06/29/2016	Senate	Ref To Com On Health Care		

Note: a bill listed on this website is not law until passed by the House and the Senate, ratified, and, if required, signed by the Governor.

2015-2016 Session	<input type="button" value="▼"/>
Bill Number: <input type="text" value="enter bill # (e.g., S253)"/>	<input type="button" value="Look-Up"/>

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL DRH40535-SBz-25A* (03/28)

Short Title: Authorize APO Studies.

(Public)

Sponsors: Representative Jordan.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE
3 OVERSIGHT COMMITTEE TO STUDY CERTAIN ISSUES, AS RECOMMENDED BY
4 THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT
5 COMMITTEE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** The Joint Legislative Administrative Procedure Oversight Committee
8 may continue to study issues related to occupational licensing boards. As part of this study, the
9 Committee may consider any of the following:

10 (1) Oversight of occupational licensing boards, generally.

11 (2) Oversight of the North Carolina State Bar.

12 (3) Disciplinary actions and procedures of occupational licensing boards.

13 The Committee may report the results of this study, if any, including any legislative
14 proposals, to the 2017 General Assembly.

15 **SECTION 2.** The Joint Legislative Administrative Procedure Oversight Committee
16 may study whether there are certain categories of contested cases in which the burden of proof
17 should be placed with the agency. The Committee may report the results of this study, if any,
18 including any legislative proposals, to the 2017 General Assembly.

19 **SECTION 3.** This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 948*

Short Title: Authorize APO Studies. (Public)

Sponsors: Representative Jordan.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 26, 2016

1 A BILL TO BE ENTITLED

2 AN ACT TO AUTHORIZE THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE
3 OVERSIGHT COMMITTEE TO STUDY CERTAIN ISSUES, AS RECOMMENDED BY
4 THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT
5 COMMITTEE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** The Joint Legislative Administrative Procedure Oversight Committee
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9 Committee may consider any of the following:

10 (1) Oversight of occupational licensing boards, generally.
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12 (3) Disciplinary actions and procedures of occupational licensing boards.

13 The Committee may report the results of this study, if any, including any legislative
14 proposals, to the 2017 General Assembly.

15 **SECTION 2.** The Joint Legislative Administrative Procedure Oversight Committee
16 may study whether there are certain categories of contested cases in which the burden of proof
17 should be placed with the agency. The Committee may report the results of this study, if any,
18 including any legislative proposals, to the 2017 General Assembly.

19 **SECTION 3.** This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

2

HOUSE BILL 948*
Committee Substitute Favorable 6/7/16

Short Title: Authorize APO Studies.

(Public)

Sponsors:

Referred to:

April 26, 2016

1 A BILL TO BE ENTITLED

2 AN ACT TO AUTHORIZE THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE
3 OVERSIGHT COMMITTEE TO STUDY CERTAIN ISSUES, AS RECOMMENDED BY
4 THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT
5 COMMITTEE, AND TO ALLOW THE BOARD OF PHARMACY TO OBTAIN
6 CRIMINAL RECORD REPORTS FROM APPROVED REPORTING SERVICES.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** The Joint Legislative Administrative Procedure Oversight Committee
9 may continue to study issues related to occupational licensing boards. As part of this study, the
10 Committee may consider any of the following:

11 (1) Oversight of occupational licensing boards, generally.

12 (2) Oversight of the North Carolina State Bar.

13 (3) Disciplinary actions and procedures of occupational licensing boards.

14 The Committee may report the results of this study, if any, including any legislative
15 proposals, to the 2017 General Assembly.

16 **SECTION 2.** The Joint Legislative Administrative Procedure Oversight Committee
17 may study whether there are certain categories of contested cases in which the burden of proof
18 should be placed with the agency. The Committee may report the results of this study, if any,
19 including any legislative proposals, to the 2017 General Assembly.

20 **SECTION 3.** G.S. 90-85.15 reads as rewritten:

21 **§ 90-85.15. Application and examination for licensure as a pharmacist; prerequisites.**

22 (a) Any person who desires to be licensed as a pharmacist shall file an application with the
23 Executive Director on the form furnished by the Board, verified under oath, setting forth the
24 applicant's name, age, the place at which and the time that he-the applicant has spent in the study
25 of pharmacy, and his-the applicant's experience in compounding and dispensing prescriptions
26 under the supervision of a pharmacist. The applicant shall also appear at a time and place
27 designated by the Board and submit to an examination as to his-the applicant's qualifications for
28 being licensed. The applicant must demonstrate to the Board his-the applicant's physical and
29 mental competency to practice pharmacy.

30 (b) On or after July 1, 1982, all applicants shall have received an undergraduate degree
31 from a school of pharmacy approved by the Board. Applicants shall be required to have had up to
32 one year of experience, approved by the Board, under the supervision of a pharmacist and shall
33 pass the required examination offered by the Board. Upon completing these requirements and
34 upon paying the required fee, the applicant shall be licensed.

35 (c) ~~The Department of Public Safety may provide a criminal record check to the Board for
36 a person who has applied for a license through the Board. The Board shall provide to the~~



1 Department of Public Safety, along with the request, the fingerprints of the applicant, any
2 additional information required by the Department of Public Safety, and a form signed by the
3 applicant consenting to the check of the criminal record and to the use of the fingerprints and other
4 identifying information required by the State or national repositories. The applicant's fingerprints
5 shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history
6 record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the
7 Federal Bureau of Investigation for a national criminal history check. The Board shall keep all
8 information pursuant to this subsection privileged, in accordance with applicable State law and
9 federal guidelines, and the information shall be confidential and shall not be a public record under
10 Chapter 132 of the General Statutes.

11 The Department of Public Safety may charge each applicant a fee for conducting the checks of
12 criminal history records authorized by this subsection. The Board may require an applicant to
13 provide the Board with a criminal record report. All applicants shall obtain criminal record reports
14 from one or more reporting services designated by the Board to provide criminal record reports.
15 Applicants are required to pay the designated reporting service for the cost of these reports."

16 **SECTION 4.** This act is effective when it becomes law.



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Senate Bill 743 (= H948)

S744 >>

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Authorize APO Studies. 2015-2016 Session

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Edition 1 (HTML)	

Last Action:	Ref To Com On Finance on 04/26/2016
Sponsors:	Hartsell; (Primary)
Attributes:	Public; Requests Study
Courts:	No counties specifically cited
Statutes:	No affected General Statutes
Keywords:	ADMIN. PROCEDURE OVERSIGHT COMM., ATTORNEYS, BOARDS, COMMITTEES, EMPLOYMENT, GENERAL ASSEMBLY, LICENSING & CERTIFICATION, OCCUPATIONS, PUBLIC, STATE BAR, STUDIES

Date	Chamber Action	History	Documents	Vote
04/25/2016	Senate Filed		DRS45422-SBz-25	
04/26/2016	Senate Passed 1st Reading			
04/26/2016	Senate Ref To Com On Finance			

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2015-2016 Session	<input type="button" value="▼"/>
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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

D

SENATE BILL DRS45422-SBz-25* (03/28)

Short Title: Authorize APO Studies.

(Public)

Sponsors: Senator Hartsell (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO AUTHORIZE THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE
3 OVERSIGHT COMMITTEE TO STUDY CERTAIN ISSUES, AS RECOMMENDED BY
4 THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT
5 COMMITTEE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** The Joint Legislative Administrative Procedure Oversight Committee
8 may continue to study issues related to occupational licensing boards. As part of this study, the
9 Committee may consider any of the following:

10 (1) Oversight of occupational licensing boards, generally.
11 (2) Oversight of the North Carolina State Bar.
12 (3) Disciplinary actions and procedures of occupational licensing boards.

13 The Committee may report the results of this study, if any, including any legislative
14 proposals, to the 2017 General Assembly.

15 **SECTION 2.** The Joint Legislative Administrative Procedure Oversight Committee
16 may study whether there are certain categories of contested cases in which the burden of proof
17 should be placed with the agency. The Committee may report the results of this study, if any,
18 including any legislative proposals, to the 2017 General Assembly.

19 **SECTION 3.** This act is effective when it becomes law.



**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

5

1

SENATE BILL 743*

Short Title: Authorize APO Studies.

(Public)

Sponsors: Senator Hartsell (Primary Sponsor).

Referred to: Finance

April 26, 2016

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE
OVERSIGHT COMMITTEE TO STUDY CERTAIN ISSUES, AS RECOMMENDED BY
THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT
COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. The Joint Legislative Administrative Procedure Oversight Committee may continue to study issues related to occupational licensing boards. As part of this study, the Committee may consider any of the following:

- (1) Oversight of occupational licensing boards, generally.
- (2) Oversight of the North Carolina State Bar.
- (3) Disciplinary actions and procedures of occupational licensing boards.

The Committee may report the results of this study, if any, including any legislative proposals, to the 2017 General Assembly.

SECTION 2. The Joint Legislative Administrative Procedure Oversight Committee may study whether there are certain categories of contested cases in which the burden of proof should be placed with the agency. The Committee may report the results of this study, if any, including any legislative proposals, to the 2017 General Assembly.

SECTION 3. This act is effective when it becomes law.





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House Bill 949 (= S744)

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Occupational Licensing Board Contact Info.

2015-2016 Session

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Filed [HTML]	
Edition 1 [HTML]	
Edition 2 [HTML]	

Last Action: [Ref To Com On Rules and Operations of the Senate on 06/09/2016](#)

Sponsors: Jordan, (Primary)
Cleveland; Faircloth; Floyd; Harrison; Lucas; Warren;

Attributes: Public; Text has changed;

Counties: No counties specifically cited

Statutes: 20, 90, 93, 120 (Chapters); 120-30.49, 120-32, 120-32.01, 120-36.6,
120-36.8, 20-79.3A, 90-413.3A, 90-414.5, 93B-2 (Sections)

Keywords: ADMIN, PROCEDURE OVERSIGHT COMM., BOARDS,
COMMITTEES, EMPLOYMENT, GENERAL ASSEMBLY, LEGISLATIVE
ANALYSIS DIVISION, LEGISLATIVE SERVICES OFFICE, LICENSING
& CERTIFICATION, NOTIFICATION, OCCUPATIONS, PUBLIC,
RESEARCH DIVISION, TITLE CHANGE

Vote History

Date	Subject	RCS #	Aye	No	N/V	Exc. Abs.	Exc. Vote	Total	Result
06/08/2016 3:01PM	Second Reading	[H] - 1210	115	0	1	4	0	115	PASS

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History

Date	Chamber	Action	Documents	Vote
04/25/2016	House	Filed	DRH10465-SBz-29A	
04/26/2016	House	Passed 1st Reading		
04/26/2016	House	Ref To Com On Rules, Calendar, and Operations of the House		
06/02/2016	House	Withdrawn From Com		
06/02/2016	House	Re-ref Com On Judiciary II		
06/07/2016	House	Reptd Fav Com Substitute	H949-PCS30515-RO-34	
06/07/2016	House	Cal Pursuant Rule 36(b)		
06/07/2016	House	Placed On Cal For 06/08/2016		
06/08/2016	House	Passed 2nd Reading		PASS: 115-0
06/08/2016	House	Passed 3rd Reading		
06/09/2016	House	Regular Message Sent To Senate		
06/09/2016	Senate	Regular Message Received From House		
06/09/2016	Senate	Passed 1st Reading		
06/09/2016	Senate	Ref To Com On Rules and Operations of the Senate		

Note: a bill listed on this website is not law until passed by the House and the Senate, ratified, and, if required, signed by the Governor.

2015-2016 Session

Bill Number: [Look-Up](#)

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL DRH10465-SBz-29A* (03/31)

Short Title: Occupational Licensing Board Contact Info. (Public)

Sponsors: Representative Jordan.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE OCCUPATIONAL LICENSING BOARDS TO PROVIDE AND
3 UPDATE CONTACT INFORMATION, AS RECOMMENDED BY THE JOINT
4 LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 93B-2 is amended by adding a new subsection to read:

7 "(c1) Each occupational licensing board shall provide the Joint Legislative Administrative
8 Procedure Oversight Committee with the name and contact information of the individual
9 responsible for filing the reports required by this section. Each occupational licensing board shall
10 keep this information current and notify the Committee within 30 days of any changes in this
11 information."

12 **SECTION 2.** This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 949*

Short Title: Occupational Licensing Board Contact Info. (Public)

Sponsors: Representative Jordan.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 26, 2016

1 A BILL TO BE ENTITLED

2 AN ACT TO REQUIRE OCCUPATIONAL LICENSING BOARDS TO PROVIDE AND
3 UPDATE CONTACT INFORMATION, AS RECOMMENDED BY THE JOINT
4 LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 93B-2 is amended by adding a new subsection to read:
7 "(c1) Each occupational licensing board shall provide the Joint Legislative Administrative
8 Procedure Oversight Committee with the name and contact information of the individual
9 responsible for filing the reports required by this section. Each occupational licensing board shall
10 keep this information current and notify the Committee within 30 days of any changes in this
11 information."

12 **SECTION 2.** This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

2

HOUSE BILL 949*
Committee Substitute Favorable 6/7/16

Short Title: Occupational Licensing Board Contact Info.

(Public)

Sponsors:

Referred to:

April 26, 2016

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE OCCUPATIONAL LICENSING BOARDS TO PROVIDE AND
3 UPDATE CONTACT INFORMATION, AS RECOMMENDED BY THE JOINT
4 LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE AND TO
5 CONFORM THE NAME OF THE GENERAL ASSEMBLY'S LEGISLATIVE ANALYSIS
6 DIVISION.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 93B-2 is amended by adding a new subsection to read:

9 "c1) Each occupational licensing board shall provide the Joint Legislative Administrative
10 Procedure Oversight Committee with the name and contact information of the individual
11 responsible for filing the reports required by this section. Each occupational licensing board shall
12 keep this information current and notify the Committee within 30 days of any changes in this
13 information."

14 **SECTION 2.** G.S. 20-79.3A(c) reads as rewritten:

15 "(c) Report to General Assembly. – On or before March 15 of each year, the Division shall
16 submit to the Chairs of the House and Senate Transportation Committees, the Chairs of the House
17 and Senate Finance Committees, and the Research Legislative Analysis Division of the General
18 Assembly a report that identifies each applicant that has applied for a special registration plate to
19 be authorized in the legislative session being held that year and indicates whether the applicant
20 met the requirements of this section. If an applicant meets the requirements of this section, then a
21 bill may be considered during the legislative session being held that year to authorize a special
22 registration plate for the applicant that submitted the application."

23 **SECTION 3.** G.S. 90-413.3A(b) reads as rewritten:

24 "(b) Any hospital, as defined in G.S. 131E-76(3) that has an electronic health record system
25 shall connect to the HIE Network and submit individual patient demographic and clinical data on
26 services paid for with Medicaid funds, based upon the findings set forth in subsection (a) of this
27 section and notwithstanding the voluntary nature of the NC HIE under G.S. 90-413.2. The NC
28 HIE shall give the Department of Health and Human Services real-time access to data and
29 information disclosed through the HIE Network. At the request of the Director of the Fiscal
30 Research, Bill Drafting, Research, Legislative Analysis, or Program Evaluation Divisions of the
31 General Assembly, the NC HIE shall provide the professional staff of these Divisions with data
32 and information responsive to the Director's request. Prior to providing the General Assembly's
33 staff with any data or information disclosed through the HIE Network pursuant to this subsection,
34 the NC HIE shall redact any personal identifying information in a manner consistent with the
35 standards specified for de-identification of health information under the HIPAA Privacy Rule, 45
36 C.F.R. 164.15, as amended."



* H 9 4 9 - V - 2 *

SECTION 4. G.S. 90-414.5(b) reads as rewritten:

"(b) At the written request of the Director of the Fiscal Research, Bill Drafting, Research, Legislative Analysis, or Program Evaluation Division of the General Assembly for an aggregate analysis of the data and information disclosed through the HIE Network, the Authority shall provide the professional staff of these Divisions with such aggregated analysis responsive to the Director's request. Prior to providing the Director or General Assembly's staff with any aggregate data or information submitted through the HIE Network or with any analysis of this aggregate data or information, the Authority shall redact any personal identifying information in a manner consistent with the standards specified for de-identification of health information under the HIPAA Privacy Rule, 45 C.F.R. § 164.514, as amended."

SECTION 5. G.S. 120-32 reads as rewritten:**"§ 120-32. Commission duties.**

The Legislative Services Commission is authorized to:

- (1) Determine the number, titles, classification, functions, compensation, and other conditions of employment of the joint legislative service employees of the General Assembly, including but not limited to the following departments:
 - a. Legislative Services Officer and personnel.
 - b. Electronic document writing system.
 - c. Proofreaders.
 - d. Legislative printing.
 - e. Enrolling clerk and personnel.
 - f. Library.
 - g. Research, Legislative analysis and bill drafting.
 - h. Printed bills.
 - i. Disbursing and supply.
 - j. Program evaluation.

Temporary employees of the General Assembly are exempt from the provisions of G.S. 135-3(8)c., as to compensation earned in that status.

...."

SECTION 6. G.S. 120-32.01 reads as rewritten:**"§ 120-32.01. Information to be supplied.**

(a) Every State department, State agency, or State institution shall furnish the Legislative Services Office and the Research, Legislative Analysis, Fiscal Research, Program Evaluation, and Bill Drafting Divisions any information or records requested by them and access to any facilities and personnel requested by them. Except when accessibility is prohibited by a federal statute, federal regulation, or State statute, every State department, State agency, or State institution shall give the Legislative Services Office and these divisions access to any data base or stored information maintained by computer, telecommunications, or other electronic data processing equipment, whether stored on tape, disk, or otherwise, and regardless of the medium for storage or transmission.

(b) Notwithstanding subsection (a) of this section, access to the BEACON/HR payroll system by the Research, Legislative Analysis and Bill Drafting Divisions shall only be through the Fiscal Research Division and access to the system by the Program Evaluation Division shall only be through the Division Director and two employees of the Division designated by the Division Director.

...."

SECTION 7. G.S. 120-30.49(a) reads as rewritten:**"§ 120-30.49. Compiling federal mandates; annual report.**

(a) The Fiscal Research Division shall, in consultation with the appropriate staff of the Research, Legislative Analysis and Bill Drafting Divisions, make an annual report to the General Assembly pertaining to the fiscal effect of federal mandates on, or federal law on which is

1 conditioned the receipt of federal funds by the State and units of local government. The annual
2 report on federal mandates shall include the following:

- 3 (1) A listing of federal laws that require the State and any unit of local government, including a county, city, school administrative unit, or other local entity funded by or through a unit of local government to carry out additional or modified responsibilities;
- 4 (2) An estimate of the amount of any increase or decrease in the costs to the State and units of local government in providing or delivering public services required by federal law that are funded in whole or in part by the State or units of local government; and
- 5 (3) A listing of any other federal actions directly affecting the expenditures or revenues of the State and units of local government."

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13 **SECTION 8.** G.S. 120-36.6 reads as rewritten:

14 **"§ 120-36.6. Legislative Fiscal Research staff participation.**

15 The Legislative Services Officer shall designate a member of the Fiscal Research staff, and a
16 member of the ~~General Research~~Legislative Analysis or Bill Drafting staff who may attend all
17 meetings of the Council of State, unless the Council has voted to exclude them from the specific
18 meeting, provided that no final action may be taken while they are so excluded. The Legislative
19 Services Officer and the Director of Fiscal Research shall be notified of all such meetings,
20 hearings and trips in the same manner and at the same time as notice is given to members of the
21 Council. The Legislative Services Officer and the Director of Fiscal Research shall be provided
22 with a copy of all reports, memoranda, and other informational material which are distributed to
23 the members of the Council; these reports, memoranda and materials shall be delivered to the
24 Legislative Services Officer and the Director of Fiscal Research at the same time that they are
25 distributed to the members of the Council."

26 **SECTION 9.** Article 7B of Chapter 120 of the General Statutes reads as rewritten:

27 "Article 7B.

28 "Research Legislative Analysis Division.

29 **"§ 120-36.8. Certification of legislation required by federal law.**

30 (a) Every bill and resolution introduced in the General Assembly proposing any change in
31 the law which purports to implement federal law or to be required or necessary for compliance
32 with federal law, or on which is conditioned the receipt of federal funds shall have attached to it at
33 the time of its consideration by the General Assembly a certification prepared by the
34 ~~Research~~Legislative Analysis Division, in consultation with the Bill Drafting and Fiscal Research
35 Divisions, identifying the federal law requiring passage of the bill or resolution. The certification
36 shall contain a statement setting forth the reasons why the bill or resolution is required by federal
37 law. If the bill or resolution is not required by federal law or exceeds the requirements of federal
38 law, then the certification shall state the reasons for that opinion. No comment or opinion shall be
39 included in the certification with regard to the merits of the measure for which the certification is
40 prepared. However, technical and mechanical defects may be noted.

41 (b) The sponsor of each bill or resolution to which this section applies shall present a copy
42 of the bill or resolution with the request for certification to the ~~Research~~Legislative Analysis
43 Division. Upon receipt of the request and the copy of the bill or resolution, the ~~Research~~
44 Legislative Analysis Division shall consult with the Bill Drafting and Fiscal Research Divisions,
45 and may consult with the Office of State Budget and Management or any State agency on
46 preparation of the certification as promptly as possible. The ~~Research~~Legislative Analysis
47 Division shall prepare the certification and transmit it to the sponsor within two weeks after the
48 request is made, unless the sponsor agrees to an extension of time.

49 (c) This certification shall be attached to the original of each proposed bill or resolution
50 that is reported favorably by any committee of the General Assembly, but shall be separate from
51 the bill or resolution and shall be clearly designated as a certification. A certification attached to a

1 bill or resolution pursuant to this section is not a part of the bill or resolution and is not an
2 expression of legislative intent proposed by the bill or resolution.

3 (d) If a committee of the General Assembly reports favorably a proposed bill or resolution
4 with an amendment proposing any change in the law which purports to implement federal law or
5 to be required or necessary for compliance with federal law, the chair of the committee shall
6 obtain from the Research Legislative Analysis Division and attach to the amended bill or
7 resolution a certification as provided in this section."

8 **SECTION 10.** This act is effective when it becomes law.



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Senate Bill 744 (= H949)

S745 >>

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2015-2016 Session

Bill Number:

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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

5

D

SENATE BILL DRS15289-SBz-29* (03/31)

Short Title: Occupational Licensing Board Contact Info. (Public)

(Public)

Sponsors: Senator Hartsell (Primary Sponsor).

Referred to:

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93B-2 is amended by adding a new subsection to read:

7 "(c1) Each occupational licensing board shall provide the Joint Legislative Administrative
8 Procedure Oversight Committee with the name and contact information of the individual
9 responsible for filing the reports required by this section. Each occupational licensing board shall
10 keep this information current and notify the Committee within 30 days of any changes in this
11 information."

12 **SECTION 2.** This act is effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

1

SENATE BILL 744*

Short Title: Occupational Licensing Board Contact Info. (Public)

Sponsors: Senator Hartsell (Primary Sponsor).

Referred to: Finance

April 26, 2016

1 A BILL TO BE ENTITLED

2 AN ACT TO REQUIRE OCCUPATIONAL LICENSING BOARDS TO PROVIDE AND
3 UPDATE CONTACT INFORMATION, AS RECOMMENDED BY THE JOINT
4 LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 93B-2 is amended by adding a new subsection to read:

7 "(c1) Each occupational licensing board shall provide the Joint Legislative Administrative
8 Procedure Oversight Committee with the name and contact information of the individual
9 responsible for filing the reports required by this section. Each occupational licensing board shall
10 keep this information current and notify the Committee within 30 days of any changes in this
11 information."

12 **SECTION 2.** This act is effective when it becomes law.



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House Bill 1007 (= S783)

H1008 >>

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Last Action:	Re-ref Com On Finance on 06/21/2016
Sponsors:	Jordan; Stevens; Bryan; (Primary) Cleveland; Floyd; Harrison; Pendleton;
Attributes:	Public; Text has changed;
Counties:	No counties specifically cited
Statutes:	86A, 93B, 115C, 143B, 143C, 143D, 150B (Chapters); 115C-457.2, 143B-68, 143C-9-4, 143D-7, 150B-38, 150B-45, 88A-22, 86A-3, 93B-1, 93B-17, 93B-18, 93B-19, 93B-2, 93B-20, 93B-21, 93B-22, 93B-4, 93B-5 (Sections)
Keywords:	ADMIN. PROCEDURE OVERSIGHT COMM., ADMINISTRATIVE CODE, ADMINISTRATIVE RULES, APPOINTMENTS, BARBER EXAMINERS BOARD, BARBERS & COSMETOLOGISTS, BOARDS, COMMISSIONS, COMMITTEES, COUNCIL OF STATE, COURTS, DEFINITIONS, EMPLOYMENT, GENERAL ASSEMBLY, INVESTMENTS, LIBRARIES, LICENSING & CERTIFICATION, MEMBERSHIP, NATURAL & CULTURAL RESOURCES DEPT., OCCUPATIONS, PUBLIC, PUBLIC LIBRARIAN COMN., PUBLIC OFFICIALS, REPORTING, SECRETARY OF STATE, SECURITIES

Vote History									
Date	Subject	RCS #	Aye	No	N/V	Exc. Abs.	Exc. Vote	Total	Result
06/16/2016 2:13PM	A4 Collins Second Reading	[H] - 1283	104	3	6	7	0	107	PASS
06/16/2016 2:13PM	Second Reading	[H] - 1284	110	0	3	7	0	110	PASS

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History			Documents	Vote
Date	Chamber	Action		
04/27/2016	House	Filed	DRH20408-SBz-21A	
04/28/2016	House	Passed 1st Reading		
04/28/2016	House	Ref to the Com on Commerce and Job Development, if favorable, Judiciary III		
04/28/2016	House	Serial Referral To Judiciary III Stricken		
04/28/2016	House	Serial Referral To Judiciary II Added		
06/07/2016	House	Withdrawn From Com		
06/07/2016	House	Re-ref Com On Judiciary II		
06/14/2016	House	Reptd Fav Com Substitute	H1007-PCS30522-TQ-35	
06/14/2016	House	Cal Pursuant Rule 36(b)		
06/15/2016	House	Placed On Cal For 06/16/2016		
06/16/2016	House	Amend Adopted A1	A1: H1007-ASA-183-V-1	PASS: 109-0
06/16/2016	House	Amend Adopted A2	A2: H1007-A-NBC-1312	PASS: 109-0
06/16/2016	House	Amend Adopted A3	A3: H1007-ARO-69-V-3	PASS: 88-19
06/16/2016	House	Amend Adopted A4	A4: H1007-AMN-51-V-1	PASS: 104-3
06/16/2016	House	Passed 2nd Reading		PASS: 110-0
06/16/2016	House	Passed 3rd Reading		
06/16/2016	House	Ordered Engrossed		
06/16/2016	House	Regular Message Sent To Senate		
06/20/2016	Senate	Regular Message Received From House		
06/20/2016	Senate	Passed 1st Reading		
06/20/2016	Senate	Ref To Com On Rules and Operations of the Senate		
06/21/2016	Senate	Withdrawn From Com		
06/21/2016	Senate	Re-ref Com On Finance		

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2015-2016 Session

Bill Number: [Look-Up](#)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

D

HOUSE BILL DRH20408-SBz-21A* (03/02)

Short Title: Amend Occupational Licensing Boards Statutes.

(Public)

Sponsors: Representatives Jordan, Stevens, and Bryan (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO RESPOND TO THE HOLDING IN *NORTH CAROLINA STATE BOARD OF*
3 *DENTAL EXAMINERS V. FEDERAL TRADE COMMISSION*, AS RECOMMENDED BY
4 THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT
5 COMMITTEE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 93B-5(g) reads as rewritten:

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

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

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

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

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

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

20 (6) Chapter 120C, Lobbying.

21 (7) Antitrust law and State action immunity.

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

24 **SECTION 2.** Chapter 93B of the General Statutes is amended by adding six new
25 sections to read:

26 **"§ 93B-17. Occupational licensing board rule making."**

27 (a) Each occupational licensing board shall adopt rules for the receipt and resolution of
28 complaints, for taking disciplinary or enforcement actions against its licensees, and for taking
29 enforcement actions against persons not licensed by the board.

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

32 **"§ 93B-18. Unlicensed activity."**

33 (a) An occupational licensing board shall have the authority to investigate unlicensed
34 activity and notify unlicensed persons and entities of the possible violation of the law and
35 administrative rules and any civil action or criminal penalty that may be imposed by a court. The
36 notification shall not indicate that the occupational licensing board has made any finding of a



1 violation but may indicate the board's belief or opinion that a particular act may violate the board's
2 enabling statutes, include factual information regarding legislation and court proceedings
3 concerning the potential violation, and provide notice of the board's intention to pursue
4 administrative remedies or court proceedings with regard to the potential violation.

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

8 You are hereby notified that the opinion expressed herein is not a legal
9 determination. An occupational licensing board does not have the authority to order
10 you to discontinue your current practices. Only a court may determine that you
11 have violated or are violating any law and, if appropriate, impose a remedy or
12 penalty for the violation. Further, pursuant to G.S. 150B-4, you may have the right,
13 prior to initiation of any court action by the occupational licensing board, to request
14 a declaratory ruling regarding whether your particular conduct is lawful. You are
15 further notified that any right to a declaratory ruling supplements any other legal
16 rights that you may already have to establish the legality of your conduct with
17 respect to the goods or services you offer or provide.

18 **§ 93B-19. Venue for court enforcement.**

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

23 **§ 93B-20. Injunctive relief.**

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

31 **§ 93B-21. Jurisdictional disputes between boards.**

32 It is the policy of the State that jurisdictional disputes among occupational licensing boards
33 shall be resolved through informal procedures. If a jurisdictional dispute among occupational
34 licensing boards cannot be resolved through informal procedures, any affected board may
35 commence an administrative proceeding to resolve the jurisdictional dispute by filing a petition
36 with the Office of Administrative Hearings and serve the petition on all affected boards. Once the
37 petition is filed and the required fee is paid, the dispute shall become a contested case and shall be
38 conducted by the Office of Administrative Hearings under Articles 3 and 4 of Chapter 150B of the
39 General Statutes.

40 **§ 93B-22. Complaint process.**

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

- 43 (1) A description of the complaint process on the board's Web site, including the
44 types of violations that are under the jurisdictional authority of the board.
- 45 (2) Electronic complaint submission via the board's Web site, including a
46 prominently displayed link to a complaint form.
- 47 (3) The ability to provide complainants with a written description of the final
48 disposition of each complaint."

49 **SECTION 3.** The Joint Legislative Administrative Procedure Oversight Committee
50 shall continue to monitor and study the effects of the opinion in *North Carolina State Board of*

1 *Dental Examiners v. Federal Trade Commission* and other issues related to the scope of practice
2 jurisdiction of occupational licensing boards.

3 **SECTION 4.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H

1

HOUSE BILL 1007*

Short Title: Amend Occupational Licensing Boards Statutes. (Public)

Sponsors: Representatives Jordan, Stevens, and Bryan (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Commerce and Job Development, if favorable, Judiciary III

April 28, 2016

1 A BILL TO BE ENTITLED
2 AN ACT TO RESPOND TO THE HOLDING IN *NORTH CAROLINA STATE BOARD OF*
3 *DENTAL EXAMINERS V. FEDERAL TRADE COMMISSION*, AS RECOMMENDED BY
4 THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT
5 COMMITTEE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 93B-5(g) reads as rewritten:

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

14 (1) Chapter 150B, The Administrative Procedure Act.
15 (2) Chapter 132, The Public Records Law.
16 (3) Article 33C of Chapter 143, The Open Meetings Act.
17 (4) Articles 31 and 31A of Chapter 143, The State Tort Claims Act and The
18 Defense of State Employees Law.
19 (5) Chapter 138A, The State Government Ethics Act.
20 (6) Chapter 120C, Lobbying.
21 (7) Antitrust law and State action immunity.

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

24 **SECTION 2.** Chapter 93B of the General Statutes is amended by adding six new
25 sections to read:

26 **§ 93B-17. Occupational licensing board rule making.**

27 (a) Each occupational licensing board shall adopt rules for the receipt and resolution of
28 complaints, for taking disciplinary or enforcement actions against its licensees, and for taking
29 enforcement actions against persons not licensed by the board.

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

32 **§ 93B-18. Unlicensed activity.**

33 (a) An occupational licensing board shall have the authority to investigate unlicensed
34 activity and notify unlicensed persons and entities of the possible violation of the law and
35 administrative rules and any civil action or criminal penalty that may be imposed by a court. The



1 notification shall not indicate that the occupational licensing board has made any finding of a
2 violation but may indicate the board's belief or opinion that a particular act may violate the board's
3 enabling statutes, include factual information regarding legislation and court proceedings
4 concerning the potential violation, and provide notice of the board's intention to pursue
5 administrative remedies or court proceedings with regard to the potential violation.

6 (b) Any occupational licensing board providing notification to unlicensed persons and
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11 you to discontinue your current practices. Only a court may determine that you
12 have violated or are violating any law and, if appropriate, impose a remedy or
13 penalty for the violation. Further, pursuant to G.S. 150B-4, you may have the right,
14 prior to initiation of any court action by the occupational licensing board, to request
15 a declaratory ruling regarding whether your particular conduct is lawful. You are
16 further notified that any right to a declaratory ruling supplements any other legal
17 rights that you may already have to establish the legality of your conduct with
18 respect to the goods or services you offer or provide.

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

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

24 **"§ 93B-20. Injunctive relief."**

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

32 **"§ 93B-21. Jurisdictional disputes between boards."**

33 It is the policy of the State that jurisdictional disputes among occupational licensing boards
34 shall be resolved through informal procedures. If a jurisdictional dispute among occupational
35 licensing boards cannot be resolved through informal procedures, any affected board may
36 commence an administrative proceeding to resolve the jurisdictional dispute by filing a petition
37 with the Office of Administrative Hearings and serve the petition on all affected boards. Once the
38 petition is filed and the required fee is paid, the dispute shall become a contested case and shall be
39 conducted by the Office of Administrative Hearings under Articles 3 and 4 of Chapter 150B of the
40 General Statutes.

41 **"§ 93B-22. Complaint process."**

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

- 44 (1) A description of the complaint process on the board's Web site, including the
45 types of violations that are under the jurisdictional authority of the board.
- 46 (2) Electronic complaint submission via the board's Web site, including a
47 prominently displayed link to a complaint form.
- 48 (3) The ability to provide complainants with a written description of the final
49 disposition of each complaint."

50 **SECTION 3.** The Joint Legislative Administrative Procedure Oversight Committee
51 shall continue to monitor and study the effects of the opinion in *North Carolina State Board of*

1 *Dental Examiners v. Federal Trade Commission* and other issues related to the scope of practice
2 jurisdiction of occupational licensing boards.

3 **SECTION 4.** This act is effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

H

2

HOUSE BILL 1007*
Committee Substitute Favorable 6/14/16

Short Title: Amend Occupational Licensing Boards Statutes.

(Public)

Sponsors:

Referred to:

April 28, 2016

A BILL TO BE ENTITLED

AN ACT TO RESPOND TO THE HOLDING IN *NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS V. FEDERAL TRADE COMMISSION*, AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93B-1 reads as rewritten:

§ 93B-1. Definitions. Definitions; List of occupational licensing boards.

(a) As used in this Chapter, the following definitions apply:

(1) "License" means any license (other than a privilege license). License. – Any license, other than a privilege license, certificate, or other evidence of qualification which an individual is required to obtain before he or she may engage in or represent himself or herself to be a member of a particular profession or occupation.

(2) "Occupational licensing board" means any Occupational licensing board. — Any board, committee, commission, or other agency in North Carolina which receives no General Fund revenue and is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within, a particular profession or occupation, and which is authorized to issue licenses; "occupational licensing board" does not include State agencies, staffed by full time State employees, which as a part of their regular functions may issue licenses given statutory authority to do all of the following:

- a. Determine minimum qualifications required for licensure for a particular profession or occupation.
- b. Issue licenses to qualified applicants.
- c. Regulate the conduct of licensees within a particular profession or occupation.
- d. Seek injunctive relief to prohibit unlicensed individuals or entities from engaging in certain activities as defined by statute.
- e. Collect fees to support agency operations.

(b) Occupational licensing boards include only those boards specifically identified in this subsection. No additional boards or commissions shall be added to this list without first having been approved by the Joint Legislative Administrative Procedure Oversight Committee of the General Assembly as being necessary in that the profession subject to licensure affects the health, safety, or welfare of the public and that mandatory licensure is necessary to ensure minimum standards of competency so as to protect the public from unqualified persons or unprofessional



1 conduct by persons or entities practicing in the profession. Occupational licensing boards shall
2 include only the following:

- 3 (1) Acupuncture Licensing Board.
- 4 (2) Alarm Systems Licensing Board.
- 5 (3) North Carolina Board of Landscape Architects.
- 6 (4) North Carolina Landscape Contractors' Licensing Board.
- 7 (5) Reserved.
- 8 (6) Board of Examiners for Speech and Language Pathologists and Audiologists.
- 9 (7) Reserved.
- 10 (8) Midwifery Joint Subcommittee.
- 11 (9) North Carolina Appraisal Board.
- 12 (10) North Carolina Auctioneers Commission.
- 13 (11) North Carolina Board for Licensing of Geologists.
- 14 (12) North Carolina Board for Licensing of Soil Scientists.
- 15 (13) North Carolina Board of Architecture.
- 16 (14) North Carolina Board of Athletic Trainer Examiners.
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- 20 (18) North Carolina Board of Funeral Service.
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- 22 (20) North Carolina Board of Massage and Bodywork Therapy.
- 23 (21) North Carolina Board of Nursing.
- 24 (22) North Carolina Board of Occupational Therapy.
- 25 (23) North Carolina Board of Pharmacy.
- 26 (24) North Carolina Board of Physical Therapy Examiners.
- 27 (25) North Carolina Board of Podiatry Examiners.
- 28 (26) North Carolina Board of Recreational Therapy Licensure.
- 29 (27) North Carolina Cemetery Commission.
- 30 (28) North Carolina Criminal Justice Education and Training Standards Commission.
- 31 (29) Sheriffs' Education and Training Standards Commission.
- 32 (30) Reserved.
- 33 (31) North Carolina Home Inspector Licensure Board.
- 34 (32) North Carolina Interpreter and Transliterator Licensing Board.
- 35 (33) North Carolina Irrigation Contractors' Licensing Board.
- 36 (34) North Carolina State Licensing Board for General Contractors.
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- 47 (45) North Carolina State Board of Examiners for Nursing Home Administrators.
- 48 (46) North Carolina State Board of Examiners in Optometry.

1 (47) North Carolina State Board of Examiners of Fee-Based Practicing Pastoral
2 Counselors.
3 (48) Reserved.
4 (49) North Carolina State Board of Opticians.
5 (50) North Carolina State Hearing Aid Dealers and Fitters Board.
6 (51) North Carolina Substance Abuse Professional Practice Board.
7 (52) North Carolina Veterinary Medical Board.
8 (53) Private Protective Services Board.
9 (54) Public Librarian Certification Commission.
10 (55) State Board of Barber Examiners.
11 (56) State Board of Certified Public Accountant Examiners.
12 (57) State Board of Chiropractic Examiners.
13 (58) Reserved.
14 (59) State Board of Environmental Health Specialist Examiners.
15 (60) State Board of Examiners of Electrical Contractors.
16 (61) State Board of Examiners of Plumbing, Heating, and Fire Sprinkler
17 Contractors.
18 (62) Reserved.
19 (63) State Board of Refrigeration Examiners.
20 (64) State Board of Registration for Foresters."

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

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

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

29 (1) The address of the board, and the names of its members and officers.
30 (1a) The total number of licensees supervised by the board.
31 (2) The number of persons who applied to the board for examination.
32 (3) The number who were refused examination.
33 (4) The number who took the examination.
34 (5) The number to whom initial licenses were issued.
35 (5a) The number who failed the examination.
36 (6) The number who applied for license by reciprocity or comity.
37 (7) The number who were granted licenses by reciprocity or comity.
38 (7a) The number of official complaints received involving licensed and unlicensed
39 activities.
40 (7b) The number of disciplinary actions taken against licensees, or other actions
41 taken against nonlicensees, including injunctive relief.
42 (8) The number of licenses suspended or revoked.
43 (9) The number of licenses terminated for any reason other than failure to pay the
44 required renewal fee.
45 (10) The substance of any anticipated request by the occupational licensing board to
46 the General Assembly to amend statutes related to the occupational licensing
47 board.
48 (11) The substance of any anticipated change in rules adopted by the occupational
49 licensing board or the substance of any anticipated adoption of new rules by the
50 occupational licensing board.

- (12) A financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous fiscal year.
- (13) The certification of a proper system of internal control and other financial information as required by G.S. 143D-7.
- (14) A report of all civil penalties, civil forfeitures, and civil fines collected and remitted to the Civil Penalty and Forfeiture Fund pursuant to G.S. 115C-457.2.
- (15) The statute or rule authorizing each fee collected, the amount of the fee, the date the fee was last changed, the number of times the fee was collected during the prior reporting period, and the total receipts resulting from the fee during the prior reporting period.
- (16) If the occupational licensing board has a budget of at least fifty thousand dollars (\$50,000), a financial audit of its operations.

(b) No later than October 31 of each year, each occupational licensing board shall file electronically with the Secretary of State, the Attorney General, the Office of State Budget and Management, and the Joint Legislative Administrative Procedure Oversight Committee a financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous fiscal year.

(c) The reports required by this section shall be open to public inspection and shall be posted on the Internet Web site of the occupational licensing board.

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

SECTION 3. G.S. 93B-4 reads as rewritten:

§ 93B-4. Audit of Occupational Licensing Boards; payment of costs.

(a) The State Auditor shall audit occupational licensing boards from time to time to ensure their proper operation. The books, records, and operations of each occupational licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7(b), the State Auditor may contract with independent professionals to meet the requirements of this section.

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

SECTION 4. G.S. 93B-5 reads as rewritten:

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

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

200

...
(g) Within six months of a board member's initial appointment to the board, and at least once within every two calendar years thereafter, a board member shall receive training, either from the board's staff, including its legal advisor, or from an outside educational institution such as the School of Government of the University of North Carolina, on the statutes governing the board

1 and rules adopted by the board, as well as the following State and federal laws, in order to better
2 understand the obligations and limitations of a State agency:

- 3 (1) Chapter 150B, The Administrative Procedure Act.
- 4 (2) Chapter 132, The Public Records Law.
- 5 (3) Article 33C of Chapter 143, The Open Meetings Act.
- 6 (4) Articles 31 and 31A of Chapter 143, The State Tort Claims Act and The
7 Defense of State Employees Law.
- 8 (5) Chapter 138A, The State Government Ethics Act.
- 9 (6) Chapter 120C, Lobbying.
- 10 (7) Antitrust law and State action immunity.

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

13 **SECTION 5.(a)** Chapter 93B of the General Statutes is amended by adding six new
14 sections to read:

15 "**§ 93B-17. Occupational licensing board rule making.**

16 (a) Each occupational licensing board shall adopt rules for the receipt and resolution of
17 complaints, for taking disciplinary or enforcement actions against its licensees, and for taking
18 enforcement actions against persons not licensed by the board.

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

21 "**§ 93B-18. Unlicensed activity.**

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

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

33 You are hereby notified that the opinion expressed herein is not a legal
34 determination. An occupational licensing board does not have the authority to order
35 you to discontinue your current practices. Only a court may determine that you
36 have violated or are violating any law and, if appropriate, impose a remedy or
37 penalty for the violation. Further, pursuant to G.S. 150B-4, you may have the right,
38 prior to initiation of any court action by the occupational licensing board, to request
39 a declaratory ruling regarding whether your particular conduct is lawful. You are
40 further notified that any right to a declaratory ruling supplements any other legal
41 rights that you may already have to establish the legality of your conduct with
42 respect to the goods or services you offer or provide.

43 "**§ 93B-19. Venue for court enforcement.**

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

48 "**§ 93B-20. Injunctive relief.**

49 An occupational licensing board may appear in its own name in superior court in actions for
50 injunctive relief to restrain the violation of the provisions of a statute administered by the board or
51 a rule or order of the board. The superior court shall have the jurisdiction to grant these

1 injunctions, restraining orders, or take other appropriate action even if criminal prosecution has
2 been or may be instituted as a result of the violations, or whether the person is a licensee of the
3 board. No board shall issue such orders independently of the superior court unless specifically
4 authorized to do so by law.

5 **§ 93B-21. Jurisdictional disputes between boards.**

6 It is the policy of the State that jurisdictional disputes among occupational licensing boards
7 shall be resolved through informal procedures. If a jurisdictional dispute among occupational
8 licensing boards cannot be resolved through informal procedures, any affected board may
9 commence an administrative proceeding to resolve the jurisdictional dispute by filing a petition
10 with the Office of Administrative Hearings and serve the petition on all affected boards. Once the
11 petition is filed and the required fee is paid, the dispute shall become a contested case and shall be
12 conducted by the Office of Administrative Hearings under Articles 3 and 4 of Chapter 150B of the
13 General Statutes.

14 **§ 93B-22. Complaint process.**

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

- 17 (1) A description of the complaint process on the board's Web site, including the
18 types of violations that are under the jurisdictional authority of the board.
- 19 (2) Electronic complaint submission via the board's Web site, including a
20 prominently displayed link to a complaint form.
- 21 (3) The ability to provide complainants with a written description of the final
22 disposition of each complaint."

23 **SECTION 5.(b)** The complaint process provided for in G.S. 93B-22 shall be
24 implemented and active on each board's Web site no later than January 1, 2017.

25 **SECTION 6.** G.S. 115C-457.2 reads as rewritten:

26 **§ 115C-457.2. Remittance of moneys to the Fund.**

27 The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by a
28 State agency and that the General Assembly is authorized to place in a State fund pursuant to
29 Article IX, Section 7(b) of the Constitution shall be remitted to the Office of State Budget and
30 Management by the officer having custody of the funds within 10 days after the close of the
31 calendar month in which the revenues were received or collected. Notwithstanding any other law,
32 all such funds shall be deposited in the Civil Penalty and Forfeiture Fund. The clear proceeds of
33 these funds include the full amount of all civil penalties, civil forfeitures, and civil fines collected
34 under authority conferred by the State, diminished only by the actual costs of collection, not to
35 exceed twenty percent (20%) of the amount collected. The collection cost percentage to be used by
36 a State agency shall be established and approved by the Office of State Budget and Management
37 on an annual basis based upon the computation of actual collection costs by each agency for the
38 prior fiscal year. Occupational licensing boards as defined in G.S. 93B-1 shall satisfy the annual
39 reporting obligation imposed under this section by including the information required in the
40 occupational licensing board's annual report required pursuant to G.S. 93B-2."

41 **SECTION 7.** G.S. 143C-9-4 reads as rewritten:

42 **§ 143C-9-4. Biennial fee report.**

43 The Office of State Budget and Management shall prepare a report biennially on the fees
44 charged by each State department, bureau, division, board, commission, institution, and agency
45 during the previous two fiscal years. The report shall include the statutory or regulatory authority
46 for each fee, the amount of the fee, when the amount of the fee was last changed, the number of
47 times the fee was collected during the prior fiscal year, and the total receipts from the fee during
48 the prior fiscal year. The Office of State Budget and Management shall obtain the information
49 required under this section for occupational licensing boards as defined in G.S. 93B-1 from the
50 annual report filed by each occupational licensing board pursuant to G.S. 93B-2."

51 **SECTION 8.** G.S. 143D-7 reads as rewritten:

1 **"§ 143D-7. Agency management responsibilities.**

2 (a) The management of each State agency bears full responsibility for establishing and
3 maintaining a proper system of internal control within that agency. Each principal executive
4 officer and each principal fiscal officer shall annually certify, in a manner prescribed by the State
5 Controller, that the agency has in place a proper system of internal control. The State Controller
6 shall develop policies and procedures to direct agencies in their evaluation.

7 (b) The management of each State agency also bears the responsibility periodically to
8 submit accurate and complete financial information to the State Controller for compilation into
9 North Carolina State government's various financial reports and other related financial information
10 disseminated to the public. With the submission of such periodic reports to the State Controller,
11 each agency's principal executive officer and each agency's principal fiscal officer shall certify, in
12 a manner prescribed by the State Controller, to the accuracy and completeness of the financial
13 information submitted.

14 (c) Occupational licensing boards as defined in G.S. 93B-1 shall satisfy the annual
15 reporting obligation imposed under this section by including the information required in the
16 occupational licensing board's annual report required pursuant to G.S. 93B-2."

17 SECTION 9. G.S. 150B-38(a) reads as rewritten:

18 **"§ 150B-38. Scope; hearing required; notice; venue.**

19 (a) The provisions of this Article shall apply to:

- 20 (1) Occupational licensing agencies.boards, as defined by G.S. 93B-1.
- 21 (2) The State Banking Commission, the Commissioner of Banks, and the Credit
22 Union Division of the Department of Commerce.
- 23 (3) The Department of Insurance and the Commissioner of Insurance.
- 24 (4) The State Chief Information Officer in the administration of the provisions of
25 Article 14 of Chapter 143B of the General Statutes.
- 26 (5) The North Carolina State Building Code Council.
- 27 (6) The State Board of Elections in the administration of any investigation or audit
28 under the provisions of Article 22A of Chapter 163 of the General Statutes."

29 SECTION 10. G.S. 150B-45 reads as rewritten:

30 **"§ 150B-45. Procedure for seeking review; waiver.**

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

- 34 (1) Contested tax cases. – A petition for review of a final decision in a contested
35 tax case arising under G.S. 105-241.15 must be filed in the Superior Court of
36 Wake County.
- 37 (2) Other final decisions. – A petition for review of any other final decision under
38 this Article must be filed in the superior court of the county where the person
39 aggrieved by the administrative decision resides, in the county where the
40 agency has its principal place of business, or in the case of a person residing
41 outside the State, in the county where the contested case which resulted in the
42 final decision was filed. If a petitioner files a petition in a county other than as
43 provided in this subdivision, the superior court may order a change of venue
44 pursuant to G.S. 1-83; provided, however, that improper venue shall not be
45 grounds for dismissal of the petition.

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

49 SECTION 11. The Joint Legislative Administrative Procedure Oversight Committee
50 shall continue to monitor and study the effects of the opinion in *North Carolina State Board of*

1 *Dental Examiners v. Federal Trade Commission* and other issues related to the scope of practice
2 jurisdiction of occupational licensing boards.
3 **SECTION 12.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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3

HOUSE BILL 1007*
Committee Substitute Favorable 6/14/16
Third Edition Engrossed 6/16/16

Short Title: Amend Occupational Licensing Boards Statutes.

(Public)

Sponsors:

Referred to:

April 28, 2016

1 A BILL TO BE ENTITLED

2 AN ACT TO RESPOND TO THE HOLDING IN *NORTH CAROLINA STATE BOARD OF*
3 *DENTAL EXAMINERS V. FEDERAL TRADE COMMISSION*, AS RECOMMENDED BY
4 THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT
5 COMMITTEE, AND TO CLARIFY THE EDUCATIONAL REQUIREMENTS FOR
6 BARBER REGISTRATION.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S. 93B-1 reads as rewritten:

9 "§ 93B-1. Definitions; Definitions; List of occupational licensing boards.

10 (a) As used in this Chapter, the following definitions apply:

11 (1) "License" means any license (other than a privilege license). License. – Any
12 license, other than a privilege license, certificate, or other evidence of
13 qualification which an individual is required to obtain before he or she may
14 engage in or represent himself or herself to be a member of a particular
15 profession or occupation.

16 (2) "Occupational licensing board" means any Occupational licensing board. – Any
17 board, committee, commission, or other agency in North Carolina which
18 receives no General Fund revenue and is established for the primary purpose of
19 regulating the entry of persons into, and/or the conduct of persons within, a
20 particular profession or occupation, and which is authorized to issue licenses;
21 "occupational licensing board" does not include State agencies, staffed by
22 full-time State employees, which as a part of their regular functions may issue
23 licenses; given statutory authority to do all of the following:

24 a. Determine minimum qualifications required for licensure for a
25 particular profession or occupation.
26 b. Issue licenses to qualified applicants.
27 c. Regulate the conduct of licensees within a particular profession or
28 occupation.
29 d. Seek injunctive relief to prohibit unlicensed individuals or entities from
30 engaging in certain activities as defined by statute.
31 e. Collect fees to support agency operations.

32 (b) Occupational licensing boards include only those boards specifically identified in this
33 subsection. No additional boards or commissions shall be added to this list without first having
34 been approved by the Joint Legislative Administrative Procedure Oversight Committee of the
35 General Assembly as being necessary in that the profession subject to licensure affects the health,



1 safety, or welfare of the public and that mandatory licensure is necessary to ensure minimum
2 standards of competency so as to protect the public from unqualified persons or unprofessional
3 conduct by persons or entities practicing in the profession. Occupational licensing boards shall
4 include only the following:

- 5 (1) Acupuncture Licensing Board.
- 6 (2) Alarm Systems Licensing Board.
- 7 (3) North Carolina Board of Landscape Architects.
- 8 (4) North Carolina Landscape Contractors' Licensing Board.
- 9 (5) Board of Examiners for Speech and Language Pathologists and Audiologists.
- 10 (6) Midwifery Joint Subcommittee.
- 11 (7) North Carolina Appraisal Board.
- 12 (8) North Carolina Auctioneers Commission.
- 13 (9) North Carolina Board for Licensing of Geologists.
- 14 (10) North Carolina Board for Licensing of Soil Scientists.
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- 20 (16) North Carolina Board of Funeral Service.
- 21 (17) North Carolina Board of Licensed Professional Counselors.
- 22 (18) North Carolina Board of Massage and Bodywork Therapy.
- 23 (19) North Carolina Board of Nursing.
- 24 (20) North Carolina Board of Occupational Therapy.
- 25 (21) North Carolina Board of Pharmacy.
- 26 (22) North Carolina Board of Physical Therapy Examiners.
- 27 (23) North Carolina Board of Podiatry Examiners.
- 28 (24) North Carolina Board of Recreational Therapy Licensure.
- 29 (25) North Carolina Cemetery Commission.
- 30 (26) North Carolina Criminal Justice Education and Training Standards Commission.
- 31 (27) Sheriffs' Education and Training Standards Commission.
- 32 (28) North Carolina Home Inspector Licensure Board.
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- 34 (30) North Carolina Irrigation Contractors' Licensing Board.
- 35 (31) North Carolina State Licensing Board for General Contractors.
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- 37 (33) North Carolina Marriage and Family Therapy Licensure Board.
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- 44 (40) North Carolina State Board of Dental Examiners.
- 45 (41) North Carolina State Board of Examiners for Engineers and Surveyors.
- 46 (42) North Carolina State Board of Examiners for Nursing Home Administrators.
- 47 (43) North Carolina State Board of Examiners in Optometry.
- 48 (44) North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors.

- (45) North Carolina State Board of Opticians.
- (46) North Carolina State Hearing Aid Dealers and Fitters Board.
- (47) North Carolina Substance Abuse Professional Practice Board.
- (48) North Carolina Veterinary Medical Board.
- (49) Private Protective Services Board.
- (50) Public Librarian Certification Commission.
- (51) State Board of Barber Examiners.
- (52) State Board of Certified Public Accountant Examiners.
- (53) State Board of Chiropractic Examiners.
- (54) State Board of Environmental Health Specialist Examiners.
- (55) State Board of Examiners of Electrical Contractors.
- (56) State Board of Examiners of Plumbing, Heating, and Fire Sprinkler Contractors.
- (57) State Board of Refrigeration Examiners.
- (58) State Board of Registration for Foresters."

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

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

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

- (1) The address of the board, and the names of its members and officers.
- (1a) The total number of licensees supervised by the board.
- (2) The number of persons who applied to the board for examination.
- (3) The number who were refused examination.
- (4) The number who took the examination.
- (5) The number to whom initial licenses were issued.
- (5a) The number who failed the examination.
- (6) The number who applied for license by reciprocity or comity.
- (7) The number who were granted licenses by reciprocity or comity.
- (7a) The number of official complaints received involving licensed and unlicensed activities.
- (7b) The number of disciplinary actions taken against licensees, or other actions taken against nonlicensees, including injunctive relief.
- (8) The number of licenses suspended or revoked.
- (9) The number of licenses terminated for any reason other than failure to pay the required renewal fee.
- (10) The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board.
- (11) The substance of any anticipated change in rules adopted by the occupational licensing board or the substance of any anticipated adoption of new rules by the occupational licensing board.
- (12) A financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous fiscal year.
- (13) The certification of a proper system of internal control and other financial information as required by G.S. 143D-7.

(14) A report of all civil penalties, civil forfeitures, and civil fines collected and remitted to the Civil Penalty and Forfeiture Fund pursuant to G.S. 115C-457.2.

(15) The statute or rule authorizing each fee collected, the amount of the fee, the date the fee was last changed, the number of times the fee was collected during the prior reporting period, and the total receipts resulting from the fee during the prior reporting period.

(16) If the occupational licensing board has a budget of at least fifty thousand dollars (\$50,000), a financial audit of its operations.

9 (b) No later than October 31 of each year, each occupational licensing board shall file
10 electronically with the Secretary of State, the Attorney General, the Office of State Budget and
11 Management, and the Joint Legislative Administrative Procedure Oversight Committee a financial
12 report that includes the source and amount of all funds credited to the occupational licensing board
13 and the purpose and amount of all funds disbursed by the occupational licensing board during the
14 previous fiscal year.

15 (c) The reports required by this section shall be open to public inspection and
16 shall be posted on the Internet Web site of the occupational licensing board.

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

SECTION 3. G.S. 93B-4 reads as rewritten:

"§ 93B-4. Audit of Occupational Licensing Boards; payment of costs.

(a) The State Auditor shall audit occupational licensing boards from time to time to ensure their proper operation. The books, records, and operations of each occupational licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7(b), the State Auditor may contract with independent professionals to meet the requirements of this section.

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

SECTION 4. G.S. 93B-5 reads as rewritten:

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

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

100

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

the congregations and limitations of a State agency.

- (1) Chapter 150B, The Administrative Procedure Act.
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Completion of the training requirements contained in Chapter 138A and Chapter 120C of the General Statutes satisfies the requirements of subdivisions (5) and (6) of this subsection."

SECTION 5.(a) Chapter 93B of the General Statutes is amended by adding six new sections to read:

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

(a) Each occupational licensing board shall adopt rules for the receipt and resolution of complaints, for taking disciplinary or enforcement actions against its licensees, and for taking enforcement actions against persons not licensed by the board.

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

§ 93B-18. Unlicensed activity.

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

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

1 It is the policy of the State that jurisdictional disputes among occupational licensing boards
2 shall be resolved through informal procedures. If a jurisdictional dispute among occupational
3 licensing boards cannot be resolved through informal procedures, any affected board may
4 commence an administrative proceeding to resolve the jurisdictional dispute by filing a petition
5 with the Office of Administrative Hearings and serve the petition on all affected boards. Once the
6 petition is filed and the required fee is paid, the dispute shall become a contested case and shall be
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8 General Statutes.

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11 provides for all of the following:

- 12 (1) A description of the complaint process on the board's Web site, including the
13 types of violations that are under the jurisdictional authority of the board.
- 14 (2) Electronic complaint submission via the board's Web site, including a
15 prominently displayed link to a complaint form.
- 16 (3) The ability to provide complainants with a written description of the final
17 disposition of each complaint."

18 **SECTION 5.(b)** The complaint process provided for in G.S. 93B-22 shall be
19 implemented and active on each board's Web site no later than January 1, 2017.

20 **SECTION 6.** G.S. 115C-457.2 reads as rewritten:

21 **§ 115C-457.2. Remittance of moneys to the Fund.**

22 The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by a
23 State agency and that the General Assembly is authorized to place in a State fund pursuant to
24 Article IX, Section 7(b) of the Constitution shall be remitted to the Office of State Budget and
25 Management by the officer having custody of the funds within 10 days after the close of the
26 calendar month in which the revenues were received or collected. Notwithstanding any other law,
27 all such funds shall be deposited in the Civil Penalty and Forfeiture Fund. The clear proceeds of
28 these funds include the full amount of all civil penalties, civil forfeitures, and civil fines collected
29 under authority conferred by the State, diminished only by the actual costs of collection, not to
30 exceed twenty percent (20%) of the amount collected. The collection cost percentage to be used by
31 a State agency shall be established and approved by the Office of State Budget and Management
32 on an annual basis based upon the computation of actual collection costs by each agency for the
33 prior fiscal year. Occupational licensing boards as defined in G.S. 93B-1 shall satisfy the annual
34 reporting obligation imposed under this section by including the information required in the
35 occupational licensing board's annual report required pursuant to G.S. 93B-2."

36 **SECTION 7.** G.S. 143C-9-4 reads as rewritten:

37 **§ 143C-9-4. Biennial fee report.**

38 The Office of State Budget and Management shall prepare a report biennially on the fees
39 charged by each State department, bureau, division, board, commission, institution, and agency
40 during the previous two fiscal years. The report shall include the statutory or regulatory authority
41 for each fee, the amount of the fee, when the amount of the fee was last changed, the number of
42 times the fee was collected during the prior fiscal year, and the total receipts from the fee during
43 the prior fiscal year. The Office of State Budget and Management shall obtain the information
44 required under this section for occupational licensing boards as defined in G.S. 93B-1 from the
45 annual report filed by each occupational licensing board pursuant to G.S. 93B-2."

46 **SECTION 8.** G.S. 143D-7 reads as rewritten:

47 **§ 143D-7. Agency management responsibilities.**

48 (a) The management of each State agency bears full responsibility for establishing and
49 maintaining a proper system of internal control within that agency. Each principal executive
50 officer and each principal fiscal officer shall annually certify, in a manner prescribed by the State

1 Controller, that the agency has in place a proper system of internal control. The State Controller
2 shall develop policies and procedures to direct agencies in their evaluation.

3 (b) The management of each State agency also bears the responsibility periodically to
4 submit accurate and complete financial information to the State Controller for compilation into
5 North Carolina State government's various financial reports and other related financial information
6 disseminated to the public. With the submission of such periodic reports to the State Controller,
7 each agency's principal executive officer and each agency's principal fiscal officer shall certify, in
8 a manner prescribed by the State Controller, to the accuracy and completeness of the financial
9 information submitted.

10 (c) Occupational licensing boards as defined in G.S. 93B-1 shall satisfy the annual
11 reporting obligation imposed under this section by including the information required in the
12 occupational licensing board's annual report required pursuant to G.S. 93B-2."

13 SECTION 9. G.S. 150B-38(a) reads as rewritten:

14 "§ 150B-38. Scope; hearing required; notice; venue.

15 (a) The provisions of this Article shall apply to:

- 16 (1) Occupational licensing agenciesboards, as defined by G.S. 93B-1.
- 17 (2) The State Banking Commission, the Commissioner of Banks, and the Credit
18 Union Division of the Department of Commerce.
- 19 (3) The Department of Insurance and the Commissioner of Insurance.
- 20 (4) The State Chief Information Officer in the administration of the provisions of
21 Article 14 of Chapter 143B of the General Statutes.
- 22 (5) The North Carolina State Building Code Council.
- 23 (6) The State Board of Elections in the administration of any investigation or audit
24 under the provisions of Article 22A of Chapter 163 of the General Statutes.
- 25 (7) The Securities Division of the Department of the Secretary of State."

26 SECTION 10. G.S. 150B-45 reads as rewritten:

27 "§ 150B-45. Procedure for seeking review; waiver.

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

- 31 (1) Contested tax cases. – A petition for review of a final decision in a contested
32 tax case arising under G.S. 105-241.15 must be filed in the Superior Court of
33 Wake County.
- 34 (2) Other final decisions. – A petition for review of any other final decision under
35 this Article must be filed in the superior court of the county where the person
36 aggrieved by the administrative decision resides, in the county where the
37 agency has its principal place of business, or in the case of a person residing
38 outside the State, in the county where the contested case which resulted in the
39 final decision was filed. If a petitioner files a petition in a county other than as
40 provided in this subdivision, the superior court may order a change of venue
41 pursuant to G.S. 1-83; provided, however, that improper venue shall not be
42 grounds for dismissal of the petition.

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

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

50 SECTION 11.5.(a) G.S. 86A-3 reads as rewritten:

51 "§ 86A-3. Qualifications for certificate as a registered barber.

1 A certificate of registration as a registered barber shall be issued by the Board to any person
2 who meets all of the following qualifications:

- 3 (1) Has attended an approved barber school for at least 1528 hours.
- 4 (2) Has completed a 12-month apprenticeship under the supervision of a licensed
5 barber, as provided in G.S. 86A-24.
- 6 (3) Has passed a clinical examination conducted by the Board.
- 7 (4) Has submitted to the Board the affidavit required by G.S. 86A-24(c) certifying
8 that the applicant has served the apprenticeship required by subdivision (2).
- 9 (5) Has received a high school diploma or its equivalency or a high school
10 graduation equivalency certificate and provided documentation thereof to the
11 Board."

12 **SECTION 11.5.(b)** G.S. 86A-22 reads as rewritten:

13 **"§ 86A-22. Licensing and regulating barber schools and colleges.**

14 The North Carolina State Board of Barber Examiners may approve barber schools or colleges
15 in the State, and may prescribe rules and regulations for their operation. The Board shall adopt
16 rules establishing criteria for barber schools and colleges to maintain their accreditation. No barber
17 school or college shall be approved by the Board unless the school or college meets all of the
18 following requirements:

- 19 (1) Each school shall provide a course of instruction of at least ~~1528-1,528~~ hours.
- 20 (2) Each school shall employ at least two instructors for the first 40 enrolled
21 students and employ at least one additional instructor for every additional 20
22 enrolled students. Schools that are organized as nonprofits and have obtained a
23 ruling from the Internal Revenue Service recognizing their tax-exempt status
24 shall have at least one instructor for every 20 enrolled students. No school,
25 whether for profit or nonprofit, shall provide practical training and theoretical
26 training simultaneously unless at least two instructors are present.
- 27 (2a) Each student shall have received a high school diploma or its equivalency or a
28 high school graduation equivalency certificate and provided documentation
29 thereof to the Board and the school.
- 30 (3) An application for a student's permit, on a form prescribed by the Board, must
31 be filed with the Board before the student enters school. No student may enroll
32 without having obtained a student's permit.

33"

34 **SECTION 12.** G.S. 143B-68 reads as rewritten:

35 **"§ 143B-68. Public Librarian Certification Commission – members; selection; quorum;**
36 **compensation.**

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

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

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

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

1 A majority of the Commission shall constitute a quorum for the transaction of business.
2 All clerical and other services required by the Commission shall be supplied by the Secretary
3 of the Department through the regular staff of the Department."
4 **SECTION 13.** This act is effective when it becomes law.



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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

52

D

SENATE BILL DRS45438-SBz-21* (03/02)

Short Title: Amend Occupational Licensing Boards Statutes.

(Public)

Sponsors: Senator Hartsell (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO RESPOND TO THE HOLDING IN *NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS V. FEDERAL TRADE COMMISSION*, AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93B-5(g) reads as rewritten:

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

- (1) Chapter 150B, The Administrative Procedure Act.
- (2) Chapter 132, The Public Records Law.
- (3) Article 33C of Chapter 143, The Open Meetings Act.
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- (5) Chapter 138A, The State Government Ethics Act.
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- (7) Antitrust law and State action immunity.

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

SECTION 2. Chapter 93B of the General Statutes is amended by adding six new sections to read:

§ 93B-17. Occupational licensing board rule making.

(a) Each occupational licensing board shall adopt rules for the receipt and resolution of complaints, for taking disciplinary or enforcement actions against its licensees, and for taking enforcement actions against persons not licensed by the board.

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

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(a) An occupational licensing board shall have the authority to investigate unlicensed activity and notify unlicensed persons and entities of the possible violation of the law and administrative rules and any civil action or criminal penalty that may be imposed by a court. The notification shall not indicate that the occupational licensing board has made any finding of a



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2 enabling statutes, include factual information regarding legislation and court proceedings
3 concerning the potential violation, and provide notice of the board's intention to pursue
4 administrative remedies or court proceedings with regard to the potential violation.

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6 entities of a possible violation of the law and administrative rules and any civil action or criminal
7 penalty that may be imposed by a court shall include the following statement in the notification:

8 You are hereby notified that the opinion expressed herein is not a legal
9 determination. An occupational licensing board does not have the authority to order
10 you to discontinue your current practices. Only a court may determine that you
11 have violated or are violating any law and, if appropriate, impose a remedy or
12 penalty for the violation. Further, pursuant to G.S. 150B-4, you may have the right,
13 prior to initiation of any court action by the occupational licensing board, to request
14 a declaratory ruling regarding whether your particular conduct is lawful. You are
15 further notified that any right to a declaratory ruling supplements any other legal
16 rights that you may already have to establish the legality of your conduct with
17 respect to the goods or services you offer or provide.

18 **"§ 93B-19. Venue for court enforcement.**

19 The venue for occupational licensing boards seeking court order for injunctive relief or to
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21 board shall be in the superior court of the county where the defendant resides or in the county
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34 licensing boards cannot be resolved through informal procedures, any affected board may
35 commence an administrative proceeding to resolve the jurisdictional dispute by filing a petition
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37 petition is filed and the required fee is paid, the dispute shall become a contested case and shall be
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39 General Statutes.

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42 provides for all of the following:

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49 **SECTION 3.** The Joint Legislative Administrative Procedure Oversight Committee
50 shall continue to monitor and study the effects of the opinion in *North Carolina State Board of*

- 1 *Dental Examiners v. Federal Trade Commission* and other issues related to the scope of practice
- 2 jurisdiction of occupational licensing boards.

3 **SECTION 4.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

S

1

SENATE BILL 783*

Short Title: Amend Occupational Licensing Boards Statutes. (Public)

Sponsors: Senator Hartsell (Primary Sponsor).

Referred to: Rules and Operations of the Senate

April 28, 2016

1 A BILL TO BE ENTITLED

2 AN ACT TO RESPOND TO THE HOLDING IN *NORTH CAROLINA STATE BOARD OF*
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