

**2005**

**LEGISLATIVE  
COMMITTEE ON NEW  
LICENSING BOARDS**

**MINUTES**

**LEGISLATIVE COMMITTEE  
ON NEW LICENSING BOARDS**

**2005 SESSION**

**REPRESENTATIVE DREW SAUNDERS, CHAIR**

**RUTH FISH, COMMITTEE ASSISTANT**

✓ - present  
x - absent

## ATTENDANCE

## LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

(Name of Committee)

[illegible]

## **LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS**

### **MEMBERSHIP LIST**

#### **2005-2006 SESSION**

Rep. Drew Saunders, Chair  
Room 2217 LB  
Telephone – 733-5606  
Ruth Fish, Legislative Assistant

Sen. Vernon Malone  
Room 2113 LB  
Telephone 733-5880  
Claudette Howell, Legislative Assistant

Sen. Stan Bingham  
Room 2117 LB  
Telephone – 733-5665  
Judy Chriscoe, Legislative Assistant

Rep. Harold Brubaker  
Room 1229 LB  
Telephone – 715-4946  
Cindy Coley, Legislative Assistant

Sen. Kay Hagan  
Room 411 LOB  
Telephone – 733-5856  
Melissa Midgett, Legislative Assistant

Rep. Becky Carney  
Room 1221 LB  
Telephone – 733-5827  
Joyce Langdon, Legislative Assistant

Sen. David Hoyle  
Room 300-A LOB  
Telephone – 733-5734  
Jan Sommer, Legislative Assistant

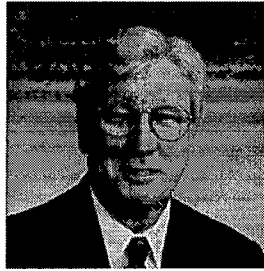
Rep. Bruce Goforth  
Room 1220 LB  
Telephone – 733-5746  
Ann Jordan, Legislative Assistant

Rep. Earline Parmon  
Room 632 LOB  
Telephone – 733-5829  
Pat Christmas, Legislative Assistant

Cindy Avrette, Committee Counselor  
Room 545 LOB  
Telephone – 733-2578

Ruth Fish, Committee Assistant

**NORTH CAROLINA GENERAL ASSEMBLY**  
**LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS**  
**2005 – 2006 SESSION**



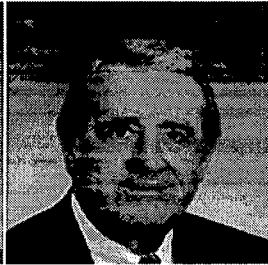
**Rep. Drew Saunders**  
**Chair**



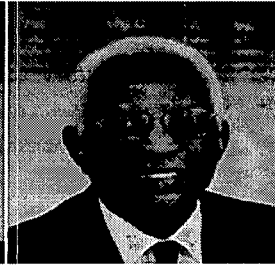
**Sen. Stan Bingham**



**Sen. Kay Hagan**



**Sen. David Hoyle**



**Sen. Vernon Malone**



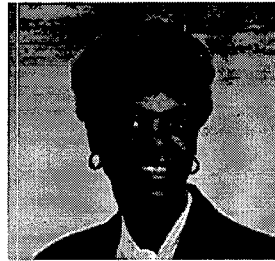
**Rep. Harold Brubaker**



**Rep. Becky Carney**



**Rep. Bruce Goforth**



**Rep. Earline Parmon**

## **AGENDA**

### **LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS**

**5:00 p.m., April 25, 2005**

#### **OPENING REMARKS**

**Representative Drew Saunders, Chair**

#### **DISCUSSION ITEMS**

**H503 Authorize Licensure/Anesthesiologist Assts.  
Rep. Harrell, England, Brubaker, Bill Sponsors**

**H903 Perfusionists Licensure  
Rep. England, Bill Sponsor**

**S394 Authorize Licensure/Anesthesiologist Asst's  
Sen. Hoyle, Bill Sponsor**

**S1059 Perfusionists Licensure  
Sen. Purcell, Bill Sponsor**

#### **ADJOURNMENT**

## MINUTES

### LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

April 25, 2005  
5:00 p.m.

The Legislative Committee on New Licensing Boards met at 5:00 p.m. on April 25, 2005, in Room 1425 of the Legislative Building. Members present were: Representative Drew Saunders, Chairman, Senators Bingham, Hagan, Hoyle, and Malone, and Representatives Brubaker, Carney, Goforth, and Parmon. Cindy Avrette, Committee Counselor, was also in attendance. A Visitor Registration Sheet is attached and made a part of the minutes. (See Attachment #1.)

Chairman Saunders called the meeting to order and recognized Sergeant at Arms Staff members, Charles Coker and Fred Hines. Then, he provided information for committee members regarding the purpose, procedure, and specific findings of the committee. (See Attachment #2.)

The first issue to be considered was the Licensure of Anesthesiologist Assistants. This issue relates to **HB 503/SB394 Authorize Licensure/Anesthesiologist Assistants**. Bill sponsors for HB 503 are Representatives Harrell, England, and Brubaker, and bill sponsor for SB 394 is Senator Hoyle. He asked Committee members if they needed clarification on the 16 questions and answers, which they reviewed prior to the meeting. No clarification was necessary. A copy is included in the assessment report. (See Attachment #3.) Representative Saunders stated that each speaker for or against the licensure would be allowed three minutes.

The first speaker was Ms. Nancy Maree, who was opposed to the licensure of anesthesiologist assistants. She represented the Certified Registered Nurse Anesthetists (CRNA). She asked that the licensure of anesthesiologist assistants be reviewed at a later date. She stated that there are five nurse anesthetists programs in North Carolina, and there is no shortage of certified registered nurse anesthetists.

Representative Harrell, bill sponsor, was called upon to speak on the issue, and he asked Ms. Ellen Allinger to speak in support of the licensure of anesthesiologist assistants. Ms. Allinger stated that she had been an anesthesiologist assistant (AA) for 19 years and that there is a shortage of anesthesiologists in the nation and in North Carolina. There are several AA's who reside in North Carolina and must go out of state to work. The Master's Degree AA program in Georgia requires two semesters of a premedical background and an IMPACT test or GRE to enter the program. Ms. Allinger stated that insurance companies insure AA's and CRNA's at the same rate.

A question and answer period followed the speakers' presentations. Representative Brubaker moved that the Committee finds the following:

1. The unregulated practice of anesthesiologist assistants can substantially harm the public health, safety, and welfare.
2. Anesthesiologist assistants possess qualities that distinguish them from ordinary labor.
3. The practice of anesthesiologist Assistants requires specialized skill or training.
4. The public does not have the knowledge it needs to evaluate the professional competence of Anesthesiologist Assistants.
5. Licensure is necessary for the public's protection.
6. Licensure will not have an adverse economic impact upon consumers of the practitioner's service.

and in accordance with those findings, the Committee recommends the licensure of Anesthesiologist Assistants. A vote was taken, and the motion was approved.

The second issue to be considered was the licensure of Perfusionists. **H903 and S1059 Perfusionists Licensure** address this issue. A copy of the 16 questions and answers are included in the Assessment Report. (See Attachment #4.) Representative England is bill sponsor for H 903, and Senator Purcell is bill sponsor for S1059. Mr. Ian Shearer with the North Carolina Society of Perfusionists was recognized to speak in support of the licensure. He stated that Perfusionists is the only group not licensed in hospital operating rooms. There are no programs in North Carolina; however, there are 20 schools in the nation that provide training for Perfusionists. Currently, each hospital sets standards for Perfusionists, and national certification is voluntary. A question and answer period followed Mr. Shearer's presentation.

Senator Purcell, bill sponsor, also spoke in favor of the licensing of Perfusionists. No one asked to speak in opposition to the licensure of Perfusionists. Representative Parmon moved that the Committee finds the following:

1. The unregulated practice of Perfusionists can substantially harm the public health, safety, and welfare.
2. Perfusionists possess qualities that distinguish them from ordinary labor.
3. The practice of Perfusionists requires specialized skill or training.
4. The public does not have the knowledge it needs to evaluate the professional competence of Perfusionists.
5. Licensure is necessary for the public's protection.
6. Licensure will not have an adverse economic impact upon consumers of the practitioner's service.

and in accordance with those findings, the Committee recommends the licensure of Perfusionists. The motion was approved by vote.

There was no further business, and the meeting was adjourned at 5:40 p.m.

  
Representative Drew Saunders, Chairman

  
Ruth Fish, Committee Assistant

Attachments



## VISITOR REGISTRATION SHEET

NEW LICENSING BOARDS

April 25, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mary Rapuzzi	student nurse anesthetist
Krystal Kirby	student nurse anesthetist
Doug Lassiter	NCSTA
Chris Dillon	Pro Team
Sim HARRELL	House Member
Candace Doyle	ADVANCED Perfusion Care (Perfusion)
IAN SHEARER	Duke Univ Hosp (Perfusion)
John Goodman	ALLEY ASSOCIATES
John Bowditch	ADA
Harry Zgha	NCLHW
Colleen Kochanek	Holt York McDavis & High
Dan H...	SAR...
Jim Scarvy	Randolph Charles Assoc.

# VISITOR REGISTRATION SHEET

NEW LICENSING BOARDS

April 25, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

GAMaccardi mrs	NCSA
Dana Simpson	NCSA
Ellen Allinger	AAAA/NCSA
Marie Lewis	NCSA
Rebecca McGhee	NCSA
Nancy Moore	NCAWA
Joanne Stevens	NCAWA / NCNA / BON
Gally Johnson	NC Board of Nursing
Frank Gray	Attorney
W. B. [unclear]	BC & S
John [unclear]	Perkins courts

## VISITOR REGISTRATION SHEET

## NEW LICENSING BOARDS

April 25, 2005

Name of Committee

**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME \_\_\_\_\_

**FIRM OR AGENCY AND ADDRESS**

Sen Bill Fanning

1124

Amie G. Horne

NCHS

Dr. H. H. H. H. H.

NCDs  $\frac{1}{3}$  NCPDA

INFORMATION SHEET  
LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

**Committee Structure:** 4 Senators; 4 Representatives; chairmanship alternates between House and Senate.

**Purpose:** To determine whether an occupation should be licensed based on the following:

- Whether the unregulated practice of the profession can endanger public health, safety, or welfare.
- Whether the practice of the occupation possesses qualities that distinguish it from ordinary labor, or whether it requires specialized skill or training.
- Whether a majority of the public has the knowledge or experience to evaluate the practitioner's competence, and whether the public can be effectively protected by other means.
- Whether licensure would have a substantial adverse economic impact on consumers.

The bill cannot be considered in a standing committee until the Occupational Licensing Committee has issued its report.

**Procedure:** After a bill is introduced proposing to license an occupation:

1. The bill sponsor is sent a questionnaire to complete.
2. The questionnaire is returned to staff.
3. Staff prepares a preliminary draft report for the Committee to consider.
4. The Committee meets and votes on the proposal. Although the Committee may evaluate the bill itself in terms of clarity, conciseness, and conformity with existing law and principles of administrative law, it normally does not put forth a committee substitute or make amendments to the bill.

**Assessment Reports:** The Committee's assessment report makes specific findings for each of the areas listed above under "Purpose". The report also includes an explanation of the bill, the response to the questionnaire, and any other additional information the Committee deems appropriate.

**Timeframe for Making the Report:**

**Preliminary Report:** The Committee has 60 days to issue its preliminary assessment report after the Committee receives the request. However, the 60-day time period does not begin until the questionnaire is returned.

**Final Report:** The Committee must adopt its final assessment report at the final meeting, and the report must be issued within 14 days of the issuance of the preliminary report or 21 days if the Committee wishes to further review the responses to the preliminary assessment report.

**Effect of an Unfavorable Assessment Report:** An unfavorable assessment report by the Committee does not bar further consideration of the proposal either in committee or on the floor.

## LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

### *SPECIFIC FINDINGS REGARDING*

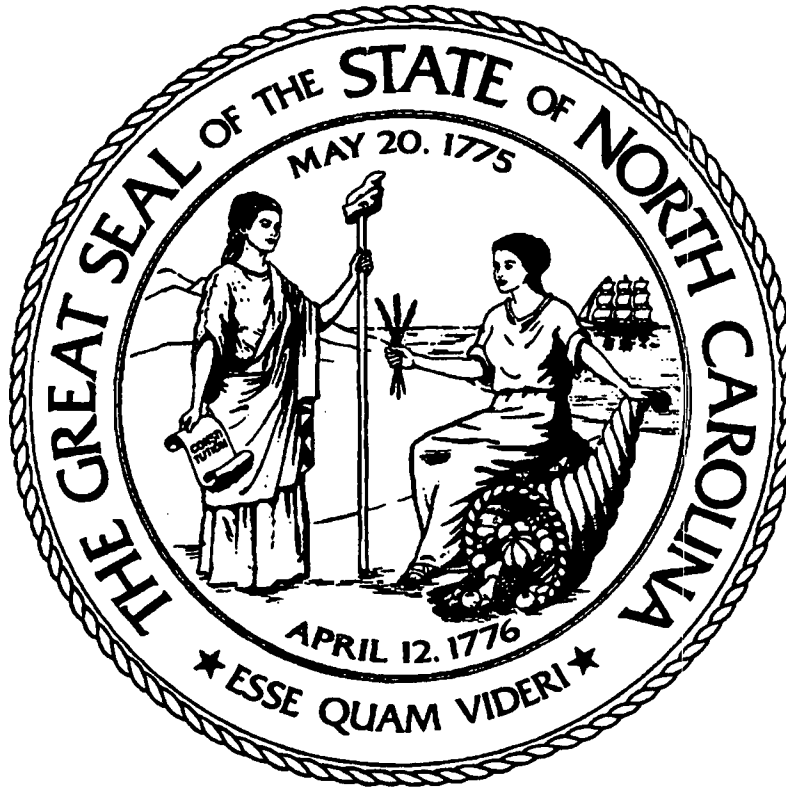
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- (1) Whether the unregulated practice of the profession or occupation can substantially harm or endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument;
- (2) Whether the profession or occupation possesses qualities that distinguish it from ordinary labor;
- (3) Whether practice of the profession or occupation requires specialized skill or training;
- (4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence;
- (5) Whether the public can be effectively protected by other means; and
- (6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's goods or services.

### **FINAL RECOMMENDATION:**

*May 16, 2001*

Attachment #3  
April 25, 2005



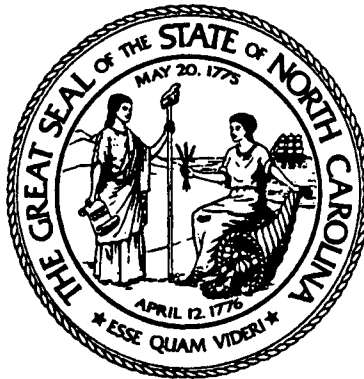
# LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

Assessment Report

For

**ANESTHESIOLOGIST  
ASSISTANTS**

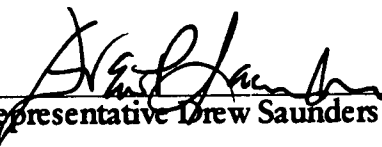
House Bill 503  
Senate Bill 394



## LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

April 27, 2005

The Legislative Committee on New Licensing Boards is pleased to release this assessment report on the certification of anesthesiologist assistants. This report constitutes both the preliminary and final assessment report.

  
Representative Drew Saunders

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS  
(2005-2006)

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Representative Drew Saunders, Chair

Senator Stan Bingham

Representative Harold Brubaker

Senator Kay Hagan

Representative Becky Carney

Senator David Hoyle

Representative Bruce Goforth

Senator Vernon Malone

Representative Earline Parmon

Staff

Ms. Cindy Avrette, Committee Counsel

Ms. Judy Collier, Research Assistant

Ms. Ruth Fish, Committee Clerk



## PREFACE

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The Legislative Committee on New Licensing Boards is a 9-member joint committee of the House and Senate created and governed by statute (Article 18A of Chapter 120 of the General Statutes). The primary purpose of the Committee is to evaluate the need for a new licensing board or the proposed licensing of previously unregulated practitioners by an existing board. The Committee has been in existence since 1985.

The Committee solicits written and oral testimony on each licensing proposal in carrying out its duty to determine whether the proposal meets the following criteria:

- 1) Whether the unregulated practice of the profession can substantially endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- 2) Whether the profession possesses qualities that distinguish it from ordinary labor.
- 3) Whether practice of the profession requires specialized skill or training.
- 4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence.
- 5) Whether the public can effectively be protected by other means.
- 6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's good or services.

The Committee issues an assessment report on its findings and recommendations. The recommendation in the report is not binding on other committees considering the proposal.

## HOUSE BILL 503 and SENATE BILL 394

### AUTHORIZE LICENSURE/ANESTHESIOLOGIST ASSISTANTS

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#### BACKGROUND<sup>1</sup>

##### *Current Standards.*

Anesthesiologist assistants ("AAs") are highly skilled allied health professionals who work as members of the Anesthesia Care Team under the direct supervision of licensed anesthesiologists in the delivery of anesthesia care services. Licensure of AAs will allow qualified professionals in North Carolina to help fill the critical need for additional mid-level anesthesia providers in the State. Professional education and training includes a four-year pre-med degree, graduation from a 27-month masters degree program, 2500 hours of clinical training and certification in advanced cardiac life support (ACLS). The Commission on Accreditation of Allied Health Education Programs (CAAHEP) accredits AA training programs. There are three accredited AA educational programs in the country: Emory University in Atlanta, Georgia; Case Western Reserve in Ohio; and a consortium between South University and Mercer School of Medicine in Savannah, Georgia. Certification by the National Commission for Certification of Anesthesiologist Assistants (NCCAA) in collaboration with the National Board of Medical Examiners (NBME) is currently the accepted certification standard in the United States. To maintain certification by the NCCAA, AAs must successfully complete a recertification exam every six years. Federal law recognizes AAs as qualified providers eligible for reimbursement from Medicare and Medicaid and nine states as well as the District of Columbia license AAs to provide anesthesia services under the supervision of a licensed anesthesiologist:

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<sup>1</sup> Source: *Response to Questionnaire for the Legislative Committee for New Licensing Boards*. A copy of the questionnaire is attached to this report.

ALABAMA  
FLORIDA  
GEORGIA  
KENTUCKY  
MISSOURI  
NEW MEXICO  
OHIO  
SOUTH CAROLINA  
VERMONT

### LICENSE REQUIREMENTS

***Who Must Be Licensed.*** A person desiring to provide anesthesia services as an anesthesiologist assistant will need to be licensed by the North Carolina Medical Board. The licensing requirements proposed in Senate Bill 394 and House Bill 503 will apply to all AAs practicing in North Carolina. There are no exemptions from the licensure requirement.

***Initial Licensure Requirements.*** Every applicant for licensure as an anesthesiologist assistant in the State shall satisfy the North Carolina Medical Board that the applicant is of good moral character and meets any other qualifications for the issuance of a license as determined by the Board.

***Licensure Renewal Requirements.*** All licenses to practice as an anesthesiologist assistant shall be renewed in accordance with the rules adopted by the North Carolina Medical Board.

***Fees.*** The North Carolina Medical Board will set the fee for initial and annual registration of anesthesiologist assistants at 'a reasonable amount'.

***Disciplinary Actions.*** The Board may deny, refuse to renew, suspend, or revoke an application or license or order probation or issue a reprimand to the applicant or licensee in accordance with the rules adopted by the North Carolina Medical Board.

## FINDINGS AND RECOMMENDATIONS

### *ANESTHESIOLOGIST ASSISTANTS*

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**Findings.** The Legislative Committee on New Licensing Boards finds that the sponsors have met the six criteria by which the Committee judges licensure proposals. Specifically, the Committee finds that:

- 1) The unregulated practice of anesthesiologist assistants can substantially harm or endanger the public health, safety, or welfare since anesthesiologist assistants, as members of an Anesthesia Care Team, are directly involved in the delivery of anesthesia care services.
- 2) The profession possesses qualities that distinguish it from ordinary labor since professional education and training includes a four-year pre-med degree, graduation from a 27-month masters degree program, 2500 hours of clinical training and certification in advanced cardiac life support (ACLS).
- 3) The practice of anesthesiologist assistants requires specialized skill or training.
- 4) A substantial majority of the public does not have the knowledge or experience to evaluate the competence of an anesthesiologist assistant.
- 5) The public cannot be effectively protected by other means.
- 6) Licensure would not have a substantial adverse economic impact upon the recipient of the anesthesiologist assistant's services.

**Recommendation.** The Legislative Committee on New Licensing Boards recommends the licensing of anesthesiologist assistants. This assessment report constitutes both the preliminary and final assessment report for the licensure of anesthesiologist assistants. The report is based on the proposed licensing of anesthesiologist assistants as set out in House Bill 503 and Senate Bill 394, the response to the Committee's questionnaire (Attachment), and testimony before the Committee on April 25, 2005.

# ATTACHMENT

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## *Response to Questionnaire for the Legislative Committee on New Licensing Boards*

# LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

## LICENSURE OF ANESTHESIOLOGIST ASSISTANTS (HB503/SB394)

1. **In what ways has the marketplace failed to regulate adequately the profession or occupation?**

North Carolina is suffering from an acute shortage of nurse anesthetists. Ensuring a sufficient supply of mid-level anesthesia providers is critical to meeting the growing demand for surgical services in this State. House Bill 503 and Senate Bill 394 authorize the North Carolina Medical Board to license anesthesiologist assistants ("AAs") to help alleviate this shortage of mid-level anesthesia providers.

AAs have a thirty-year track record of providing safe anesthesia care as part of the anesthesia care team under the supervision of an anesthesiologist. Several neighboring states license AAs, including Georgia, South Carolina and Florida. The North Carolina General Assembly has not yet authorized the licensure of AAs, therefore no AAs currently practice in this State. However, several AAs currently reside in North Carolina and are required to travel to other states (Georgia and South Carolina) to practice their profession. The licensure of AAs will allow these well-trained health care providers to stay in North Carolina and help fill the critical need for additional mid-level anesthesia providers.

2. **Have there been any complaints about the unregulated profession or occupation? *Please give specific examples including (unless confidentiality must be maintained) complainants' names and addresses.***

This question is not applicable because the lack of licensure has prevented AAs from practicing in North Carolina. The North Carolina Medical Board has opined that it cannot authorize the delegation of anesthesia duties by a physician to an AA unless the General Assembly first authorizes the licensure of AAs.

**3. In what ways has the public health, safety, or welfare sustained harm or is in imminent danger of harm because of the lack of state regulation? Please give specific examples.**

As North Carolina's population ages, there is a correlated increase in the demand for surgical services. The acute shortage of mid-level anesthesia providers in North Carolina threatens patient access to the anesthesia care needed for such surgeries. If this shortage is not addressed, access to surgical care will suffer.

The shortage of nurse anesthetists in North Carolina is well-documented – by nurse anesthetists themselves:

- A recent study funded by North Carolina nurse anesthesia schools found a significant shortage of nurse anesthetists to meet the growing demand for anesthesia services.<sup>1</sup> North Carolina hospitals reported a need for over 150 new nurse anesthetists a year, but our State's five nurse anesthesia schools are graduating only 95-100 nurses annually. This same study found that a disproportionate number of N.C. nurse anesthetists are expected to retire within the next decade.
- In a January 23, 2005 article in the *Winston-Salem Journal*, Barry Amerson (the chief nurse anesthetist of the Inpatient Operating Rooms at North Carolina Baptist Hospital) stated that a large number of nurse anesthetists are preparing to retire, creating "a big deficit in how many we can educate and the number that will retire."
- In 2002, the then-President of the North Carolina Association of Nurse Anesthetists, told the *Raleigh News & Observer* that manpower shortages were the greatest challenge facing her organization and that "[f]aced with a nurse anesthetist shortage, recruiting will continue to be a challenge."
- A 2002 article in the AANA Journal by three North Carolina nurse anesthesia educators stated that the current graduation rates of nurse anesthetists is "is far below the number of CRNAs currently needed." These nurse anesthetists went on to predict that "unless correction of CRNA shortages becomes [a] top priority . . . we should not be surprised if more

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<sup>1</sup> Ouellette, Sandra M., CRNA, Med, FAAN, *The CRNA Workforce: Is there a Problem?*

anesthesiologist assistant programs open, and the use of these providers expands into more states.”<sup>2</sup>

- 4. Is there potential for substantial harm or danger by the profession or occupation to the public health, safety, or welfare? How can this potential for substantial harm or danger be recognized?**

Anesthesia care is much safer today as compared to twenty years ago. The number of deaths attributed to anesthesia has declined from 1 in 10,000 in 1982 to 1 in more than 250,000 today. Nonetheless, the delivery of anesthesia services remains inherently dangerous and requires significant education and training. A focus on patient safety is at the core of the educational curriculum for AAs.

AAs have a long track-record of providing safe anesthesia care. AAs provide safe anesthesia care in many states, including Georgia, South Carolina and Florida. The AA Masters Degree program at Emory University in Atlanta, Georgia has been in existence since 1971 and there are now more AAs than nurse anesthetists providing anesthesia services at hospitals in the greater Atlanta metropolitan region.

Studies show that there is no difference in the patient outcomes between anesthesia care provided by AAs and nurse anesthetists. Liability insurers rate AAs and nurse anesthetists as the same level of risk. Anesthesiologists obviously think AAs are safe since they will have the ultimate liability for the care they provide. Medicare and Medicaid recognize AAs as equivalent to nurse anesthetists when providing reimbursement for medical direction by anesthesiologists.

- 5. Has this potential harm or danger to the public been recognized by other states or the federal government through the licensing or certification process? Please list the other states and any applicable federal law (including citations).**

AAs are licensed according to statutes or regulations in the following states: Alabama, Florida, Georgia, Kentucky, Missouri, New Mexico, Ohio, South Carolina, Vermont and the District of Columbia. AAs practice in many other states pursuant to the delegatory authority of anesthesiologists including, among others: Texas, Colorado and Michigan.

Federal law recognizes AAs as qualified providers eligible for reimbursement from Medicare and Medicaid. Medicare Conditions of Participation allow AAs to provide anesthesia services to Medicare

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<sup>2</sup> Ouellette, Bruton-Maree, Kohlenberg, *Expansion of Nurse Anesthesia Educational Programs: Where Are The Barriers?*



patients in ambulatory surgery centers, hospitals and critical access hospitals so long as they are under the supervision of an anesthesiologist. See 42 C.F.R. § 416.42; 42 C.F.R. § 482.52; 42 C.F.R. § 485.639. Additionally, the *Medicare Claims Processing Manual* states that AAs are eligible for Medicare reimbursement if they are: (1) permitted by state law to administer anesthesia and (2) have successfully completed a six-year educational program, of which two years consist of specialized academic and clinical training in anesthesia. See § 140.1.

**6. What will be the economic advantage of licensing to the public?**

The licensure of AAs will benefit the public by increasing the supply of qualified mid-level anesthesia providers in North Carolina. This will benefit patient access to anesthesia services and potentially reduce the rate of growth of anesthesia costs. The current shortage of nurse anesthetists in North Carolina has resulted in a dramatic increase in salaries so that average nurse anesthetist salaries now exceed the salaries for many primary care physicians in North Carolina. While AAs make salaries that are equivalent to nurse anesthetists, over time, an increase in the supply of mid-level anesthesia providers may result in a lower rate of growth in future anesthesia costs.

**7. What will be the economic disadvantage of licensing to the public?**

The licensure of AAs will result in no economic disadvantage to the public because AAs are not currently practicing in North Carolina. Instead, it will benefit the public through increased access and choice. The licensure of AAs proposed by HB503 and SB394 will not result in any increased costs to the public because AAs are not currently providing services here.

**8. What will be the economic advantages of licensing to the practitioners?**

Licensure will benefit AAs by giving them the opportunity to practice their profession in North Carolina. It will especially benefit the AAs currently living in North Carolina who are forced to commute to Georgia and South Carolina to work.

**9. What will be the economic disadvantages of licensing to the practitioners?**

None. See answer to #7.

10. Please give other potential benefits to the public of licensing that outweigh the potential harmful effects of licensure such as a decrease in the availability of practitioners and higher cost to the public.

Unlike proposed licensing legislation affecting existing professions and occupations in North Carolina, the licensure of AAs will neither decrease the availability of practitioners nor increase costs to the public. Instead, it will improve patient access to anesthesia care and potentially slow the rate of growth of anesthesia costs.

11. Please detail the specific specialized skills or training that distinguish the occupation or profession from ordinary labor.

Anesthesiologist assistants (AAs) are highly skilled allied health professionals who work under the direction of licensed anesthesiologists to develop and implement anesthesia care plans. All AAs possess a premedical background, a baccalaureate degree, and also complete a comprehensive didactic and clinical program at the graduate school level. AAs are trained extensively in the delivery and maintenance of quality anesthesia care as well as advanced patient monitoring techniques. The goal of AA education is to nurture the transformation of qualified student applicants into competent health care practitioners who aspire to practice in the anesthesia care team.

Currently there are three accredited AA educational programs in the country — Emory University in Atlanta, Georgia; Case Western Reserve in Ohio; and a third program, a consortium between South University and Mercer School of Medicine in Savannah, Georgia. The Commission on Accreditation of Allied Health Education Programs (CAAHEP) accredits AA training programs. The AA curriculum is based on an advanced graduate degree model, and at least two full academic years are required. Graduates from AA educational programs earn a master's-level degree.

12. What are other qualities of the profession or occupation that distinguish it from ordinary labor?

AA educational programs have stringent entrance requirements. Qualifying student applicants must possess a baccalaureate degree and complete all of the premedical course work required by the typical American medical school.

Generalized admission requirements for students seeking entrance into an AA program include:

- Bachelor's degree from an accredited institution with a premedical sciences track
- Two semesters of biology with laboratory
- Two semesters of vertebrate anatomy and physiology (or other advanced biology) with laboratory
- Two semesters of general chemistry; 1 semester of organic chemistry; a second semester of organic chemistry or biochemistry with laboratory
- Two semesters of general physics with laboratory
- Two semesters of advanced college mathematics including calculus
- Either the Medical College Admissions Test (MCAT) or the Graduate Records Admission Test (GRE)

**13. Will licensing requirements cover all practicing members of the occupation or profession? If any practitioners will be exempt, what is the rationale for the exemption?**

The licensing requirements proposed in HB 503 and SB 394 will apply to all AAs practicing in North Carolina. There are no exemptions for AAs.

**14. What is the approximate number of persons who will be regulated and the number of persons who are likely to utilize the services of the occupation or profession?**

The number of AAs who will be licensed is dependent on the number of AAs who desire to practice in North Carolina. There are more than 700 AAs currently practicing across the country. The three current AA educational programs will graduate approximately 70 AAs annually. This number will increase if additional AA schools are opened.

Surgical patients in North Carolina hospitals and ambulatory surgical centers are likely to utilize the services of AAs.

**15. What kind of knowledge or experience does the public need to evaluate the services offered by the practitioner?**

A medical background. AAs will work under the supervision of anesthesiologists and are therefore unlikely to be hired directly by members of the public.

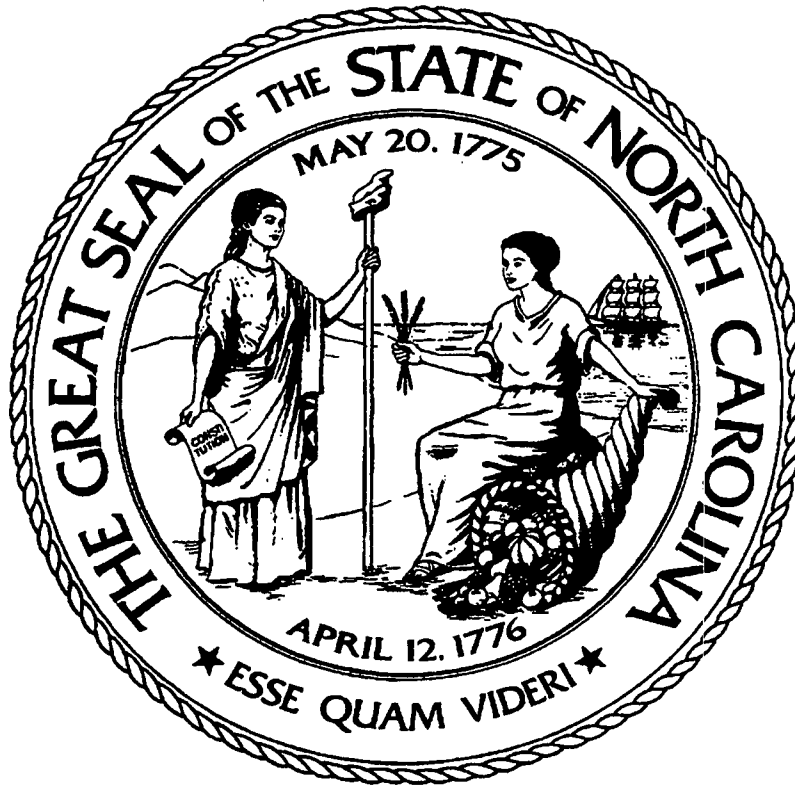
**16. Does the occupational group have an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service?**

The National Commission for Certification of Anesthesiologist Assistants (NCCAA) was founded in July 1989 to develop and administer the certification process for AAs in the United States. Graduates or senior students in an AA educational program that has been accredited by the CAAHEP may apply for initial certification. Initial certification is awarded to an AA who has successfully completed the Certifying Examination for Anesthesiologist Assistants administered by NCCAA in collaboration with the National Board of Medical Examiners (NBME). Certified AAs are permitted to use the designation AA-C to indicate that they are currently certified.

The content for the Certifying Examination for Anesthesiologist Assistants is based on knowledge and skills required for practice, as determined from surveys of AAs and their physician sponsors conducted in 1990 and again in 1997. NCCAA has contracted with NBME to serve as a consultant for the development and ongoing administration of the Certifying Examination. A Test Committee is responsible for writing and evaluating test questions for the examinations as well as for an item bank containing material that will be used in future years. The first Certifying Examination was administered in 1992.

The NCCAA annually publishes a list of Anesthesiologist Assistants-Certified (AA-Cs). This public document is made available to state boards of medicine and other bodies responsible for credentialing health care professionals.

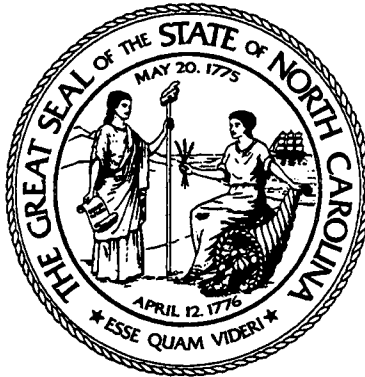
In order to maintain certification after passing the initial examination, AAs must submit documentation to NCCAA that they have completed 40 hours of continuing medical education (CME) every two years. In addition, every six years they must pass the Examination for Continued Demonstration of Qualifications (CDQ). Failure to meet any of the above CME or examination requirements results in withdrawal of certification for the AA. The CDQ Examination was first administered in 1998.



# LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

Assessment Report  
For  
**PERFUSIONISTS**

**House Bill 903**  
**Senate Bill 1059**



## **LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS**

April 27, 2005

The Legislative Committee on New Licensing Boards is pleased to release this assessment report on the certification of perfusionists. This report constitutes both the preliminary and final assessment report.

  
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Representative Drew Saunders

**LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS**  
**(2005-2006)**

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Representative Drew Saunders, Chair

Senator Stan Bingham

Representative Harold Brubaker

Senator Kay Hagan

Representative Becky Carney

Senator David Hoyle

Representative Bruce Goforth

Senator Vernon Malone

Representative Earline Parmon

**Staff**

Ms. Cindy Avrette, Committee Counsel

Ms. Judy Collier, Research Assistant

Ms. Ruth Fish, Committee Clerk

## PREFACE

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The Legislative Committee on New Licensing Boards is a 9-member joint committee of the House and Senate created and governed by statute (Article 18A of Chapter 120 of the General Statutes). The primary purpose of the Committee is to evaluate the need for a new licensing board or the proposed licensing of previously unregulated practitioners by an existing board. The Committee has been in existence since 1985.

The Committee solicits written and oral testimony on each licensing proposal in carrying out its duty to determine whether the proposal meets the following criteria:

- 1) Whether the unregulated practice of the profession can substantially endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- 2) Whether the profession possesses qualities that distinguish it from ordinary labor.
- 3) Whether practice of the profession requires specialized skill or training.
- 4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence.
- 5) Whether the public can effectively be protected by other means.
- 6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's good or services.

The Committee issues an assessment report on its findings and recommendations. The recommendation in the report is not binding on other committees considering the proposal.



# HOUSE BILL 903 and SENATE BILL 1059

## PERFUSIONISTS LICENSURE

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### BACKGROUND<sup>1</sup>

#### ***Current Standards.***

Perfusionists have been recognized as a definable allied health profession by the American Medical Association since 1977. Working under the direct supervision of a surgeon, perfusionists are the only non-licensed health care professionals who routinely administer drugs and blood products to patients. A perfusionist is the person responsible for the selection, set-up, and operation of the heart-lung machine. To maintain life during open-heart surgery, the patient's heart must be stopped and the patient's blood is diverted outside the body, circulated through the heart-lung machine, and returned to the patient.

Certification by the American Board of Cardiovascular Profusion (ABCP) is currently the accepted state and national standard for perfusionists.<sup>2</sup> Perfusion has evolved professionally to a point where regulation is the next step in order to protect the patient from unqualified practitioners and to recognize the profession's higher standards and skills and the role they play in the complex technology of critical medicine. Toward that end, the perfusionists of North Carolina<sup>3</sup> offer the proposed legislation enacting the Perfusionist Licensure Act.<sup>4</sup>

### CERTIFICATION REQUIREMENTS

#### ***Who Must Be Certified.***

On or after July 1, 2006, no person shall practice or offer to practice perfusion as defined in this Article, use the title 'licensed perfusionist', 'certified clinical perfusionist', or 'provisional licensed perfusionist', use the letters 'LP', 'CCP', or 'PLP', or otherwise indicate or imply that the person is a licensed perfusionist, clinical certified perfusionist, or a provisionally licensed perfusionist unless that person is currently licensed or certified as provided in this Article.

#### ***Exemptions from Certification.***

Persons who are not required to be certified include:

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<sup>1</sup> Source: *Response to Questionnaire for the Legislative Committee for New Licensing Boards*. A copy of the questionnaire is attached to this report.

<sup>2</sup> To be certified by the ABCP, a person must be a graduate of a post-secondary perfusion education program, accredited by the AMA's Committee on Allied Health Education Accreditation, and successfully complete both the Perfusion Basic Science Examination and the clinical Applications in Perfusion Examination. To maintain certification, a perfusionist must complete 45 CEU credit hours of continuing education every three years and perform a minimum of 40 cardiac perfusions a year.

<sup>3</sup> There are approximately 90 perfusionists practicing in North Carolina.

<sup>4</sup> 11 states license perfusionists: Arkansas, Texas, Tennessee, Oklahoma, New Jersey, Missouri, Massachusetts, Illinois, Wisconsin, Louisiana, and Georgia.

- 1) Any person registered, certified, credentialed, or licensed to engage in another profession or occupation or any person working the supervision of a person registered, certified, credentialed, or licensed to engage in another profession or occupation in this State if the person is performing work incidental to the practice of that profession or occupation and the person does not represent himself or herself as a licensed perfusionist or a provisionally licensed perfusionist.
- 2) A student enrolled in an accredited perfusion education program if perfusion services performed by the student are an integral part of the student's course of study and are performed under the direct supervision of a licensed perfusionist.
- 3) A perfusionist employed by the United States government when performing duties associated with that employment.
- 4) A person performing autotransfusion or blood conservation techniques under the direct supervision of a licensed physician.

#### ***Initial Certification Requirements.***

**General Requirements:** All applicants for certification must meet the following conditions:

- 1) Be at least 18 years old.
- 2) Complete an application on a form provided by the Committee.
- 3) Successfully complete a perfusion education program approved by the Committee.
- 4) Pay the required fee under G.S. 90-689
- 5) Be certified as a certified clinical perfusionist. An applicant shall be certified as a certified clinical perfusionist if the applicant submits proof satisfactory to the Committee that the applicant has been certified as a certified clinical perfusionist by the American Board of Cardiovascular Perfusion or its successor organization and pays the required fee under G.S. 90-689.

The proposed legislation provides that the Committee must issue a license to a person who meets the following requirements:

- 1) Has practiced perfusion in a licensed health care facility in the five years immediately preceding application for licensure or within five of the last eight years preceding application for licensure.
- 2) Applies for and obtains a license from the Committee within 90 days after the Committee begins issuing licenses.

**Reciprocity:** The Committee may grant, upon application and payment of proper fees, a license to a person who has been licensed to practice perfusion in another state or territory of the United States whose standards of competency are substantially equivalent to those provided in this Article or holds a current certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion or its successor organization.

**Provisional license:** The Committee may grant a provisional license for a period not exceeding 12 months to any applicant who has successfully completed an approved perfusion education program and pays the required fee under G.S. 90-689. A provisional license shall allow the individual to practice perfusion under the supervision and direction of a licensed perfusionist and in accordance with rules adopted pursuant to this Article. A license is provisional and stating the terms and conditions of its use by the licensee and shall state the date the license was granted and the date it expires. Provisional licenses shall be renewed in accordance with the provisions of G.S. 90-690.

***Certification Renewal Requirements.***

**Renewal of licenses:** All licenses to practice perfusion shall expire two years after the date they were issued. The Committee shall send a notice of expiration to each licensee at his or her last known address at least 30 days prior to the expiration of his or her license. All applications for renewal of unexpired licenses shall be filed with the Committee and accompanied by proof satisfactory to the Committee that the applicant has completed the continuing education requirements established by the Committee and the renewal fee as required by G.S. 90-689.

An application for renewal of a license that has been expired for less than three years shall be accompanied by proof satisfactory to the Committee that the applicant has satisfied the continuing education requirements established by the Committee and the renewal and late fees required by G.S. 90-689. A license that has been expired for more than three years shall not be renewed, but the applicant may apply for a new license by complying with the current requirements for licensure under this Article.

***Fees.*** Fees are set by the Board and cannot exceed the following amounts:

<b>Purpose of Fee</b>	<b>Fee Amount</b>
Initial application	\$25.00
Issuance of license	\$350.00
Biennial renewal of license	\$350.00
Late renewal of license	\$100.00
Provisional license	Cost
Copies of rules	\$25.00

***Disciplinary Actions.*** The Committee may deny, refuse to renew, suspend, or revoke an application or license or order probation or issue a reprimand if the applicant or licensee:

- 1) Gives false information or withholds material information from the Committee in procuring or attempting to procure a license.
- 2) Gives false information or withholds material information from the Committee during the course of an investigation conducted by the Committee.

- 3) Has been convicted of or pled guilty or no contest to a crime that indicates the person is unfit or incompetent to practice perfusion as defined in this Article or that indicates the person has deceived, defrauded, or endangered the public.
- 4) Has a habitual substance abuse or mental impairment that interferes with his or her ability to provide appropriate care as established by this Article or rules adopted by the Committee.
- 5) Has demonstrated gross negligence, incompetency, or misconduct in the practice of perfusion as defined in this Article.
- 6) Has had an application for licensure or a license to practice perfusion in another jurisdiction denied, suspended, or revoked for reasons that would be grounds for similar action in this State.
- 7) Has willfully violated any provision of this Article or rules adopted by the Committee.

### **CIVIL PENALTIES; DISCIPLINARY COSTS**

**Authority to Assess Civil Penalties:** The Committee may assess a civil penalty not in excess of one thousand dollars (\$1,000) for the violation of any section of this Article or the violation of any rules adopted by the Committee. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

**Consideration Factors:** Before imposing and assessing a civil penalty, the Committee shall consider the following factors:

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

**Schedule of Civil Penalties:** The Committee shall establish a schedule of civil penalties for violations of this Article and rules adopted by the Committee.

**Costs:** The Committee may assess the costs of disciplinary actions against a person found to be in violation of this Article or rules adopted by the Committee.

### **GOVERNING BOARD**

**North Carolina Perfusion Advisory Committee.** The Board shall consist of six members who shall serve staggered terms. The initial Committee members shall be selected on or before October 1, 2005 as follows:

- 1) The North Carolina Medical Board shall appoint three licensed perfusionists, two of whom shall serve a term of three years and one of whom shall serve a term of two years.
- 2) The North Carolina Medical Board shall appoint one physician who is licensed under Article 1 of Chapter 90 of the General Statutes and is a cardiothoracic surgeon or a cardiovascular anesthesiologist, who shall serve a term of two years.
- 3) The North Carolina Hospital Association shall appoint one hospital administrator, who shall serve a term of one year.
- 4) The Governor shall appoint one public member, who shall serve a term of one year.

***Powers of the Committee.*** The Committee shall have the power and duty to:

- 1) Administer this Article.
- 2) Issue interpretations of this Article.
- 3) Adopt, amend, or repeal rules as may be necessary to carry out the provisions of this Article.
- 4) Employ and fix the compensation of personnel that the Committee determines is necessary to carry into effect the provisions of this Article and incur expenses necessary to effectuate this Article.
- 5) Determine the qualifications and fitness of applicants for licensure, provisional licensure, licensure renewal, and reciprocal licensure.
- 6) Issue, renew, deny, suspend, or revoke licenses, order probation, issue reprimands, and carry out any other disciplinary actions authorized by this Article.
- 7) Set fees for licensure, provisional licensure, reciprocal licensure, licensure renewal, and other services deemed necessary to carry out the purposes of this Article.
- 8) Establish continuing education requirements for licensees.
- 9) Establish a code of ethics for licenses.
- 10) Maintain a current list of all persons who have been licensed under this Article.
- 11) Conduct investigations for the purpose of determining whether violations of this Article or grounds for disciplining licensees exists.
- 12) Maintain a record of all proceedings and make available to all licensees and other concerned parties an annual report of all Committee action.
- 13) Adopt a seal containing the name of the Committee for use on all official documents and reports issued by the Committee.

## **FINDINGS AND RECOMMENDATIONS**

***Findings.*** The Legislative Committee on New Licensing Boards finds that the sponsors have met the six criteria by which the Committee judges licensure proposals. Specifically, the Committee finds that:

- (1) The unregulated practice of perfusion can substantially harm or endanger the public health, safety, or welfare since perfusionists operate mechanical support devices, such as the heart-lung machine, intra-aortic balloon pump, and the extra-corporeal membrane oxygenator.
- (2) The profession possesses qualities that distinguish it from ordinary labor since perfusionists must know basic anatomy, physiology, pharmacology, and pathology as well as undergo both didactic and practical training in the use of extra-corporeal circulation.
- (3) The practice of the perfusion requires specialized skill or training.
- (4) A substantial majority of the public does not have the knowledge or experience to evaluate the competence of a perfusionist.
- (5) The public cannot be effectively protected by other means.
- (6) Licensure would not have a substantial adverse economic impact upon consumers of the perfusionist's services.

***Recommendation.*** The Legislative Committee on New Licensing Boards recommends the licensing of perfusionists. This assessment report constitutes both the preliminary and final assessment report for the licensure of perfusionists. The report is based on the proposed licensing of perfusionists as set out in House Bill 903 and Senate Bill 1059, the response to the Committee's questionnaire (Attachment), and testimony before the Committee on April 25, 2005.

# ATTACHMENT

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## *Response to Questionnaire for the Legislative Committee on New Licensing Boards*

QUESTIONS FOR THE  
LEGISLATIVE COMMITTEE ON  
NEW LICENSING BOARDS

1. In what ways has the marketplace failed to regulate adequately the profession or occupation?

*The practice of perfusion is defined as those functions necessary for the support, treatment, measurement, or supplementation of the cardiopulmonary and circulatory system of the patient. A perfusionist is a skilled person, qualified by academic and clinical education that operates extracorporeal circulation equipment during any medical situation where it is necessary to support or replace the patient's cardiopulmonary/circulatory function and ensures the proper management of physiologic functions by monitoring the necessary variables. These duties, upon prescription by a physician and in accordance with hospital policy, include but are not limited to the safe performance and/or management of:*

*Extracorporeal circulation/cardiopulmonary support, counter pulsation, circulatory support/ventricular assistance, extracorporeal membrane oxygenation (ECMO), blood conservation techniques/auto transfusion, myocardial preservation, anticoagulation and hematological monitoring/analysis, physiological monitoring/analysis, blood gas and blood chemistry monitoring/analysis, induction of hypothermia/hyperthermia with reversal, hemodilution, hemofiltration, administration of medications, blood components and anesthetic agents via the extracorporeal circuit and documentation extracorporeal circuit and documentation.*

*The improper management of perfusion devices and techniques, or unavoidable accidents in the hands of skilled perfusionists often results in death or severe impairment to the patient. Replacing a patient's blood flow, pulmonary function or blood volume requires the ability to respond instantaneously to changes in patient status or device function. The skilled perfusionist draws upon experience, scientific principles and training to*



*rapidly assess clinical situations, effect smooth and safe resolution of problems and manage problems and manage routine cases. Marketplace factors which might limit a practitioner's employment or service contract would only become effective after the clinician had been involved in several perfusion accidents, with the resulting dire patient consequences. The death or harm to numerous patients is clearly too high a price for the health care consumer to pay, when qualifications and suitability can be regulated and assured ahead of time.*

*Perfusion is a low profile entity. Most cardiac patients are unaware of the existence or importance of this member of the open heart team, and a poor patient outcome due to a "pump accident" is more likely to reflect on the surgeon than the perfusionist—thus the marketplace control may be misplaced in limiting the surgeon's referrals rather than weeding out the incompetent technologist. While the affected surgeon will likely exert a control on the perfusionist's future employment at that hospital, dependence on such a system of control is unfair to the surgeon, unsafe for the public and damaging to the profession. There is no disciplinary action in place to keep an incompetent perfusionist from just moving to another hospital down the street. Clearly, the public safety and welfare is better served by preventative measures than retroactive punishment, when the risk to the patient is so high.*

*Currently, no regulations exist to guarantee the employer or perfusionists or the surgeon that an individual representing himself as a perfusionist is qualified. Waiting for the marketplace to sense a pattern of clinical failures which might affect physicians' referral patterns is a roundabout and unacceptable means of regulation. Although there are anecdotal reports of patient hazard resulting from care by unqualified perfusionists, the private nature of the physician-patient contract and resulting litigation make documentation impossible to obtain.*

2. Have there been any complaints about the unregulated profession or occupation?

Please give specific examples including (unless confidentiality must be maintained) complainants' names and addresses.

*It has been noted that possibly one patient per thousand cases performed result in injury or death associated with the heart lung machine. Based on the above, if there were 13,000 to 17,000 procedures performed by perfusionists each year in North Carolina this would equate to 13 - 17 injuries or deaths per year. Cardiac surgery itself carries a 3% mortality (death) rate both state wide and nationally. Taking the average number of procedures that are done in our state (15,000 times a mortality rate of 3%), gives you approximately 450 deaths in North Carolina per year. Risk management reviews most of these incidents internally. This information is very seldom if ever shared with any outside sources. In the extremely complex nature of cardiac surgery it is often not one single catastrophic event that causes the injury or death. Most of the time, an undesirable outcome is due to many smaller things that fail or go unnoticed during the procedure or the overall health of the patient. The incidents involving perfusionist are remarkably low and difficult to track. This however does not remove the responsibility or liability of that health care professional. A greater effort and responsibility falls to us as professionals to have a mechanism in place to prevent those who are incapable from jeopardizing the health, safety and welfare of North Carolinians. Licensure will assure the people of North Carolina that the quality of education and clinical practice of perfusion will remain at the forefront and prevent those few unqualified professionals from continuing to practice in our state.*

3. In what ways has the public health, safety or welfare sustained harm or is in imminent danger of harm because of the lack of state regulation? Please give specific examples.

*Perfusion is a demanding profession, requiring a unique combination of highly specialized medical and mechanical training. The proposed regulation will serve to protect the consumer public from untrained and unqualified practitioners performing critical medical procedures and/or operating in a capacity beyond their expertise. Does this go beyond freedom from Harm? Yes. The cardiac team functions like a machine in requiring all of its members to utilize their expertise unison. This maximizes the outcome of the procedure and shortens the patient's length of stay in the hospital, reducing medical care costs. Currently all cardiac*

*team members are regulated except the perfusionists. Essentially the person who can do the most harm to the patient goes un-regulated.*

*Patients (and their families) about to undergo open-heart surgery, coronary angioplasty, coronary stenting or any of a variety of general surgeries require and deserve protection. These patients do not question the expertise of members of the surgical team, assuming that all are suitably qualified to perform their respective jobs. There is not any consumer group that would not benefit from this regulation and it would be capricious to suggest that there is a part of the public population that would be less affected. Anyone who is about to undergo surgery should have the guarantee of the best quality care. If this regulation is enacted all consumers will enjoy equal benefit knowing that members of the surgical team are qualified.*

4. Is there potential for substantial harm or danger by the profession or occupation to the public health, safety or welfare? How can this potential harm or danger be recognized?

*Charles C. Reed and Trudi B. Stafford, 1989 have reported it in the second edition of Cardiopulmonary Bypass, that "the number of injuries or deaths from accidents during perfusion was one per 1000 cases performed". One of the most catastrophic accidents is arterial air embolism. This can result from inattention by the perfusionist to the level of the blood in the reservoir in the heart lung machine. Loss of blood flow to the heart lung machine can result in emptying of this reservoir and pumping massive amounts of air into the patient. This scenario can occur in less than 15 seconds. Massive amounts of air into the brain can result in a persistent vegetative state or death to the patient. There are also a variety of other perfusion related causes of air embolism.*

*Perfusionists are required to add various drugs, IV fluids and blood products during the course of cardiopulmonary bypass. Errors in drug doses, wrong drugs, incompatible blood products, inappropriate*

*speed of administration can result in a variety of physical effects, including extremely low or high blood pressure, fibrillation of the heart, or depression of the heart muscle function. Errors in IV fluids can generally be tolerated by an adult patient, but can be lethal to an infant on cardiopulmonary bypass. The possible effects of adding the wrong solution could include the swelling of cells and tissues of the body, aberrations in electrolyte levels, or inappropriate increase of the serum glucose level.*

*The physical, social, intellectual, financial, or other consequences to the consumer of services resulting from incompetent practitioner practice include the deleterious effects of blood administration to patients. The possibilities of infecting a patient with AIDS or hepatitis virus have been well documented as two of the more serious hazards. The perfusionist is frequently involved in the decision to transfuse blood to a patient on cardiopulmonary bypass. The decision is always with the approval of a physician. The perfusionist does have the responsibility of making sure that the blood has been typed and crossed matched to the patient prior to administration through the extracorporeal circuit. There have been mistakes in the administration of incompatible blood types, which can cause many catastrophic outcomes for the patient including but not limited to renal failure, embolic episodes and death.*

*The perfusionist is responsible for controlling the cooling or warming of the patient's blood and therefore, the patient's body. This accomplished by using a device called a heater cooler unit and a heat exchanger. The perfusionist controls and monitors the temperature of the water bath in the heater cooler unit. This water is circulated to the heat exchanger, which is a series of metal tubes that allows the water to circulate on one side while the patient's blood circulates on the other side. If the temperature gradient between the water and blood becomes too great, while attempting to warm the patient, air bubbles may begin to appear in the patient's blood, leading to possible organ damage from air*

*embolism. Another dire consequence can occur if there is a leak in the metal tubing of the heat exchanger which would result in water to blood leak. The patient's red blood cells would be irreversibly damaged from this event. It is the perfusionist's responsibility to check the integrity of the heat exchanger prior to patient use.*

*The perfusionist is responsible for utilizing sterile technique while assembling and priming the extracorporeal circuit. Breaks in sterile technique are frequently known only to the offending practitioner. It is imperative that this person has the integrity to correct the situation, even if it means dismantling the heart lung circuitry and starting again.*

*Clearly, the physical impairment resulting from these untoward events can leave a patient and his family with major impact on their financial standing, as well as attendant social and emotional factors. The most common long-standing effect of a perfusion accident is neurological damage, which permanently alters the patient's intellectual function, often removing him from his work force or society at large. This type of patient also represents a greatly increased financial burden on society, both in terms of post-operative care, and long-term rehabilitation. Frequently, death is the outcome of such an accident, with all the devastating effects on the survivors.*

*The legal remedies available to redress consumer injury and abuse are the same as those available surrounding any malpractice incident, i.e. the use of litigation through the judicial system or arbitration.*

*Administrative remedies that may impact perfusion services but are not routinely available to consumer utilization exist within the hospital. These include but may not be limited to: the use of "Incident Reports", an internal reporting of unusual occurrences or behaviors that are reviewed by clinical and risk managers; the utilization of hospital staff committees such as the Ethics Committee, Allied Health Professionals Committee and Cardiac or Cardiology Subsections that review client care patterns, which fall outside the expected norm.*

*The current available remedies are generally sufficient to address consumer injury. However, they are not sufficient to limit or prevent consumer injury or abuse. The same criticisms that are offered about the existing malpractice litigation system should be considered. Litigation does little to prevent injury to the client and seldom provides a restoration of health or lifestyle to levels existent prior to the injury.*

5. Has this potential harm or danger to the public been recognized by other states or the federal government through the licensing or certification process? *Please list the other states and any applicable federal law (including citations).*

*Perfusionists have been recognized as a definable allied health profession by the AMA since 1977. As a young and rapidly growing specialty, practitioners have been active for the past several years constructing and consolidating the agencies and organizations necessary for a medical profession: educational organizations, scientific journals, accreditation board, and voluntary certification board. Perfusion has now evolved as a profession to a point where governmental regulation is the next step both to protect the patient from the high liability of unqualified practitioners, and to recognize the unique and high level of medical judgment and skill and its important role in critical medicine. New Jersey's State Medical Practice Act has regulations citing the number of perfusionists who must be present during cardiopulmonary bypass and their requirement for certification or qualification. Currently, Arkansas, Texas, Tennessee, Oklahoma, New Jersey, Missouri, Massachusetts, Illinois, Wisconsin, Louisiana and Georgia have passed mandatory licensing for their perfusionists. California has passed mandatory titling for their perfusionists. Several states such as Pennsylvania, New York, Kansas and Connecticut are in the process of licensure.*

6. What will be the economic advantage of licensing to the public?

- a. *Increased quality of care; decrease length of stay in the hospital.*
- b. *Decrease in contained health care costs.*
- c. *Decreased out of pocket expenses for the patient.*
- d. *Decrease in private insurance, Medicare and Medicaid payments.*
- e. *Back to work sooner avoiding excessive loss of income.*

7. What will be the economic disadvantage of licensing to the public?

*There will be no economic disadvantage of licensing to the public since all expenses will be paid for by practitioners license fees.*

- a. *Cost of program administration, including may be compared to the costs associated with an existing state board which fall to the practitioner and not passed on to the public. Since we will be under the North Carolina Medical Board costs will be less and paid for with licensing fees.*
- b. *There will be no costs of developing and/or administering examinations to the public or government since we will be using the existing ABCP which is paid for by the practitioner.*
- c. *Costs associated with enforcement programs will utilize the court system and therefore no associated program costs.*

8. What will be the economic advantage of licensing to the practitioners?

- a. *There is no economic advantage of licensing to the practitioner. Licensing will not create an avenue for higher salaries in North Carolina and has not shown to be the case in the 12 states that have mandatory licensing for perfusionists. These states include Texas, Missouri, Oklahoma, Arkansas, Illinois, Tennessee, New Jersey, Massachusetts, Georgia, Wisconsin, California and Louisiana.*
- b. *Future changes in tort reform may serve as an economic advantage to the practitioner by providing capitation of monetary awards which may result in a decrease of malpractice insurance premiums (perfusionist pay approximately \$6000.00 per year and are considered Class V care givers. E.g. emergency room physicians).*

- c. *In at least one state (Va.), un-licensed health care providers are not covered under the capitation of 1.5 million dollars per occurrence law. This means that for a non-licensed perfusionist there is no protection from exorbitant malpractice awards.*

9. What will be the economic disadvantage of licensing to the practitioners?

*The will be the costs associated with the licensure process and the fees associated with license application.*

- a. *Cost of program administration, including may be compared to the costs associated with an existing state board which fall to the practitioner and not passed on to the public. Since we will be under the North Carolina Medical Board costs will be less and paid for with licensing fees.*
- b. *There will be no costs of developing and/or administering examinations to the public or government since we will be using the existing ABCP which is paid for by the practitioner.*

10. Please give other potential benefits to the public of licensing that outweigh the potential harmful effects of licensure such as a decrease in the availability of practitioners and higher costs to the public.

*There is evidence of "net" benefit when the following possible effects of regulation are considered:*

- A. *Restriction of opportunity to practice: Perfusion is a complex technology, which should be restricted to those who have demonstrated training and competence through a formal examination process. The proposed legislation will ensure that all practitioners have met the educational and experiential prerequisites set forth by the regulating board before being allowed to practice in this state. Since 50 % (another 25 % are eligible) of the perfusion community nationwide and 88-90 % in the state meet the proposed entry*



*requirements, this regulation will not be unduly restrictive. The net benefit will be a higher standardization of patient care.*

- B. Restricted supply of practitioners: The perfusion schools nationwide have kept up with demand for qualified personnel and this regulation will in no way affect the supply of practitioners.*
- C. Increased costs of service to consumer: The cost to the consumer should not increase, since the responsibility for obtaining a license that of the practitioner, and all costs of the regulation should be covered by the licensing fees.*
- D. Increased governmental intervention in the market place: The need for public safety in critical care medicine outweighs the burden of governmental intervention. Additionally, the proposed legislation is written with the intent to screen qualifications not to control or restrict the application of the medical services and providers. The net benefit will be a higher standardization of patient care.*

11. Please detail the specific specialized skills or training that distinguishes the occupation or profession from ordinary labor.

*The perfusion practitioners make judgments of consequence, independently, on a daily basis and continually during the operation of the heart lung machine. They are responsible for the choices of oxygenators (artificial lungs), blood circuitry, degree of hypothermia for specific procedures and often for choices of arterial and venous cannulae; they make decisions during the heart lung machine operation which determine the safety margin provided the patient (such as the operating blood level in the oxygenator to prevent the passage of air emboli to the patient's*

arterial system). *Cardiopulmonary Bypass is a dynamic system in which changes occur minute to minute. The perfusionist constantly adjusts and responds to the surgeons' actions or the patient's fluctuations, which can drastically affect the function and safety of the bypass system. Thus perfusionists are required to constantly make judgments of consequence when performing cardiopulmonary bypass for cardiac surgery. Consequences may result from improper conduct of perfusion during operation of the heart-lung machine.*

1. *Post perfusion neurological damage resulting from hypoxia (inadequate oxygen delivery) or emboli leading to stroke, paralysis or impaired mentation.*
2. *Post perfusion pulmonary insufficiency leading to shock-lung, "pump" lung (micro-emboli throughout the lung tissue), or pulmonary edema.*
3. *Renal complications requiring diuretics or dialysis.*
4. *Hepatic congestion or alteration of hepatic function due to hypoxia, emboli or drug reactions.*
5. *Necrosis of cutaneous circulation or tissue due to inadequate control of anticoagulants.*
6. *Destruction of blood components due to improper heart-lung machine operation, fluid additions or drug additions resulting in anemia, bleeding and low blood protein.*
7. *Transmission of transfusion-related diseases such as AIDS or hepatitis.*
8. *Virtually any degree of physiological or neurological damage or impairment to the extent of death.*

*Practitioners working as or for independent contractors or surgeon employed constitute 30% of the total perfusion work force in the state. As, such, they may be less directly supervised by the hospital administrative structure at the clinical level. As with their hospital*

*employed counterparts, they are under the general supervision of the physician-in-charge in all clinical situations. perfusionists working under the auspices of an organization, employer or supervisor still function with a high degree of independence in performing their work. Although the surgeon is supervising the perfusionist and may provide protocols as a guide, the actual decision-making is taking place at the heart lung machine by the perfusionists on a minute-to minute basis. When problems occur, split second analysis and response is required, without time for consultation with the supervising physician. While a nurse anesthetist can call the anesthesiologist and the physician assistant can call their supervising physician if there is a problem, the perfusionist does not enjoy that luxury. The perfusionist is the only one in the room with the knowledge and understanding of the heart lung machine and how to fix it if there is a problem. If the perfusionist is working alone, there may be no one to call if a problem arises and therefore must handle the situation alone. The growth in the complexity of perfusion technology, and the proliferation of device options have recently resulted in the physician finding himself or herself unfamiliar with the intricacies of the machinery utilized during cardiopulmonary bypass.*

*The types of decisions made by the perfusionists rely upon a firm knowledge of perfusion science, physics and physiology, as well as, protocols derived in consultation with the physician. The data, which comprises perfusion science, is unique and highly technical and does not relate to any other allied health profession. To varying degrees, complications may arise during cardiac surgery, which require the surgeon's complete focus, leaving the perfusionist totally responsible for decisions regarding the conduct of perfusion. It is during these critical times when a perfusionist must perform quickly and independently with a high degree of cognitive medical skill, knowledge and strategy in assisting the surgeon to provide life saving measures of patient care.*

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**H**

**1**

**HOUSE BILL 503**

Short Title: Authorize Licensure/Anesthesiologist Assts. (Public)

Sponsors: Representatives Harrell, England, Brubaker (Primary Sponsors); Barnhart, Bell, Church, Clary, Crawford, Current, Daughtry, Dockham, Grady, Gulley, Hill, Hilton, Howard, Hunter, Justice, Kiser, Lewis, Lucas, McComas, McGee, McMahan, Nye, Parmon, Rapp, Ray, Saunders, Setzer, Sherrill, Starnes, Vinson, Walend, and Wray.

Referred to: Health.

March 7, 2005

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE "NORTH CAROLINA ANESTHESIA PATIENT SAFETY AND ACCESS ACT" TO CONFIRM AND REITERATE THE STATUTORY REQUIREMENT OF PHYSICIAN SUPERVISION OF NURSE ANESTHETISTS AND TO AUTHORIZE THE LICENSURE AND REGULATION OF ANESTHESIOLOGIST ASSISTANTS.

Whereas, recent litigation has sought to undermine the long-standing legal requirement that a physician supervise a nurse anesthetist providing anesthesia care in North Carolina; and

Whereas, the General Assembly seeks to reiterate that North Carolina law requires physician supervision of nurse anesthetists; and

Whereas, there is a documented shortage of anesthesia providers in North Carolina; and

Whereas, anesthesiologist assistants are licensed by many states to provide anesthesia services under the supervision of an anesthesiologist; and

Whereas, licensure of anesthesiologist assistants in North Carolina would help alleviate the existing shortage of anesthesia providers in this State; and

Whereas, anesthesiologist assistants have excellent clinical safety records, are highly trained, and are authorized to provide anesthesia services under such federal programs as Medicare, Medicaid, TriCare, and the Veterans Administration; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 90-11 is amended by adding a new subsection to read:

"(a1) Every applicant for licensure as an anesthesiologist assistant in the State shall satisfy the North Carolina Medical Board that the applicant is of good moral character

1 and meets the other qualifications for the issuance of a license before a license is  
2 granted by the Board to the applicant."

3 **SECTION 2.** G.S. 90-15 reads as rewritten:

4 **"§ 90-15. License fee; salaries, fees, and expenses of Board.**

5 Each applicant for a license by examination shall pay to the North Carolina Medical  
6 Board a fee which shall be prescribed by the Board in an amount not exceeding the sum  
7 of four hundred dollars (\$400.00) plus the cost of test materials before being admitted to  
8 the examination. Whenever a license is granted without examination, as authorized in  
9 G.S. 90-13, the applicant shall pay to the Board a fee in an amount to be prescribed by  
10 the Board not in excess of two hundred fifty dollars (\$250.00). Whenever a limited  
11 license is granted as provided in G.S. 90-12, the applicant shall pay to the Board a fee  
12 not to exceed one hundred fifty dollars (\$150.00), except where a limited license to  
13 practice in a medical education and training program approved by the Board for the  
14 purpose of education or training is granted, the applicant shall pay a fee of twenty-five  
15 dollars (\$25.00), and where a limited license to practice medicine and surgery only at  
16 clinics that specialize in the treatment of indigent patients is granted, the applicant shall  
17 not pay a fee. A fee of twenty-five dollars (\$25.00) shall be paid for the issuance of a  
18 duplicate license. All fees shall be paid in advance to the North Carolina Medical Board,  
19 to be held in a fund for the use of the Board. The compensation and expenses of the  
20 members and officers of the Board and all expenses proper and necessary in the opinion  
21 of the Board to the discharge of its duties under and to enforce the laws regulating the  
22 practice of medicine or surgery shall be paid out of the fund, upon the warrant of the  
23 Board. The per diem compensation of Board members shall not exceed two hundred  
24 dollars (\$200.00) per day per member for time spent in the performance and discharge  
25 of duties as a member. Any unexpended sum or sums of money remaining in the  
26 treasury of the Board at the expiration of the terms of office of the members of the  
27 Board shall be paid over to their successors in office.

28 For the initial and annual registration of an assistant to a physician, the Board may  
29 require the payment of a fee not to exceed a reasonable amount.

30 For the initial and annual registration of an anesthesiologist assistant, the Board may  
31 require the payment of a fee not to exceed a reasonable amount."

32 **SECTION 3.** G.S. 90-18(c)(14) reads as rewritten:

33 "(c) The following shall not constitute practicing medicine or surgery as defined  
34 in subsection (b) of this section:

35 ...

36 (14) The practice of nursing by a registered nurse engaged in the practice of  
37 nursing—nursing, except as otherwise provided herein, and the  
38 performance of acts otherwise constituting medical practice by a  
39 registered nurse when performed in accordance with rules and  
40 regulations developed by a joint subcommittee of the North Carolina  
41 Medical Board and the Board of Nursing and adopted by both boards.

42 ...."

43 **SECTION 4.** G.S. 90-18(c) is amended by adding the following new  
44 subdivisions to read:

"(c) The following shall not constitute practicing medicine or surgery as defined in subsection (b) of this section:

...

(14a) The provision of anesthesia services by a registered nurse or nurse anesthetist under the supervision of a licensed physician.

...

(20) The provision of anesthesia services by a licensed anesthesiologist assistant under the supervision of an anesthesiologist licensed under Article 1 of this Chapter."

SECTION 5. Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-18.5. Limitations on anesthesiologist assistants.**

(a) Any person who is licensed under the provisions of G.S. 90-11 to perform medical acts, tasks, and functions as an assistant to an anesthesiologist licensed under Article 1 of this Chapter may use the title 'anesthesiologist assistant'. Any other person who uses the title in any form or holds himself or herself out to be an anesthesiologist assistant or to be so licensed shall be deemed to be in violation of this Article. A student in any anesthesiologist assistant training program shall be identified as a 'student anesthesiologist assistant' or an 'anesthesiologist assistant student', but under no circumstances shall the student use or permit to be used on the student's behalf, the terms 'intern', 'resident', or 'fellow'. This subsection shall not limit or prevent any physician from delegating to a physician assistant, as defined in G.S. 90-18.1, or other qualified person, any acts, tasks, or functions that are otherwise permitted by law or established by custom.

(b) Anesthesiologist assistants are authorized to provide anesthesia services under the supervision of an anesthesiologist licensed under Article 1 of this Chapter, including the development and implementation of an anesthesia care plan for a patient, under the following conditions:

(1) The North Carolina Medical Board has adopted regulations governing the provision of anesthesia services by an anesthesiologist assistant under the supervision of an anesthesiologist licensed under Article 1 of this Chapter with such limitations as the Board may determine to be in the best interest of patient health and safety.

(2) The anesthesiologist assistant holds a current license issued by the Board.

(c) The North Carolina Medical Board shall adopt rules to implement this section."

SECTION 6. This act is effective when it becomes law.

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

**S**

**1**

**SENATE BILL 394**

Short Title: Authorize Licensure/Anesthesiologist Asst's. (Public)

Sponsors: Senators Hoyle, Purcell; Apodaca, Berger of Rockingham, Clodfelter, Dalton, Forrester, Garrou, Garwood, Goodall, Jenkins, Malone, Pittenger, Smith, Snow, Stevens, and Weinstein.

Referred to: Health Care.

March 7, 2005

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE "NORTH CAROLINA ANESTHESIA PATIENT SAFETY AND ACCESS ACT" TO CONFIRM AND REITERATE THE STATUTORY REQUIREMENT OF PHYSICIAN SUPERVISION OF NURSE ANESTHETISTS AND TO AUTHORIZE THE LICENSURE AND REGULATION OF ANESTHESIOLOGIST ASSISTANTS.

Whereas, recent litigation has sought to undermine the long-standing legal requirement that a physician supervise a nurse anesthetist providing anesthesia care in North Carolina; and

Whereas, the General Assembly seeks to reiterate that North Carolina law requires physician supervision of nurse anesthetists; and

Whereas, there is a documented shortage of anesthesia providers in North Carolina; and

Whereas, anesthesiologist assistants are licensed by many states to provide anesthesia services under the supervision of an anesthesiologist; and

Whereas, licensure of anesthesiologist assistants in North Carolina would help alleviate the existing shortage of anesthesia providers in this State; and

Whereas, anesthesiologist assistants have excellent clinical safety records, are highly trained, and are authorized to provide anesthesia services under such federal programs as Medicare, Medicaid, TriCare, and the Veterans Administration; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 90-11 is amended by adding a subsection to read:

"(a1) Every applicant for licensure as an anesthesiologist assistant in the State shall satisfy the North Carolina Medical Board that the applicant is of good moral character and meets the other qualifications for the issuance of a license before a license is granted by the Board to the applicant."

1           **SECTION 2.** G.S. 90-15 reads as rewritten:

2   **"§ 90-15. License fee; salaries, fees, and expenses of Board.**

3       Each applicant for a license by examination shall pay to the North Carolina Medical  
4   Board a fee which shall be prescribed by the Board in an amount not exceeding the sum  
5   of four hundred dollars (\$400.00) plus the cost of test materials before being admitted to  
6   the examination. Whenever a license is granted without examination, as authorized in  
7   G.S. 90-13, the applicant shall pay to the Board a fee in an amount to be prescribed by  
8   the Board not in excess of two hundred fifty dollars (\$250.00). Whenever a limited  
9   license is granted as provided in G.S. 90-12, the applicant shall pay to the Board a fee  
10   not to exceed one hundred fifty dollars (\$150.00), except where a limited license to  
11   practice in a medical education and training program approved by the Board for the  
12   purpose of education or training is granted, the applicant shall pay a fee of twenty-five  
13   dollars (\$25.00), and where a limited license to practice medicine and surgery only at  
14   clinics that specialize in the treatment of indigent patients is granted, the applicant shall  
15   not pay a fee. A fee of twenty-five dollars (\$25.00) shall be paid for the issuance of a  
16   duplicate license. All fees shall be paid in advance to the North Carolina Medical Board,  
17   to be held in a fund for the use of the Board. The compensation and expenses of the  
18   members and officers of the Board and all expenses proper and necessary in the opinion  
19   of the Board to the discharge of its duties under and to enforce the laws regulating the  
20   practice of medicine or surgery shall be paid out of the fund, upon the warrant of the  
21   Board. The per diem compensation of Board members shall not exceed two hundred  
22   dollars (\$200.00) per day per member for time spent in the performance and discharge  
23   of duties as a member. Any unexpended sum or sums of money remaining in the  
24   treasury of the Board at the expiration of the terms of office of the members of the  
25   Board shall be paid over to their successors in office.

26       For the initial and annual registration of an assistant to a physician, the Board may  
27   require the payment of a fee not to exceed a reasonable amount.

28       For the initial and annual registration of an anesthesiologist assistant, the Board may  
29   require the payment of a fee not to exceed a reasonable amount."

30           **SECTION 3.** G.S. 90-18(c)(14) reads as rewritten:

31       "(c) The following shall not constitute practicing medicine or surgery as defined  
32   in subsection (b) of this section:

33       ...

34       (14) The practice of nursing by a registered nurse engaged in the practice of  
35       ~~nursing—nursing, except as otherwise provided herein,~~ and the  
36       performance of acts otherwise constituting medical practice by a  
37       registered nurse when performed in accordance with rules and  
38       regulations developed by a joint subcommittee of the North Carolina  
39       Medical Board and the Board of Nursing and adopted by both boards.

40       ...."

41           **SECTION 4.** G.S. 90-18(c) is amended by adding the following new  
42   subdivisions to read:

43       "(c) The following shall not constitute practicing medicine or surgery as defined  
44   in subsection (b) of this section:



...  
(14a) The provision of anesthesia services by a registered nurse or nurse anesthetist under the supervision of a licensed physician.

...  
(20) The provision of anesthesia services by a licensed anesthesiologist assistant under the supervision of an anesthesiologist licensed under Article 1 of this Chapter."

SECTION 5. Article 1 of Chapter 90 of the General Statutes is amended by adding a new section to read:

**"§ 90-18.5. Limitations on anesthesiologist assistants.**

(a) Any person who is licensed under the provisions of G.S. 90-11 to perform medical acts, tasks, and functions as an assistant to an anesthesiologist licensed under Article 1 of this Chapter may use the title 'anesthesiologist assistant'. Any other person who uses the title in any form or holds himself or herself out to be an anesthesiologist assistant or to be so licensed shall be deemed to be in violation of this Article. A student in any anesthesiologist assistant training program shall be identified as a 'student anesthesiologist assistant' or an 'anesthesiologist assistant student', but under no circumstances shall the student use or permit to be used on the student's behalf, the terms 'intern', 'resident', or 'fellow'. This subsection shall not limit or prevent any physician from delegating to a physician assistant, as defined in G.S. 90-18.1, or other qualified person, any acts, tasks, or functions that are otherwise permitted by law or established by custom.

(b) Anesthesiologist assistants are authorized to provide anesthesia services under the supervision of an anesthesiologist licensed under Article 1 of this Chapter, including the development and implementation of an anesthesia care plan for a patient, under the following conditions:

(1) The North Carolina Medical Board has adopted regulations governing the provision of anesthesia services by an anesthesiologist assistant under the supervision of an anesthesiologist licensed under Article 1 of this Chapter with such limitations as the Board may determine to be in the best interest of patient health and safety.

(2) The anesthesiologist assistant holds a current license issued by the Board.

(c) The North Carolina Medical Board shall adopt rules to implement this section."

SECTION 6. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

1

HOUSE BILL 903

Short Title: Perfusionists Licensure.

(Public)

Sponsors: Representative England.

Referred to: Finance.

March 28, 2005

A BILL TO BE ENTITLED  
AN ACT AUTHORIZING THE LICENSURE OF PERFUSIONISTS.  
The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 40.

"Perfusionist Licensure act.

**"§ 90-681. Legislative findings.**

The General Assembly finds that the practice of perfusion is an area of health care that is continually evolving to include more sophisticated and demanding patient care activities. The General Assembly further finds that the practice of perfusion by unauthorized, unqualified, unprofessional, and incompetent persons is a threat to public health, safety, and welfare, and therefore it is necessary to establish minimum standards of education, training, and competency for persons engaged in the practice of perfusion.

**"§ 90-682. Definitions.**

The following definitions apply in this Article:

- (1) Advisory Committee. – The North Carolina Perfusion Advisory Committee.
- (2) Clinical certified perfusionist. – A person who has successfully completed the examination process and has been issued a certificate by the American Board of Cardiovascular Perfusion or its successor organization.
- (3) Extracorporeal circulation. – The diversion of a patient's blood through a heart-lung machine or a similar device that assumes the functions of the patient's heart, lungs, kidneys, liver, or other organs.
- (4) Licensee. – A person who has been issued a license to practice perfusion under this Article.
- (5) Perfusion protocols. – Perfusion-related policies and protocols developed or approved by a licensed health care facility or a physician

(b) All salaries, compensation, and expenses incurred or allowed to carry out the purposes of this Article shall be paid by the Committee exclusively out of the fees received by the Committee as authorized by this Article or funds received from other sources. In no case shall any salary, expense, or other obligation of the Committee be charged against the State treasury.

(c) The Committee shall establish fees not exceeding the following amounts:

(1)	<u>Initial application</u>	<u>\$ 25.00</u>
(2)	<u>Issuance of license</u>	<u>\$350.00</u>
(3)	<u>Biennial renewal of license</u>	<u>\$350.00</u>
(4)	<u>Late renewal of license</u>	<u>\$100.00</u>
(5)	<u>Provisional license</u>	<u>\$ 35.00</u>
(6)	<u>Copies of rules</u>	<u>Cost</u>

**"§ 90-690. Renewal of licenses.**

(a) All licenses to practice perfusion shall expire two years after the date they were issued. The Committee shall send a notice of expiration to each licensee at his or her last known address at least 30 days prior to the expiration of his or her license. All applications for renewal of unexpired licenses shall be filed with the Committee and accompanied by proof satisfactory to the Committee that the applicant has completed the continuing education requirements established by the Committee and the renewal fee as required by G.S. 90-689.

(b) An application for renewal of a license that has been expired for less than three years shall be accompanied by proof satisfactory to the Committee that the applicant has satisfied the continuing education requirements established by the Committee and the renewal and late fees required by G.S. 90-689. A license that has been expired for more than three years shall not be renewed, but the applicant may apply for a new license by complying with the current requirements for licensure under this Article.

**"§ 90-691. Suspension, revocation, and refusal to renew.**

(a) The Committee may deny, refuse to renew, suspend, or revoke an application or license or order probation or issue a reprimand if the applicant or licensee:

- (1) Gives false information or withholds material information from the Committee in procuring or attempting to procure a license.
- (2) Gives false information or withholds material information from the Committee during the course of an investigation conducted by the Committee.
- (3) Has been convicted of or pled guilty or no contest to a crime that indicates the person is unfit or incompetent to practice perfusion as defined in this Article or that indicates the person has deceived, defrauded, or endangered the public.
- (4) Has a habitual substance abuse or mental impairment that interferes with his or her ability to provide appropriate care as established by this Article or rules adopted by the Committee.
- (5) Has demonstrated gross negligence, incompetency, or misconduct in the practice of perfusion as defined in this Article.

(6) Has had an application for licensure or a license to practice perfusion in another jurisdiction denied, suspended, or revoked for reasons that would be grounds for similar action in this State.

(7) Has willfully violated any provision of this Article or rules adopted by the Committee.

(b) The taking of any action authorized under subsection (a) of this section may be ordered by the Committee after a hearing is held in accordance with Article 3A of Chapter 150B of the General Statutes. The Committee may reinstate a revoked license if it finds that the reasons for revocation no longer exist and that the person can reasonably be expected to perform the services authorized under this Article in a safe manner.

**"§ 90-692. Enjoining illegal practices.**

The Committee may apply to the superior court for an order enjoining violations of this Article. Upon a showing by the Committee that any person has violated this Article, the court may grant injunctive relief.

**"§ 90-963. Civil penalties; disciplinary costs.**

(a) Authority to Assess Civil Penalties. – The Committee may assess a civil penalty not in excess of one thousand dollars (\$1,000) for the violation of any section of this Article or the violation of any rules adopted by the Committee. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty, the Committee shall consider the following factors:

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

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.

(3) Whether the violation was willful and malicious.

(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Committee shall establish a schedule of civil penalties for violations of this Article and rules adopted by the Committee.

(d) Costs. – The Committee may assess the costs of disciplinary actions against a person found to be in violation of this Article or rules adopted by the Committee."

**SECTION 2.** Notwithstanding the requirements of this act, the North Carolina Perfusion Advisory Committee shall issue a license to practice perfusion to any person who has, as his or her primary job function, been operating cardiopulmonary bypass systems during cardiac surgery cases in a licensed health care facility in the five years immediately preceding application to the Committee or within five of the last eight years preceding application to the Committee. A perfusionist member of the Committee shall apply for and obtain a license from the Committee within 90 days after the Board begins issuing licenses.

**SECTION 3.** G.S. 90-684, as enacted in Section 1 of this act, becomes effective October 1, 2005. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

S

1

SENATE BILL 1059

Short Title: Perfusionists Licensure.

(Public)

Sponsors: Senator Purcell.

Referred to: Health Care.

March 24, 2005

A BILL TO BE ENTITLED  
AN ACT AUTHORIZING THE LICENSURE OF PERFUSIONISTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 40.

"Perfusionist Licensure act.

"§ 90-681. Legislative findings.

The General Assembly finds that the practice of perfusion is an area of health care that is continually evolving to include more sophisticated and demanding patient care activities. The General Assembly further finds that the practice of perfusion by unauthorized, unqualified, unprofessional, and incompetent persons is a threat to public health, safety, and welfare, and therefore it is necessary to establish minimum standards of education, training, and competency for persons engaged in the practice of perfusion.

"§ 90-682. Definitions.

The following definitions apply in this Article:

- (1) Advisory Committee. – The North Carolina Perfusion Advisory Committee.
- (2) Clinical Certified Perfusionist. – A person who has successfully completed the examination process and has been issued a certificate by the American Board of Cardiovascular Perfusion or its successor organization.
- (3) Extracorporeal Circulation. – The diversion of a patient's blood through a heart-lung machine or a similar device that assumes the functions of the patient's heart, lungs, kidneys, liver, or other organs.
- (4) Licensee. – A person who has been issued a license to practice perfusion under this Article.
- (5) Perfusion Protocols. – Perfusion-related policies and protocols developed or approved by a licensed health care facility or a physician

(b) All salaries, compensation, and expenses incurred or allowed to carry out the purposes of this Article shall be paid by the Committee exclusively out of the fees received by the Committee as authorized by this Article or funds received from other sources. In no case shall any salary, expense, or other obligation of the Committee be charged against the State treasury.

(c) The Committee shall establish fees not exceeding the following amounts:

(1)	<u>Initial application</u>	<u>\$ 25.00</u>
(2)	<u>Issuance of license</u>	<u>\$350.00</u>
(3)	<u>Biennial renewal of license</u>	<u>\$350.00</u>
(4)	<u>Late renewal of license</u>	<u>\$100.00</u>
(5)	<u>Provisional license</u>	<u>\$ 35.00</u>
(6)	<u>Copies of rules</u>	<u>Cost</u>

**"§ 90-690. Renewal of licenses.**

(a) All licenses to practice perfusion shall expire two years after the date they were issued. The Committee shall send a notice of expiration to each licensee at his or her last known address at least 30 days prior to the expiration of his or her license. All applications for renewal of unexpired licenses shall be filed with the Committee and accompanied by proof satisfactory to the Committee that the applicant has completed the continuing education requirements established by the Committee and the renewal fee as required by G.S. 90-689.

(b) An application for renewal of a license that has been expired for less than three years shall be accompanied by proof satisfactory to the Committee that the applicant has satisfied the continuing education requirements established by the Committee and the renewal and late fees required by G.S. 90-689. A license that has been expired for more than three years shall not be renewed, but the applicant may apply for a new license by complying with the current requirements for licensure under this Article.

**"§ 90-691. Suspension, revocation, and refusal to renew.**

(a) The Committee may deny, refuse to renew, suspend, or revoke an application or license or order probation or issue a reprimand if the applicant or licensee:

- (1) Gives false information or withholds material information from the Committee in procuring or attempting to procure a license.
- (2) Gives false information or withholds material information from the Committee during the course of an investigation conducted by the Committee.
- (3) Has been convicted of or pled guilty or no contest to a crime that indicates the person is unfit or incompetent to practice perfusion as defined in this Article or that indicates the person has deceived, defrauded, or endangered the public.
- (4) Has a habitual substance abuse or mental impairment that interferes with his or her ability to provide appropriate care as established by this Article or rules adopted by the Committee.
- (5) Has demonstrated gross negligence, incompetency, or misconduct in the practice of perfusion as defined in this Article.

(6) Has had an application for licensure or a license to practice perfusion in another jurisdiction denied, suspended, or revoked for reasons that would be grounds for similar action in this State.

(7) Has willfully violated any provision of this Article or rules adopted by the Committee.

(b) The taking of any action authorized under subsection (a) of this section may be ordered by the Committee after a hearing is held in accordance with Article 3A of Chapter 150B of the General Statutes. The Committee may reinstate a revoked license if it finds that the reasons for revocation no longer exist and that the person can reasonably be expected to perform the services authorized under this Article in a safe manner.

**"§ 90-692. Enjoining illegal practices.**

The Committee may apply to the superior court for an order enjoining violations of this Article. Upon a showing by the Committee that any person has violated this Article, the court may grant injunctive relief.

**"§ 90-693. Civil penalties; disciplinary costs.**

(a) Authority to Assess Civil Penalties. – The Committee may assess a civil penalty not in excess of one thousand dollars (\$1,000) for the violation of any section of this Article or the violation of any rules adopted by the Committee. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Consideration Factors. – Before imposing and assessing a civil penalty, the Committee shall consider the following factors:

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

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.

(3) Whether the violation was willful and malicious.

(4) Any other factors that would tend to mitigate or aggravate the violations found to exist.

(c) Schedule of Civil Penalties. – The Committee shall establish a schedule of civil penalties for violations of this Article and rules adopted by the Committee.

(d) Costs. – The Committee may assess the costs of disciplinary actions against a person found to be in violation of this Article or rules adopted by the Committee."

**SECTION 2.** Notwithstanding the requirements of this act, the North Carolina Perfusion Advisory Committee shall issue a license to practice perfusion to any person who has, as his or her primary job function, been operating cardiopulmonary bypass systems during cardiac surgery cases in a licensed health care facility in the five years immediately preceding application to the Committee or within five of the last eight years preceding application to the Committee. A perfusionist member of the Committee shall apply for and obtain a license from the Committee within 90 days after the Board begins issuing licenses.

**SECTION 3.** G.S. 90-684, as enacted in Section 1 of this act, becomes effective October 1, 2005. The remainder of this act is effective when it becomes law.

**NORTH CAROLINA GENERAL ASSEMBLY  
COMMITTEE MEETING NOTICE  
2005-2006 SESSION**

You are hereby notified that the Legislative Committee on New Licensing Boards will meet as follows:

**DAY & DATE:**     **Monday, April 25, 2005**

**TIME:**             **5:00 p.m.**

**LOCATION:**        **1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**H503 Authorize Licensure/Anesthesiologist Assts.**

**Reps. Harrell, England, Brubaker**

**H903 Perfusionists Licensure**

**Rep. England**

**S394 Authorize Licensure/Anesthesiologist Asst's**

**Sen. Hoyle**

**S1059 Perfusionists Licensure**

**Sen. Purcell**

Respectfully,

Representative Drew Saunders  
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at  
**8:45 a.m. on April 21, 2005.**

\_\_\_\_Principal Clerk  
\_\_\_\_Reading Clerks – House & Senate Chambers

Ruth Fish (Committee Assistant)



## **AGENDA**

### **LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS**

**2:00 p.m., April 27, 2005**

#### **OPENING REMARKS**

**Representative Drew Saunders, Chair**

#### **DISCUSSION ITEMS**

**SB 705 Amend NC Substance Abuse Act  
Sen. Martin Nesbitt, Bill Sponsor**

#### **ADJOURNMENT**

# MINUTES

## LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

April 27, 2005

2:00 p.m.

The Legislative Committee on New Licensing Boards met at 2:00 p.m. on April 27, 2005, in Room 1228 of the Legislative Building. Members in attendance were: Representative Drew Saunders, Chairman, Senators Bingham and Malone and Representatives Carney, Goforth, and Parmon. Cindy Avrette, Committee Counselor, was also present. A Visitor Registration Sheet is attached and made a part of the minutes. (See Attachment #1.)

Representative Saunders, Chairman, presided over the meeting, and he recognized the following Pages:

Bradley Nash of Nash County, sponsored by Representative L. Allen  
Isaac Davis of Duplin County, sponsored by Representative Tucker  
Tosha Murray of Harnett County, sponsored by Representative Lewis  
Alyssa Klaus of Rowan County, sponsored by Representative Coates  
Florence Hamrick of Rowan County, sponsored by Representative Coates  
India Jeffries of Warren County, sponsored by Representative Crawford  
Roberah Hutchison of Granville County, sponsored by Representative Crawford.

Chairman Saunders also recognized Jay Callaway and Fred Hines with the Sergeant at Arms staff.

The issue to be discussed was the licensure of Substance Abuse Counselors. **SB 705 AMEND NC SUBSTANCE ABUSE ACT**, sponsored by Senator Nesbitt, relates to this issue. The 16 questions and answers document, relating to this issue, is attached in the Assessment Report. (See Attachment #2.) Mr. Jim Scarborough, Executive Director of the North Carolina Substance Abuse Professional Certification Board, was acknowledged to speak in support of the licensure of Substance Abuse Counselors. Prior to his comments, Mr. Scarborough introduced Ms. Ann Christian, Attorney with the North Carolina Substance Abuse Professional Certification Board, Ms. Jennifer Sullivan with NASW of North Carolina, Ms. Janet Schanyenbach with the North Carolina Council, Ms. Robin Huffman with the North Carolina Psychiatric Association, and Ms. Flo Stein with the Substance Abuse Section of the Developmental Disabilities Division with the North Carolina State Department of Mental Health. Mr. Scarborough stated that certification has been voluntary since 1993. The licensure of Substance Abuse Counselors would license Counselors for the Master's level and above. It would give the practice protection and rules to govern board certification. Questions and answers followed the presentation.

Senator Nesbitt, bill sponsor of SB 705, also spoke in support of the licensure of Substance Abuse Counselors.

There was no opposition to the licensure of Substance Abuse Counselors. Representative Parmon moved that the Committee finds the following:

1. The unregulated practice of Substance Abuse Counselors can substantially harm the public health, safety, and welfare.
2. Substance Abuse Counselors possess qualities that distinguish them from ordinary laborers.
3. The practice of Substance Abuse Counseling requires specialized skill or training.
4. The public does not have the knowledge it needs to evaluate the professional competence of Substance Abuse Counselors.
5. Licensure is necessary for the public's protection.
6. Licensure will not have an adverse economic impact upon consumers of the practitioner's service.

and in accordance with those findings, the Committee recommends the licensure of Substance Abuse Counselors. A vote was taken, and the motion was approved.

There was no further business, and the meeting was adjourned.

  
Representative Drew Saunders, Chairman

  
Ruth Fish, Committee Assistant

Attachments

## VISITOR REGISTRATION SHEET

NEW LICENSING BOARDS

April 27, 2005

Name of Committee

Date

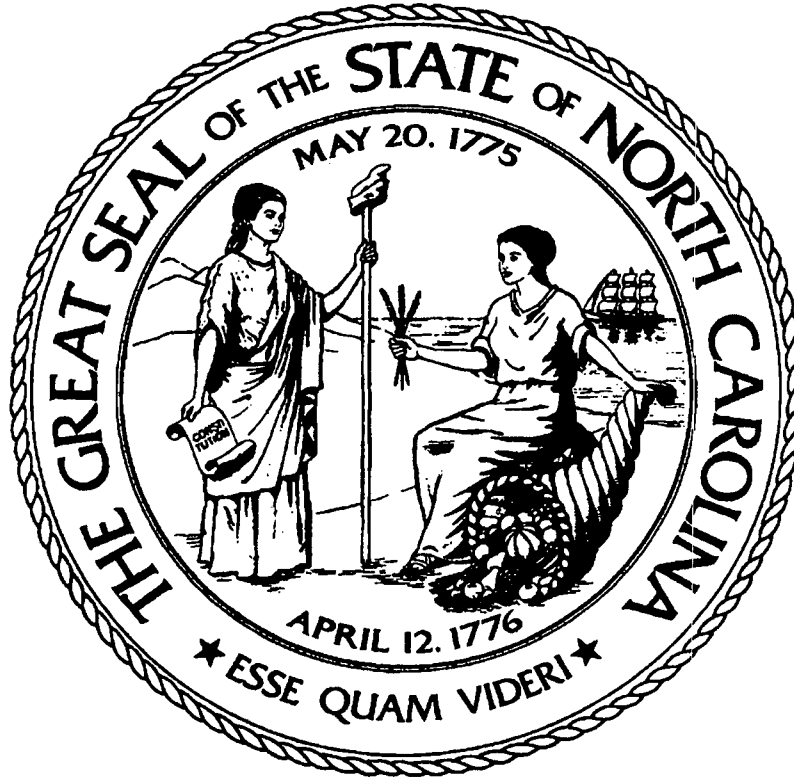
VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Janet Schamgansh	NC Council
Jim Stebbins	NC Substance Abuse Prof. Grp
Reynolds, W.	Reynolds W & Assoc.
Ann Christian	Atty
Robin Huffman	NC Psychiatric Assoc
Ied McDougall	NC DOC DA CDP
Virginia Price	NC Dept of Correction, Division of Alcohol & Chem Dependency Programs
Mildred Spearman	NCDOC
Flo Stein	MH/DD/SAS
Steve Metcalf	The Policy Group
Jennifer Sullivan	NASW - NC

Attachment #2  
April 27, 2005



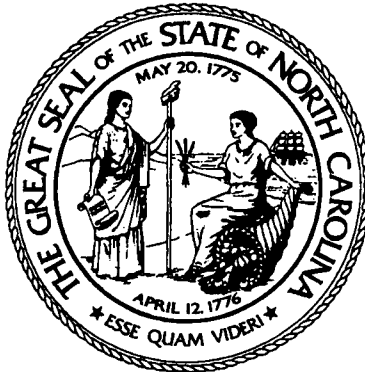
# LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

Assessment Report

For

SUBSTANCE ABUSE PROFESSIONALS

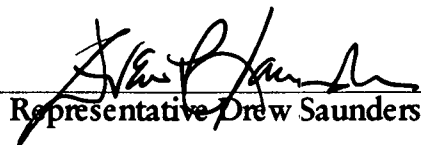
Senate Bill 705



## LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

April 27, 2005

The Legislative Committee on New Licensing Boards is pleased to release this assessment report on the certification and licensing of substance abuse professionals. This report constitutes both the preliminary and final assessment report.

  
Representative Drew Saunders

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS  
(2005-2006)

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Representative Drew Saunders, Chair

Senator Stan Bingham

Representative Harold Brubaker

Senator Kay Hagan

Representative Becky Carney

Senator David Hoyle

Representative Bruce Goforth

Senator Vernon Malone

Representative Earline Parmon

Staff

Ms. Cindy Avrette, Committee Counsel

Ms. Judy Collier, Research Assistant

Ms. Ruth Fish, Committee Clerk

## PREFACE

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The Legislative Committee on New Licensing Boards is a 9-member joint committee of the House and Senate created and governed by statute (Article 18A of Chapter 120 of the General Statutes). The primary purpose of the Committee is to evaluate the need for a new licensing board or the proposed licensing of previously unregulated practitioners by an existing board. The Committee has been in existence since 1985.

The Committee solicits written and oral testimony on each licensing proposal in carrying out its duty to determine whether the proposal meets the following criteria:

- 1) Whether the unregulated practice of the profession can substantially endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- 2) Whether the profession possesses qualities that distinguish it from ordinary labor.
- 3) Whether practice of the profession requires specialized skill or training.
- 4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence.
- 5) Whether the public can effectively be protected by other means.
- 6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's good or services.

The Committee issues an assessment report on its findings and recommendations. The recommendation in the report is not binding on other committees considering the proposal.



SENATE BILL 705  
AMEND NC SUBSTANCE ABUSE ACT

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BACKGROUND<sup>1</sup>

*Current Standards.*

In 1994, the General Assembly established a certification process for professionals engaged in the assessment, evaluation, and provision of counseling and therapeutic services to persons suffering from substance abuse or dependency. However, the North Carolina Substance Abuse Professional Certification Board's scope of authority is currently limited to title protection licensure or the authority to ensure that Board authorized professional titles such as Certified Substance Abuse Counselor cannot be used by anyone unless they have actually obtained that title officially through the Board. The Board has the authority to investigate complaints about professionals who are either certified by the Board or in the process of becoming certified, but it has no authority to investigate or pursue complaints about unregulated professionals.

The proposed legislation would expand the Board's scope of authority to include practice protection, which would ensure that a person, unless otherwise exempted by statute, would be unable to practice as a substance abuse professional without successful completion of a mandatory licensing process through the Board. A substance abuse professional<sup>2</sup> is a certified substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director.

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<sup>1</sup> Source: *Response to Questionnaire for the Legislative Committee for New Licensing Boards*. A copy of the questionnaire is attached to this report.

<sup>2</sup> As defined in G.S. § 90-113.31(8).

The move toward practice protection licensure has earned the support of the state chapters of Psychology, Psychiatry and Social Work as well as the Division of MH/DD/SA, Division of Facility Services, the Division of Medical Services and the Division of Motor Vehicles. Other states have recognized the potential for harm to the public health, safety, or welfare, as there are currently at least 70 boards in the United States and other countries that offer competency-based certification, including all branches of the US Military and the federal Indian Health Services. New York is one of many states that have certification written into state administrative regulations. The following states have practice protection licensure of substance abuse professionals:

COLORADO  
CONNECTICUT  
LOUISIANA  
MAINE  
MARYLAND  
NEW HAMPSHIRE  
NEW MEXICO  
OHIO  
TEXAS  
VERMONT  
VIRGINIA  
WISCONSIN

#### CERTIFICATION REQUIREMENTS

##### *Who Must Be Certified.*

Under the proposed legislation, it would be a Class 1 misdemeanor to offer or provide substance abuse counseling without being credentialed by the North Carolina Substance Abuse Professional Practice Board. The Board shall establish and publish required standards to credential substance abuse professionals and may use the credentialing standards of the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Incorporated and the standards adopted by professional disciplines granted deemed status or their successor organizations as guidelines. The Board offers a wide range

of credentials available to practitioners from entry level up to and including persons with a master's degree or higher. The range of credentials encompasses persons who practice in substance abuse treatment, substance abuse prevention, substance abuse clinical supervision, substance abuse residential facility programs, and criminal justice settings. Each type of credential carries its own educational, training, and experience requirements. Credentials must be renewed every two years and renewal is conditioned upon meeting various levels of continuing education that differ depending upon the type of credential being renewed.

*Certified Substance Abuse Counselor or Certified Substance Abuse Prevention Consultant:*

- Meet the requirement for certification pursuant to any applicable statute or rule.
- Meet the minimum education standards.
- Complete the requisite number hours of supervised practical training and supervised experience in the field.
- Obtain a passing score on a written examination administered by the Board. In addition, an applicant for certification as a substance abuse counselor must pass an oral examination administered by the Board.
- Meet all required standards published by the Board.

*Certified Clinical Supervisor:*

- Meet the requirement for certification pursuant to any applicable statute or rule.
- Meet the minimum education standards.
- Meet the requisite number hours of experience in the field.
- Obtain a passing score on a written examination administered by the Board. In addition, an applicant for certification as a substance abuse counselor must pass an oral examination administered by the Board.
- Meet all required standards published by the Board.

*Licensed Clinical Addictions Specialist:*

- Meet the requirement for certification pursuant to any applicable statute or rule.
- Meet one (1) criteria of a specified set of four (4) criteria with varied requirements.
- Meet all required standards published by the Board.

*Substance Abuse Residential Facility Director:*

- Meet the requirement for certification pursuant to any applicable statute or rule.
- Meet the minimum education standards.
- Meet the requisite number of hours of Board approved academic or didactic management specific training or a combination thereof.
- Meet all required standards published by the Board.

*Certified Criminal Justice Addictions Professional:*

- Meet the requirement for certification pursuant to any applicable statute or rule.
- Meet the minimum education or training standards.
- Meet one (1) criteria of a specified set of six (6) criteria related to supervised work experience
- Pass a certified criminal justice addictions professional written examination.

All applicants in the above-referenced professional positions must submit a complete criminal history record check.

*Exemptions from Certification.*

This Article does not apply to any person registered, certified, or licensed by the State or federal government to practice any other occupation or profession while rendering substance abuse services or consultation in the performance of the occupation or profession for which the person is registered, certified, or licensed.

*Initial Registration Requirements.*

**General Requirements:** The credentialing process is one of graduated steps to ensure that substance abuse professionals have the necessary supervised training. The first step in this graduated process is designation as a 'registrant' Upon application and payment of the required fee, the Board shall issue a registration designating an applicant as a registrant if the applicant:

- 1) Provides documentation that he or she has received a high school diploma, or the equivalent, and evidence of any baccalaureate or advanced degrees the applicant has received.
- 2) Completes a registration application on a form provided by the Board.
- 3) Provides documentation of three hours of educational training in ethics.
- 4) Signs a form attesting to the applicant's commitment to adhere to the ethical standards adopted by the Board.
- 5) Provides a complete criminal history record check pursuant to G.S. 90-113.46A.
- 6) Signs a supervision contract provided by the Board that documents the proposed supervision process by an applicant supervisor.

***Registration Status Requirements.***

**Registrant Status:** Registrant status shall be maintained for a period of up to five years while the registrant is in the process of completing his or her requirements for credentials pursuant to this Article. If at the end of a five-year period a registrant has not obtained a credential under this Article, the Board shall renew the registration for up to an additional five-year period after the registrant pays the required fee and complies with all requirements for registration pursuant to G.S. 90-113.40A. The Board shall terminate the registration of any registrant who fails to renew his or her registration.

**Fees.** Fees are set by the Board and cannot exceed the following amounts:

Purpose of Fee	Fee Amount
Certificate of Certification as: <ul style="list-style-type: none"> <li>o Substance Abuse Counselor</li> <li>o Substance Abuse Prevention Consultant</li> <li>o Clinical Supervisor</li> <li>o Substance Abuse Residential Facility Director</li> <li>o Certified Criminal Justice Addictions Professional</li> </ul>	May not exceed \$475.00
Fee to renew Certificate	May not exceed \$150.00
Certificate of Licensure for a Clinical Addictions Specialist pursuant to deemed status	Shall not exceed \$150.00
Fee to renew License for a Clinical Addictions Specialist pursuant to deemed status	Shall not exceed \$100.00

Purpose of Fee	Fee Amount
Fee to obtain a License for a Clinical Addictions Specialist pursuant to all other procedures authorized by this Article	Shall not exceed \$475.00
Fee to renew License	Shall not exceed \$150.00
Fee to obtain Registration as a Registrant	Shall not exceed \$150.00
Fee to renew Registration	Shall not exceed \$150.00
Fee for Reexamination	\$150.00
Fee for Rescheduling any Examination	Not to exceed \$ 25.00
Fee to obtain written verification or additional copy of a Credential issued by the Board	Not to exceed \$ 25.00
Late Renewal Fee	Not to exceed \$125.00
Fee for each administration of the test an applicant must pass to be credentialed as a United States Department of Transportation substance abuse professional	Not to exceed \$150.00

***Disciplinary Actions.*** Grounds for disciplinary action for an applicant or credentialed professional include:

- 1) The employment of fraud, deceit, or misrepresentation in obtaining or attempting to obtain licensure, certification, or registration or renewal of licensure, certification, or registration.
- 2) The use of drugs or alcoholic beverages to the extent that professional competency is affected.
- 3) The use of drugs or alcoholic beverages to the extent that a substance abuse professional suffers impairment, including conviction of the offense of driving while impaired.
- 4) Conviction of an offense under any municipal, State or federal law other than traffic laws as prescribed by Chapter 20 of the General Statutes.
- 5) Conviction of a felony or other public offense involving moral turpitude. Conviction of a Class A-E felony shall result in an immediate suspension of licensure, certification, or registration for a minimum of one year.
- 6) An adjudication of insanity or incompetency, until proof of recovery from this condition can be established by a licensed psychologist or psychiatrist.

- 7) Engaging in any act or practice in violation of any of the provisions of this Article or any of the rules adopted pursuant to it, or aiding, abetting, or assisting any other person in such a violation.
- 8) The commission of an act of malpractice, gross negligence, or incompetence while serving as a substance professional, intern, or registrant.
- 9) Engaging in conduct that could result in harm or injury to the public.
- 10) Entering into a dual relationship that impairs professional judgment or increases the risk of exploitation with a client or supervisee.
- 11) Practicing as a credentialed substance abuse professional outside of his or her scope of practice pursuant to G.S. 90-113.31B.

### GOVERNING BOARD

***North Carolina Substance Abuse Professional Practice Board.*** The 19-member North Carolina Substance Abuse Professionals Certification Board already exists. The proposed legislation would change its name to the 'North Carolina Substance Abuse Professional Practice Board' and expand its powers and duties to include licensure. Its membership would remain unchanged<sup>3</sup>; however, the term of membership would increase from three-year terms to four-year terms.

***Powers of the Board.*** The Board's powers and duties remain similar to the Board's existing powers and duties:

- (1) Examine and determine the qualifications and fitness of applicants for certification and licensure to practice in this State.
- (1a) Determine the qualifications and fitness of organizations applying for deemed status.

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<sup>3</sup> Eleven credentialed professionals elected by the credentialed professionals, at least two of whom shall serve each of the four Division of Mental Health, Developmental Disabilities, and Substance Abuse Services regions of the State. Three laypersons or other professional disciplines who have shown a special interest in the field of substance abuse, nominated by the Nominating and Elections Committee, whose five members are elected by the Board. Two members from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, Department of Health and Human Services. Three public members, one appointed by each of the following people: the Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate.

- (2) Issue, renew, deny, suspend, or revoke licensure, certification, or registration to practice in this State or reprimand or otherwise discipline a license, certificate, or registration holder in this State.<sup>4</sup>
- (3) Deal with issues concerning reciprocity.
- (4) Conduct investigations for the purpose of determining whether violations of this Article or grounds for disciplining exists.
- (5) Employ and fix the compensation of personnel and legal counsel<sup>5</sup> that the Board determines is necessary to carry out the provisions of this Article. The Board may purchase or rent necessary office space, equipment, and supplies.
- (6) Conduct administrative hearings in accordance with Chapter 150B of the General Statutes when a "contested case", as defined in Chapter 150B, arises.
- (7) Appoint from its own membership one or more members to act as representatives of the Board at any meeting in which it considers this representation is desirable.
- (8) Establish fees for applications for examination, registration, certificates of certification, licensure, and renewal, and other services provided by the Board.
- (9) Adopt any rules necessary to carry out the purpose of this Article and its duties and responsibilities pursuant to this Article.
- (10) Request that the Department of Justice conduct criminal history record checks of applicants for registration, certification, or licensure pursuant to G.S. 114-19.11A.<sup>6</sup>

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<sup>4</sup> Licensure represents an expansion of the Board's current powers and duties.

<sup>5</sup> Clarifies that the Board may employ legal counsel.

<sup>6</sup> Criminal history record checks are not part of the Board's current powers and duties. They would become a necessary condition for licensure under Senate Bill 705.



## FINDINGS AND RECOMMENDATIONS

### *SUBSTANCE ABUSE PROFESSIONALS*

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**Findings.** The Legislative Committee on New Licensing Boards finds that the sponsors have met the six criteria by which the Committee judges licensure proposals. Specifically, the Committee finds that:

- 1) The unregulated practice of substance abuse counseling can substantially harm or endanger the public health, safety, or welfare because there is not a regulatory body in place to investigate and resolve allegations of impropriety by substance abuse professionals that are not certified by the North Carolina Board Substance Abuse Professional Certification Board. Examples of impropriety that regulation could curb include: potential misuse of State and federal funding for substance abuse services, sexual activity and harassment of colleagues and clients, overcharging non-English speaking clients, practicing outside the scope of one's practice, practicing while impaired by alcohol or other drugs, creating personal relationships with clients, and overcharging of fees set in statutes such as the State's DWI laws.
- 2) The profession possesses qualities that distinguish it from ordinary labor since professional education and training includes college level degrees and numerous hours of supervised training.
- 3) The practice of substance abuse counseling requires specialized skill or training.
- 4) A substantial majority of the public does not have the knowledge or experience to evaluate the competence of a substance abuse professional.
- 5) The public cannot be effectively protected by other means.
- 6) Licensure would not have a substantial adverse economic impact upon the recipient of the services of a substance abuse professional.

**Recommendation.** The Legislative Committee on New Licensing Boards recommends the licensing of substance abuse professionals. This assessment report constitutes both the preliminary and final assessment report for the licensure of substance abuse professionals. The report is based on the proposed licensing of substance abuse professionals as set out in Senate Bill 705, the response to the Committee's questionnaire (Attachment), and testimony before the Committee on April 27, 2005.

# ATTACHMENT

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## *Response to Questionnaire for the Legislative Committee on New Licensing Boards*

# *Response to Questionnaire*

1. In what ways has the marketplace failed to regulate adequately the profession or occupation?

The system is currently unregulated at least in the private sector. The public sector has some level of checks and balances but, with mental health reform in the state and the move toward more privatization, there will be more and more unregulated professionals providing services. Until recently there has not even been specific graduate degrees in substance abuse counseling. Many of the providers have had degrees not specific to the profession or held no degree at all. The Board currently offers only title protection licensure, not practice protection. Additionally, the population that is served is not likely to report abuses due to the stigma often times attached to those who suffer from addiction. Generally speaking, the Board only becomes involved in these cases when other professionals report their colleagues for abuses. However, since the Board only offers title protection licensure, it can only revoke a credential. It cannot actually stop someone from practicing and harming the public.

2. Have there been any complaints about the unregulated profession or occupation? *Please give specific examples including (unless confidentiality must be maintained) complainants' names and addresses.*

The Board does investigate complaints about professionals but only those who are either certified with the Board or in the process of being certified. The Board has no authority to investigate or pursue complaints about unregulated professionals. For example, the Board recently received a complaint from a District Court Judge. This judge filed a complaint about a substance abuse professional in that area who had post dated a urinalysis. Upon checking, it was determined that this person is not certified or registered with the Board and, as such, the Board has no authority to pursue that person. At best, we can keep that name on file should she ever apply for certification. Since persons who practice only in substance abuse counseling do not have to be certified in order to work but are exempt from regulations of other professional disciplines, this move toward practice protection has earned the support of the state chapters of Psychology, Psychiatry and Social Work as well as the Division of MH/DD/SA, Division of Facility Services, the Division of Medical Services and the Division of Motor Vehicles. Much of that is based upon mental health reform, also, and the state's new Service Definitions of who qualifies to provide treatment services.

3. In what ways has the public health, safety, or welfare sustained harm or is in imminent danger of harm because of the lack of state regulation? *Please give specific examples.*

By not having regulation with new Service Definitions, there is the potential for misuse of state and federal funding for substance abuse services. For example one complaint lodged with the Board concerned a substance abuse counselor who charged Hispanic clients twice what was charged other clients. Since no services were provided through that agency in Spanish, no clients received treatment in their native language anyway. Also it has been reported to us that professionals without supervision have provided services in inappropriate settings such as fast food restaurants. Again, since the Board only offers title protection licensure, revoking the certification does not stop someone from practicing, only from holding themselves out as a certified substance abuse professional.

4. Is there potential for substantial harm or danger by the profession or occupation to the public health, safety, or welfare? How can this potential for substantial harm or danger be recognized?

There is potential for substantial harm or danger by the profession to the public health, safety or welfare. Currently the Board recognizes this by the nature of the complaints lodged with the Board by members of the public and the profession. The Board has received reports of improprieties such as sexual activity and harassment of colleagues and clients, overcharging non-English speaking clients, practicing outside the scope of one's practice as a substance abuse professional, practicing while impaired by alcohol and/or other drugs, creating personal relationships with clients and overcharging of fees set in other statutes such as the state's DWI laws. The Board's ethical code of conduct currently requires that "the substance abuse professional who is aware of unethical conduct or unprofessional modes of practice should report such violations to the appropriate certifying authority (21 NCAC 68.0503 – Competence)." Again, however, since the Board currently has only title protection, revocation of a certification does not keep an individual from practicing and thereby continuing to harm the public.

5. Has this potential harm or danger to the public been recognized by other states or the federal government through the licensing or certification process? *Please list the other states and any applicable federal law (including citations).*

The potential harm or danger to the public has been recognized by other states. There are currently at least 70 boards in the United States and other countries that offer competency-based certification. This also includes all branches of the United States military and the federal Indian Health Services. Additionally, at least these states have practice protection licensure of substance abuse professionals: Maine, Vermont, New Hampshire, Connecticut, Wisconsin, Maryland, Virginia, Ohio, Louisiana, Texas, New Mexico and Colorado. Many other states have certification written into state administrative regulations such as New York.

6. What will be the economic advantage of licensing to the public?

There is no cost for this process to the public. The fees for licensure and renewal of licensure and all supervision and continuing education are paid by individuals, not public agencies.

7. What will be the economic disadvantage of licensing to the public?

Initially, an economic disadvantage might be that non-licensed providers will no longer be able to practice without obtaining the license. This could, in the short term, limit the number of persons providing services to the public. However, most practitioners will conform to the new law rather than leave the profession so it appears this disadvantage will be only for a limited period of time.

8. What will be the economic advantages of licensing to the practitioners?

The economic advantage to the practitioner is that the public will recognize the competency of the licensed professional. Consumers can take comfort in the fact that training, education and skill level will be uniform for all practitioners, not just the ones who are currently certified.

9. What will be the economic disadvantages of licensing to the practitioners?

The economic disadvantage will be primarily limited to those persons who are not currently certified. Those persons will have to become licensed and maintain that license with its continuing education requirements as well as the associated costs.

10. Please give other potential benefits to the public of licensing that outweigh the potential harmful effects of licensure such as a decrease in the availability of practitioners and higher cost to the public.

Part of this has already been defined by the new Service Definitions of the North Carolina Division of MH/DD/SAS and the Division of Medical Assistance. This clearly outlines who may provide many kinds of services paid for with public dollars. Credentialing by the Board is increasingly required to provide services from DWI Assessment to ongoing treatment for the substance abusing population. Licensure of all professionals will be more recognizable to the public as signifying that all substance abuse professionals have met the same level of competence.

11. Please detail the specific specialized skills or training that distinguish the occupation or profession from ordinary labor.

The substance abuse professional must document (depending upon college degree and credential for which they are applying) up to at least 6,000 hours of supervised substance abuse professional experience, 270 clock hours of substance abuse specific education/training, passing of both a written and an oral examination and maintaining continuing education for renewal specific to the substance abuse profession. These standards meet the standards of the International Certification & Reciprocity Consortium/Alcohol and Drug Abuse, the multi-national organization that sets the standards for substance abuse professionals in this country and abroad.

12. What are other qualities of the profession or occupation that distinguish it from ordinary labor?

The Board offers a wide range of credentials available to practitioners from entry level up to and including persons with a master's degree or higher. This encompasses persons who practice in substance abuse treatment, substance abuse prevention, substance abuse clinical supervision, and substance abuse residential facility program directors. This bill also will include a new credential for substance abuse professionals who practice primarily in a criminal justice setting such as a prison or community based alternative to incarceration program.

13. Will licensing requirements cover all practicing members of the occupation or profession? If any practitioners will be exempt, what is the rationale for the exemption?

This will cover all practitioners of the occupation or profession. It does exempt persons already licensed by other statutorily-based occupational licensing boards such as psychology and social work. However, the statute does already provide a path to substance abuse credentialing for persons licensed by other professional disciplines who have demonstrated a competency in substance abuse services.

14. What is the approximate number of persons who will be regulated and the number of persons who are likely to utilize the services of the occupation or profession?

The number of persons likely to become licensed will probably exceed 3,000. As for the number of persons in the state likely to use the services of these professionals, the Division of MH/DD/SAS reports that in FY 2003, 72,795 persons were treated by the Area MH/DD/SA Programs for substance abuse. This does not include private providers who do not report to the area programs (now Local Management Entities – LMEs). National figures suggest that only one in four people who are in need of treatment services actually present for treatment.

15. What kind of knowledge or experience does the public need to evaluate the services offered by the practitioner?

The public needs to know that every practitioner has met the same level of competence needed to be licensed. This cannot be assured if a license or other credential is not required. Additionally, the public needs to know what credentials are available, what is required to obtain those credentials, what level of service can be expected by someone who holds that credential and where to find the professionals who hold these credentials.

16. Does the occupational group have an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service?

The Board does have a well-established code of ethics already written into state administrative code and a voluntary certification program already administered by this Board. The other measures to ensure a minimum quality of service is that the Division of MH/DD/SAS has standards for who is a qualified professional, an associate professional and a paraprofessional. That credentialing is determined by the LME and its contract agencies. All other private agencies not affiliated with LMEs are not required to have any regulating measures.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 705

Short Title: Amend NC Substance Abuse Act.

(Public)

Sponsors: Senator Nesbitt.

Referred to: Judiciary I.

March 21, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE LICENSURE OF SUBSTANCE ABUSE PROFESSIONALS, TO ESTABLISH THE CREDENTIAL OF CERTIFIED CRIMINAL JUSTICE ADDICTIONS PROFESSIONAL, AND TO ALLOW THE DEPARTMENT OF JUSTICE TO CONDUCT CRIMINAL HISTORY RECORD CHECKS FROM STATE AND NATIONAL REPOSITORIES OF CRIMINAL HISTORY OF APPLICANTS FOR CREDENTIALS UPON THE REQUEST OF THE NORTH CAROLINA SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 5C of Chapter 90 of the General Statutes reads as rewritten:

"Article 5C.

"North Carolina Substance Abuse Professionals ~~Certification~~ Professional Practice Act.

**"§ 90-113.30. Declaration of purpose.**

The North Carolina Substance Abuse Professional ~~Certification-Practice~~ Board, established by G.S. 90-113.32, is recognized as the ~~certifying-registering, certifying, and licensing~~ authority for substance abuse professionals described in this Article in order to safeguard the public health, safety, and welfare, to protect the public from being harmed by unqualified persons, to assure the highest degree of professional care and conduct on the part of ~~certified-credentialed~~ substance abuse professionals, to provide for the establishment of standards for the education of ~~certified-credentialed~~ substance abuse professionals, and to ensure the availability of ~~certified-credentialed~~ substance abuse professional services of high quality to persons in need of these services. It is the purpose of this Article to provide for the regulation of ~~Board-certified~~ Board-credentialed persons offering substance abuse counseling services, substance abuse prevention services, or any other substance abuse services for which the Board may grant ~~certification-registration, certification, or licensure.~~

**"90-113.31. Definitions.**

~~The following definitions shall apply in this Article:~~

- ~~(1) Approved supervisor. A person who provides supervision as required by the Board to persons applying for registration or certification as a substance abuse professional pursuant to this Article.~~
- ~~(1a) Board. The North Carolina Substance Abuse Professional Certification Board.~~
- ~~(1b) Certified clinical addictions specialist. A person certified by the Board to practice as a clinical addictions specialist in accordance with the provisions of this Article.~~
- ~~(1c) Certified clinical supervisor. A person certified by the Board to practice as a clinical supervisor in accordance with the provisions of this Article.~~
- ~~(1d) Certified residential facility director. A person certified by the Board to practice as a residential facility director in accordance with the provisions of this Article.~~
- ~~(2) Certified substance abuse counselor. A person certified by the Board to practice as a substance abuse counselor in accordance with the provisions of this Article.~~
- ~~(3) Repealed by S.L. 1997-492, s. 2.~~
- ~~(3a) Certified substance abuse prevention consultant. A person certified by the Board to practice substance abuse prevention in accordance with the provisions of this Article.~~
- ~~(4) Clinical supervisor intern. A person designated by the Board to practice as a clinical supervisor intern for a period not to exceed three years without a showing of good cause in accordance with the provisions of this Article.~~
- ~~(4a) Credentialing body. A board that licenses, certifies, or regulates a profession or practice.~~
- ~~(4b) Deemed status. Recognition by the Board of the credentials offered by a professional discipline whereby the individuals certified, licensed, or otherwise recognized by the discipline as having met the standards of a substance abuse specialist may apply individually for certification as a certified clinical addictions specialist.~~
- ~~(4c) Human services field. An area of study that focuses on the biological, psychological, and social aspects of human beings.~~
- ~~(4d) Repealed by Session Laws 1999-164, s. 1.~~
- ~~(5) Prevention. The reduction, delay, or avoidance of alcohol and of other drug use behavior. "Prevention" includes the promotion of positive environments and individual strengths that contribute to personal health and well being over an entire life and the development of strategies that encourage individuals, families, and communities to take part in assessing and changing their lifestyle and environments.~~
- ~~(6) Professional discipline. A field of study characterized by the technical, educational, and ethical standards of a profession.~~



- 1           (6a) ~~Registrant. — A person who has initiated a certification process to~~  
2           ~~become a certified substance abuse counselor or a certified clinical~~  
3           ~~addictions specialist pursuant to this Article and is authorized to~~  
4           ~~provide DWI assessments pursuant to G.S. 122C-142.1.~~  
5           (7) ~~Substance abuse counseling. — The assessment, evaluation, and~~  
6           ~~provision of counseling to persons suffering from substance, drug, or~~  
7           ~~alcohol abuse or dependency.~~  
8           (7a) ~~Substance abuse counselor intern. — A person who successfully~~  
9           ~~completes 300 hours of Board approved supervised practical training~~  
10           ~~and a written examination in pursuit of certification as a substance~~  
11           ~~abuse counselor.~~  
12           (8) ~~Substance abuse professional. — A certified substance abuse counselor,~~  
13           ~~certified substance abuse prevention consultant, certified clinical~~  
14           ~~supervisor, certified clinical addictions specialist, or certified~~  
15           ~~residential facility director.~~

16 **"§ 90-113.31A. Definitions.**

17 The following definitions shall apply in this Article:

- 18           (1) Applicant. — A person who has initiated a process to become a  
19           substance abuse professional pursuant to this Article.  
20           (2) Applicant supervisor. — A person who provides supervision as required  
21           by the Board to persons applying for registration, certification, or  
22           licensure as a substance abuse professional pursuant to this Article.  
23           (3) Board. — The North Carolina Substance Abuse Professional Practice  
24           Board.  
25           (4) Certified clinical supervisor. — A person certified by the Board to  
26           practice as a clinical supervisor in accordance with the provisions of  
27           this Article.  
28           (5) Certified criminal justice addictions professional. — A person certified  
29           by the Board to practice as a criminal justice addictions professional  
30           who under supervision provides direct services to clients or offenders  
31           exhibiting substance abuse disorders and works in a program  
32           determined by the Board to be involved in a criminal justice setting.  
33           (6) Certified substance abuse counselor. — A person certified by the Board  
34           to practice under the supervision of a practice supervisor as a  
35           substance abuse counselor in accordance with the provisions of this  
36           Article.  
37           (7) Certified substance abuse prevention consultant. — A person certified  
38           by the Board to practice substance abuse prevention in accordance  
39           with the provisions of this Article.  
40           (8) Certified substance abuse residential facility director. — A person  
41           certified by the Board to practice as a substance abuse residential  
42           facility director in accordance with the provisions of this Article.  
43           (9) Clinical addictions specialist intern. — A person who successfully  
44           completes 300 hours of Board-approved supervised practical training

- 1                   and passes a written examination in pursuit of licensure as a clinical  
2                   addictions specialist.
- 3           (10)   Clinical supervisor intern. – A person designated by the Board to  
4                   practice as a clinical supervisor under the supervision of a certified  
5                   clinical supervisor for a period not to exceed three years without a  
6                   showing of good cause in accordance with the provisions of this  
7                   Article.
- 8           (11)   Counseling. – The utilization of special skills to assist individuals,  
9                   families, or groups in achieving objectives, including the following:
- 10                   a.   Exploring a problem and its ramifications.  
11                   b.   Examining attitudes and feelings.  
12                   c.   Considering alternative solutions.  
13                   d.   Decision making.
- 14           (12)   Credential. – Any registration, certification, or license issued by the  
15                   Board.
- 16           (13)   Credentialing body. – A board that licenses, certifies, registers, or  
17                   otherwise regulates a profession or practice.
- 18           (14)   Criminal history. – A history of conviction of a State crime, whether a  
19                   misdemeanor or felony, that bears on an applicant's fitness for  
20                   licensure to practice substance abuse professional services. The crimes  
21                   include the criminal offenses set forth in any of the following Articles  
22                   of Chapter 14 of the General Statutes: Article 5, Counterfeiting and  
23                   Issuing Monetary Substitutes; Article 5A, Endangering Executive and  
24                   Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other  
25                   Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and  
26                   Abduction; Article 13, Malicious Injury or Damage by Use of  
27                   Explosive or Incendiary Device or Material; Article 14, Burglary and  
28                   Other Housebreakings; Article 15, Arson and Other Burnings; Article  
29                   16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article  
30                   19, False Pretenses and Cheats; Article 19A, Obtaining Property or  
31                   Services by False or Fraudulent Use of Credit Device or Other Means;  
32                   Article 19B, Financial Transaction Card Crime Act; Article 20,  
33                   Frauds; Article 21, Forgery; Article 26, Offenses Against Public  
34                   Morality and Decency; Article 26A, Adult Establishments; Article 27,  
35                   Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31,  
36                   Misconduct in Public Office; Article 35, Offenses Against the Public  
37                   Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection  
38                   of Minors; Article 40, Protection of the Family; Article 59, Public  
39                   Intoxication; and Article 60, Computer-Related Crime. The crimes  
40                   also include possession or sale of drugs in violation of the North  
41                   Carolina Controlled Substances Act in Article 5 of Chapter 90 of the  
42                   General Statutes and alcohol-related offenses including sale to  
43                   underage persons in violation of G.S. 18B-302 or driving while  
44                   impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

- (15) Deemed status. – Recognition by the Board of the credentials offered by a professional discipline whereby the individuals certified, licensed, or otherwise recognized by the discipline as having met the standards of a clinical addictions specialist may apply individually for licensure as a licensed clinical addictions specialist.
- (16) Dual relationship. – A relationship in addition to the professional relationship with a person to whom the substance abuse professional delivers services in the Twelve Core Functions or the performance domains, both as defined in rules adopted by the Board, or as provided in a supervisory capacity. These relationships may result in grounds for disciplinary action.
- (17) Human services field. – An area of study that focuses on the biological, psychological, behavioral, and social aspects of human welfare with focus on the direct services designed to improve it.
- (18) Independent study. – Any course of study that is not traditional classroom-based that must be preapproved by the Board or any organization that has deemed status with the Board.
- (19) Licensed clinical addictions specialist. – A person licensed by the Board to practice as a clinical addictions specialist in accordance with the provisions of this Article.
- (20) Practice supervisor. – A certified clinical supervisor, clinical supervisor intern, or licensed clinical addictions specialist who provides oversight and responsibility in a face-to-face capacity for each certified substance abuse counselor or criminal justice addictions professional.
- (21) Prevention. – The reduction, delay, or avoidance of alcohol and of other drug use behavior. 'Prevention' includes the promotion of positive environments and individual strengths that contribute to personal health and well-being over an entire life and the development of strategies that encourage individuals, families, and communities to take part in assessing and changing their lifestyle and environments.
- (22) Professional discipline. – A field of study characterized by the technical, educational, and ethical standards of a profession.
- (23) Registrant. – A person who completes all requirements to be registered with the Board and is supervised by a certified clinical supervisor or clinical supervisor intern.
- (24) Substance abuse counseling. – The assessment, evaluation, and provision of counseling and therapeutic service to persons suffering from substance abuse or dependency.
- (25) Substance abuse counselor intern. – A person who successfully completes 300 hours of Board-approved supervised practical training and passes a written examination in pursuit of credentialing as a substance abuse counselor.

(26) Substance abuse professional. – A registrant, certified substance abuse counselor, substance abuse counselor intern, certified substance abuse prevention consultant, certified clinical supervisor, clinical addictions specialist intern, licensed clinical addictions specialist, certified substance abuse residential facility director, or certified criminal justice addictions professional.

**"§ 90-113.31B. Scope of practice.**

The scope of practice is the use by all substance abuse professionals and their ongoing supervisees of principles, methods, and procedures of the Twelve Core Functions or performance domains as prescribed by the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Incorporated and as limited by individual credential and supervisory requirements pursuant to this Article. Specifically, the scope of practice for each individual defined as a substance abuse professional under G.S. 90-113.31A is as follows:

- (1) The practice of a certified substance abuse counselor consists of the Twelve Core Functions, including screening, intake, orientation, assessment, treatment planning, counseling, case management, crisis intervention, client education, report and record keeping, consultation with other professionals in regard to client treatment and services, and referral to treat addictive disorder or disease and help prevent relapse.
- (2) The practice of a certified substance abuse prevention consultant is based on knowledge in the performance domains to prevent or reduce the conditions that place individuals at increased risk of developing addictive disorder or disease and help prevent relapse.
- (3) The practice of a certified clinical supervisor is based on knowledge in the performance domains to supervise substance abuse professionals who work to treat, prevent, or reduce the conditions that place individuals at risk of developing addictive disorder or disease and help prevent relapse.
- (4) The practice of licensed clinical addictions specialist may be independent and consists of the Twelve Core Functions, including screening, intake, orientation, assessment, treatment planning, counseling, case management, crisis intervention, client education, report and record keeping, consultation with other professionals in regard to client treatment and services, referral to reduce the conditions that place individuals at risk of developing addictive disorder or disease with co-occurring disorders, and treatment for addictive disorder or disease. The licensed clinical addictions specialist may provide supervision to maintain a professional credential as defined by this Article.
- (5) The practice of certified substance abuse residential facility director is a voluntary credential and consists of the Twelve Core Functions, including screening, intake, orientation, assessment, treatment planning, counseling, case management, crisis intervention, client

1 education, record and record keeping, consultation with professionals  
2 in regard to client treatment and services, referral to prevent or reduce  
3 the conditions that place individuals at increased risk of developing  
4 addictive disorder or disease, treatment for addictive disorder or  
5 disease, and the prevention of relapse as well as academic management  
6 training.

7 (6) The practice of certified criminal justice addictions professional is  
8 based on knowledge in the performance domains of dynamics of  
9 addiction in criminal behavior; legal, ethical, and professional  
10 responsibility; criminal justice system and processes; screening, intake,  
11 and assessment; case management; monitoring; and client supervision  
12 and counseling to prevent or reduce the conditions that place  
13 individuals at increased risk of developing addictive disorder or  
14 disease, treat addictive disorder or disease, and help prevent relapse.

15 **"§ 90-113.32. Board; composition; voting.**

16 (a) The Board is created as the ~~certifying authority for substance abuse~~  
17 ~~counselors, substance abuse prevention consultants, clinical supervisors, clinical~~  
18 ~~addictions specialists, and residential facility directorsto credential substance abuse~~  
19 ~~professionals~~ in North Carolina.

20 (b) Until the full Board is elected or appointed pursuant to subsection (c) of this  
21 section, the Board shall consist of 16 members with one member appointed by the  
22 General Assembly upon the recommendation of the Speaker of the House of  
23 Representatives in accordance with G.S. 120-121, and one member appointed by the  
24 General Assembly upon the recommendation of the President Pro Tempore of the  
25 Senate in accordance with G.S. 120-121. The remaining 14 shall be those members of  
26 the current North Carolina Substance Abuse Professional ~~Certification-Practice~~ Board,  
27 Inc., who have terms that are unexpired as of the effective date of this Article. The  
28 initial Board shall appoint an initial Nominating and Elections Committee to fill  
29 immediate vacancies on the Board, using the process established in subsection (d) of  
30 this section. The election and appointment process of the initial Board shall result in a  
31 Board of 19 members by April 1, 1995. As these initial members' terms expire, their  
32 successors shall be appointed as described in subsection (c) of this section, until the  
33 permanent Board is established, as described in subsection (c) of this section. Time  
34 spent as an initial member counts in determining the limitation on consecutive terms  
35 prescribed in subsection (e) of this section.

36 (c) After the initial Board members' terms expire, the Board shall consist of the  
37 following members, all of whom shall reside in North Carolina, appointed or elected as  
38 follows:

39 (1) Eleven professionals ~~certified-credentialed~~ pursuant to this Article and  
40 elected by the ~~certified-credentialed~~ professionals, at least two of  
41 whom shall serve each of the four Division of Mental Health,  
42 Developmental Disabilities, and Substance Abuse Services regions of  
43 the State. Three members shall serve as members at large.

- 1           (2) Three members at large chosen from laypersons or other professional  
2 disciplines who have shown a special interest in the field of substance  
3 abuse, nominated by the Nominating and Elections Committee  
4 established by subsection (d) of this section and elected by the Board.
- 5           (3) Two members from the Division of Mental Health, Developmental  
6 Disabilities, and Substance Abuse Services, Department of Health and  
7 Human Services, appointed by the Chief of ~~Substance Abuse Services~~  
8 ~~Section, Division of Mental Health, Developmental Disabilities, and~~  
9 ~~Substance Abuse Services, Department of Health and Human~~  
10 ~~Services,~~ the North Carolina Substance Abuse Single State Agency, at  
11 least one of whom ~~is from the Substance Abuse Services~~  
12 ~~Section~~ administers substance abuse services.
- 13           (4) One member of the public at large appointed by the Governor.
- 14           (5) One member of the public at large appointed by the General Assembly  
15 upon the recommendation of the Speaker of the House of  
16 Representatives in accordance with G.S. 120-121 and one member of  
17 the public at large appointed by the General Assembly upon the  
18 recommendation of the President Pro Tempore of the Senate in  
19 accordance with G.S. 120-121.
- 20           (6) One member shall represent each of the professional disciplines  
21 granted deemed status under G.S. 90-113.41A. The member may be  
22 appointed by the professional discipline on or before a date set by the  
23 Board. If the professional discipline has at least one association in the  
24 State, the member shall be chosen from a list of nominees submitted to  
25 the association. The members appointed or elected under this  
26 subdivision shall be certified as substance abuse specialists by the  
27 professional discipline that the members represent.
- 28 No member of the General Assembly shall serve on the Board.
- 29           (c1) Every member of the Board shall have the right to vote on all matters before  
30 the Board, except for the President who shall vote only in case of a tie or when another  
31 member of the Board abstains on the question of whether the professional discipline the  
32 member represents shall retain its deemed status.
- 33           (d) The Board shall appoint five professionals from the field of substance abuse  
34 counseling and substance abuse prevention consulting to serve on the Nominating and  
35 Elections Committee. Of these five, at least three shall not be members of the Board.  
36 The Board shall appoint a member of the Nominating and Elections Committee to serve  
37 as chair. The Committee's purpose is to accept nominations from professionals certified  
38 or licensed by the Board to fill vacancies on the Board in membership categories  
39 prescribed by subdivisions (1) and (2) of subsection (c) of this section and to conduct  
40 the election of Board members. The Committee shall solicit nominations from all  
41 professionals it has certified or licensed under this Article when elected members' terms  
42 are due to expire. The certified or licensed professionals shall submit to the Committee  
43 all nominations beginning 90 days and ending ~~14-28~~ days before the election of new  
44 Board members. The Committee shall furnish all certified or licensed professionals with

1 a ballot containing all the nominees for each elected Board member vacancy. In  
2 soliciting and making nominations for this process, the Committee shall give  
3 consideration to factors that promote representation on the Board by professionals  
4 certified or licensed by the Board. The Committee shall serve for a two-year term, its  
5 successors to be appointed for the same term by the Board.

6 (e) Members of the Board shall serve for ~~three-year~~four-year terms. No Board  
7 member shall serve for more than two consecutive terms, but a person who has been a  
8 member for two consecutive terms may be reappointed after being off the Board for a  
9 period of at least one year. When a vacancy occurs in an unexpired term, the Board  
10 shall, as soon as practicable, appoint temporary members to serve until the end of the  
11 unexpired terms. Time spent as a temporary member does not count in determining the  
12 limitation on consecutive terms.

13 (f) If a member becomes ineligible to serve on the Board for any reason, except  
14 when the member has committed an ethical violation that results in the suspension or  
15 revocation of the member's professional credentials, ~~the~~that member may fulfill the  
16 remainder of ~~the member's~~this or her term on the Board.

17 **"§ 90-113.33. Board; powers and duties.**

18 The Board shall:

- 19 (1) Examine and determine the qualifications and fitness of applicants for  
20 certification and licensure to practice in this State.
- 21 (1a) Determine the qualifications and fitness of organizations applying for  
22 deemed status.
- 23 (2) Issue, renew, deny, suspend, or revoke ~~certification—licensure,~~  
24 certification, or registration to practice in this State or reprimand or  
25 otherwise discipline ~~certificate—a license, certificate,~~ or registration  
26 ~~holders—holder~~ in this State. ~~Denial of an applicant's certification or~~  
27 ~~registration or the granting of certification or registration on a~~  
28 ~~probationary or other conditional status shall be subject to substantially~~  
29 ~~the same rules and procedures prescribed by the Board for review and~~  
30 ~~disciplinary actions against those persons holding certificates or~~  
31 ~~registrations. Disciplinary actions involving a clinical addictions~~  
32 ~~specialist whose certification is achieved through deemed status shall~~  
33 ~~be initially heard by the specialist's credentialing body. The specialist~~  
34 ~~may appeal the body's decision to the Board. The Board shall,~~  
35 ~~however, have the authority to hear the initial disciplinary action~~  
36 ~~involving a clinical addictions specialist.~~
- 37 (3) Deal with issues concerning reciprocity.
- 38 (4) Conduct investigations for the purpose of determining whether  
39 violations of this Article or grounds for disciplining exists.
- 40 (5) Employ ~~the professional and clerical~~and fix the compensation of  
41 personnel and legal counsel that the Board determines is necessary to  
42 carry out the provisions of this Article. The Board may purchase or  
43 rent necessary office space, equipment, and supplies.

- (6) Conduct administrative hearings in accordance with Chapter 150B of the General Statutes when a "contested case", as defined in Chapter 150B, arises.
- (7) Appoint from its own membership one or more members to act as representatives of the Board at any meeting in which it considers this representation is desirable.
- (8) Establish fees for applications for examination, registration, certificates of ~~certification~~ certification, licensure, and renewal, and other services provided by the Board.
- (9) Adopt any rules necessary to carry out the purpose of this Article and its duties and responsibilities pursuant to this Article.
- (10) Request that the Department of Justice conduct criminal history record checks of applicants for registration, certification, or licensure pursuant to G.S. 114-19.11A.

The powers and duties enumerated in this section are granted for the purposes of enabling the Board to safeguard the public health, safety, and welfare against unqualified or incompetent practitioners and are to be liberally construed to accomplish this objective. When the Board exercises its authority under this Article to discipline a person, it may, as part of the decision imposing the discipline, charge the costs of investigations and the ~~hearing~~ hearing, including attorneys' fees, to the person disciplined.

**"§ 90-113.33A. Officers may administer oaths, and subpoena witnesses, records, and other materials.**

The President or other presiding officer of the Board may administer oaths to all persons appearing before it as the Board may deem necessary to perform its duties, and may summon and issue subpoenas for the appearance of any witnesses deemed necessary to testify concerning any matter to be heard before or inquired into by the Board. The Board may order that any client records, documents, or other materials concerning any matter to be heard before or inquired into by the Board shall be produced before the Board or made available for inspection, notwithstanding any other provisions of law providing for the application of any counselor-client or physician-patient privilege with respect to such records, documents, or other materials. All records, documents, or other materials compiled by the Board are subject to the provisions of G.S. 90-113.34, except that in any proceeding before the Board, record of any hearing before the Board, and notice of charges against any person ~~certified~~ credentialed by the Board, the Board shall withhold from public disclosure the identity of a client, including information relating to dates and places of treatment, or any other information that tends to identify the client unless the client or the client's representative has expressly consented to the disclosure. Upon written request, the Board shall revoke a subpoena if, upon a hearing, it finds that the evidence sought does not relate to a matter in issue, the subpoena does not describe the evidence with sufficient particularity, or the subpoena is invalid.

**"§ 90-113.34. Records to be kept; copies of records.**



(a) The Board shall keep a regular record of its proceedings, together with the names of the members of the Board present, the names of the applicants for registration, certification, and licensure as well as other information relevant to its actions. The Board shall cause a record to be kept that shall show the name, last known place of business, last known place of residence, and date and number of the ~~certificate of certification as a certified substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director for every living certified person.~~ credential assigned to each substance abuse professional meeting the standards set forth in this Article. Any interested person in the State is entitled to obtain a copy of ~~that record on~~ board records upon application to the Board and ~~upon~~ payment of a reasonable charge that is based on the costs involved in providing the copy.

(b) The Board may in a closed session receive evidence regarding the provision of substance abuse counseling or other treatment and services provided to a client who has not expressly or through implication consented to the public disclosure of such treatment as may be necessary for the protection of the rights of the client or of the accused registrant or substance abuse professional and the full presentation of relevant evidence. All records, papers, and other documents containing information collected and compiled by the Board, its members, or employees as a result of investigations, inquiries, or interviews conducted in connection with ~~a certification~~ awarding a credential or a disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes, except any notice or statement of charges, or notice of hearing shall be a public record notwithstanding that it may contain information collected and compiled as a result of an investigation, inquiry, or interview. If any record, paper, or other document containing information collected and compiled by the Board as provided in this subsection is received and admitted in evidence in any hearing before the Board, it shall thereupon be a public record.

(c) Notwithstanding any provision to the contrary, the Board may, in any proceeding, record of any hearing, and notice of charges, withhold from public disclosure the identity of a client who has not expressly or through implication consented to such disclosure of treatment by the accused substance abuse professional.

**"§ 90-113.35. Disposition of funds.**

All fees and other moneys collected and received by the Board shall be used to implement this Article. The financial records of the Board shall be subjected to an annual audit and paid for out of the funds of the Board.

**"§ 90-113.36. ~~Certificates of certification.~~ Credentials.**

(a) The Board shall furnish a certificate of certification or licensure to each applicant successfully completing the requirements for ~~certification.~~ his or her credential.

(b) The Board may furnish a certificate of certification or licensure to any person in another state or territory if the individual's qualifications were, at the date of ~~registration or~~ registration, certification, or licensure, substantially equal to the requirements under this Article. However, an out-of-state applicant shall first file application and pay any required fees.

~~"§ 90-113.37. Renewal of certification; lapse; revival.~~

~~(a) Every person certified pursuant to this Article who desires to maintain certification status shall apply to the Board for a renewal of certification every other year and pay to the secretary treasurer the prescribed fee. Renewal of certification is subject to completion of no more than 60 hours of those continuing education requirements established by the Board. A clinical supervisor shall complete 15 hours of substance abuse clinical supervision training prior to the certificate being renewed. Certification that is not renewed automatically lapses, unless the Board provides for the late renewal of certification upon the payment of a late fee. No late renewal shall be granted more than five years after a certification expires. A suspended certification is subject to this section's renewal requirements and may be renewed as provided in this section. This renewal does not entitle the certified person to engage in the certified activity or in any other conduct or activity in violation of the order or judgment by which the certification was suspended, until the certification is reinstated. If a certification revoked on disciplinary grounds is reinstated and requires renewal, the certified person shall pay the renewal fee and any applicable late fee.~~

~~(b) The Board shall establish the manner in which lapsed certification may be revived or extended.~~

"§ 90-113.37A. Renewal of credential; lapse.

(a) Every person credentialed pursuant to this Article who desires to maintain his or her credentials shall apply to the Board for a renewal of certification or licensure every other year and pay to the treasurer the prescribed fee.

(b) Renewal of licensure is subject to completion of at least 40 hours of the continuing education requirements established by the Board. Renewal of substance abuse counselor or substance abuse prevention consultant certification is subject to completion of at least 60 hours of the continuing education requirements established by the Board. A certified substance abuse counselor shall submit a Board-approved supervision contract signed by the applicant and a practice supervisor documenting ongoing supervision at a ratio of one hour of supervision to every 40 hours of practice after certification is granted by the Board on a form provided by the Board. Any person certified by the Board as a certified alcoholism counselor or certified drug abuse counselor shall become a certified substance abuse counselor.

A clinical supervisor shall complete at least 15 hours of substance abuse clinical supervision training prior to the certificate being renewed. A substance abuse residential facility director shall complete at least 10 hours of substance abuse training for renewal. A certified criminal justice addictions professional shall complete at least 40 hours of continuing education that must be earned in the certified criminal justice addictions professional performance domains. A certified criminal justice addictions professional shall submit a Board-approved supervision contract signed by the criminal justice addictions professional and a practice supervisor documenting ongoing supervision at a ratio of one hour of supervision to every 40 hours of practice after certification is granted by the Board on a form provided by the Board.

(c) Independent study hours shall compose no more than fifty percent (50%) of the total number of hours required for renewal.

1       (d) A credential that is not renewed automatically lapses, unless the Board  
2 approves the late renewal of a credential upon the payment of a late fee.

3       (e) No late renewal shall be granted more than five years after a certification or  
4 licensure expires.

5       (f) A suspended credential may be renewed as provided in this section. This  
6 renewal does not entitle the credentialed person to engage in conduct or activity in  
7 violation of the order or judgment by which the credential was suspended, until the  
8 credential is reinstated. If a credential revoked on disciplinary grounds is reinstated and  
9 requires renewal, the credentialed person shall pay the renewal fee and any applicable  
10 late fee.

11       (g) The Board shall establish the manner in which lapsed certification or  
12 licensure may be revived or extended.

13 **"§ 90-113.38. Maximums for certain fees.**

14       (a) The fee to obtain a certificate of certification as a substance abuse counselor,  
15 substance abuse prevention consultant, clinical supervisor, or—substance abuse  
16 residential facility director—director, or certified criminal justice addictions professional  
17 may not exceed four hundred seventy-five dollars (\$475.00). The fee to renew a  
18 certificate may not exceed one hundred fifty dollars (\$150.00).

19       (b) The fee to obtain a certificate of ~~certification—licensure~~ for a clinical  
20 addictions specialist pursuant to deemed status ~~may—shall~~ not exceed one hundred fifty  
21 dollars (\$150.00). The fee to renew a ~~certificate—may~~license for a clinical addictions  
22 specialist pursuant to deemed status shall not exceed one hundred dollars (\$100.00). The  
23 fee to obtain a ~~certificate of certification~~license for a clinical addictions specialist  
24 pursuant to all other procedures authorized by this Article ~~may—shall~~ not exceed four  
25 hundred seventy-five dollars (\$475.00). The fee to renew the ~~certificate—may~~license  
26 shall not exceed one hundred fifty dollars (\$150.00).

27       (b1) The fee to obtain a registration as a registrant shall ~~be—~~not exceed one hundred  
28 fifty dollars (\$150.00). The fee to renew a registration shall ~~be—~~not exceed one hundred  
29 fifty dollars (\$150.00).

30       (c) There shall be a reexamination fee of one hundred fifty dollars (\$150.00)  
31 which shall be paid for each reexamination in addition to the fees required  
32 under authorized pursuant to subsection (a) of this section. There shall be a fee not to  
33 exceed twenty-five dollars (\$25.00) for rescheduling any examination.

34       (d) There shall be a fee ~~of—~~not to exceed twenty-five dollars (\$25.00) to obtain a  
35 written verification ~~of certification~~or additional copy of a credential issued by the  
36 Board.

37       (e) There shall be a late renewal fee not to exceed one hundred twenty-five  
38 dollars (\$125.00).

39       (f) In addition to any other prescribed fees, the Board shall charge a fee not to  
40 exceed one hundred fifty dollars (\$150.00) for each administration of the test an  
41 applicant must pass to be credentialed as a United States Department of Transportation  
42 substance abuse professional.

43 **"§ 90-113.39. Standards for ~~certification—~~credentials.**

1 The Board shall establish standards for ~~certification of~~ credential substance abuse  
2 professionals. The ~~certification-credentialing~~ standards of the International Certification  
3 and Reciprocity Consortium/Alcohol and Other Drug Abuse, Incorporated and the  
4 standards adopted by professional disciplines granted deemed status or their successor  
5 organizations may be used as guidelines for the Board's standards. The Board shall  
6 publish these required ~~standards separately from its rules so as to provide easy access to~~  
7 ~~the standards.~~

8 **"§ 90-113.40. Requirements for ~~certification~~ certification and licensure.**

9 (a) The Board shall issue a certificate certifying an applicant as a "Certified  
10 Substance Abuse Counselor" or as a "Certified Substance Abuse Prevention Consultant"  
11 if:

- 12 (1) The applicant is of good moral character.
- 13 (2) The applicant is not and has not engaged in any practice or conduct  
14 that would be grounds for disciplinary action under G.S. 90-113.44.
- 15 (3) The applicant is qualified for certification pursuant to the requirements  
16 of this Article and any rules adopted pursuant to it.
- 17 (4) The applicant has, at a minimum, a high school diploma or a high  
18 school equivalency certificate.
- 19 (5) The applicant has signed a form attesting to the intention to adhere  
20 fully to the ethical standards adopted by the Board.
- 21 (5a) The applicant submits a complete criminal history record check  
22 pursuant to G.S. 90-113.46A.
- 23 (6) The applicant has completed 270 hours of Board-approved education.  
24 The Board may prescribe that a certain number of hours be in a course  
25 of study for substance abuse counseling and that a certain number of  
26 hours be in a course of study for substance abuse prevention  
27 consulting. Independent study hours shall not compose more than fifty  
28 percent (50%) of the total number of hours required for initial  
29 credentialing.
- 30 (7) The applicant has documented completion of a minimum of 300 hours  
31 of Supervised Practical ~~Training and Training~~, has provided a  
32 Board-approved supervision contract between the applicant and an  
33 ~~approved supervisor~~ applicant supervisor, and has been deemed  
34 recommended by the applicant supervisor to advance in the  
35 credentialing process.
- 36 (8) The applicant for substance abuse counselor has completed ~~either~~ a  
37 total of 6,000 hours of supervised experience in the field, whether paid  
38 or volunteer, or, ~~if a graduate of a Board-approved master's degree~~  
39 ~~program, a total of 3,000 hours of supervised experience in the field,~~  
40 ~~whether paid or volunteer.~~ The applicant for substance abuse  
41 prevention consultant has completed a total of ~~10,000~~ 6,000 hours  
42 supervised experience in the field, whether paid or volunteer, or 4,000  
43 hours if the applicant has at least a bachelors degree in a human  
44 services field from a regionally accredited college or university.

(9) The applicant has ~~successfully completed~~ obtained a passing score on a written examination and examination. An applicant for certification as a substance abuse counselor must also obtain a passing score on an oral examination promulgated and administered by the Board.

(b) The Board shall issue a certificate certifying an individual as a "Certified Clinical Supervisor" if, in addition to meeting the requirements of subdivisions (a)(1) through (5) of this section, the applicant:

(1) Submits proof of designation by the Board as a clinical supervisor intern.

(2) Prior to June 30, 1998, the applicant presents proof that the applicant has 12,000 hours experience in alcohol and drug abuse counseling and a bachelors degree or 8,000 hours experience in alcohol and drug abuse counseling and a minimum of a master's degree. After June 30, 1998, the applicant shall present proof that the applicant has a minimum of a master's degree in a human services field with a clinical application from a regionally accredited college or university.

(3) Has 6,000 hours experience as a substance abuse clinical supervisor if the applicant has a bachelors degree or 4,000 hours experience if the applicant has a master's degree in a human services field with a clinical application from a regionally accredited college or university.

(4) Has 30 hours of substance abuse clinical supervision specific education or training. These hours shall be reflective of the ~~12-core functions~~ Twelve Core Functions in the applicant's clinical application and practice and may also be counted toward the applicant's ~~recertification-renewal~~ as a substance abuse ~~counselor~~ counselor or a clinical addictions specialist.

(5) Submits a letter of reference from a professional who can attest to the applicant's supervisory competence and two letters of reference from either counselors who have been supervised by the applicant or professionals who can attest to the applicant's competence.

(5a) Submits a complete criminal history record check pursuant to G.S. 90-113.46A.

(6) ~~Successfully completes~~ Obtains a passing score on a written examination administered by the Board.

A person who practices as a certified clinical supervisor in addition to practicing as a certified substance abuse counselor shall be exempt from the practice supervision contract requirement.

(b1) The Board shall designate an applicant as a "Clinical Supervisor Intern" if, in addition to meeting the requirements of subdivisions (a)(1) through ~~(5)~~ (5a) of this section, the applicant meets the following qualifications:

(1) Submits an application, resume, and official transcript showing that the applicant has obtained a master's degree in a human services field with a clinical application from a regionally accredited college or university.

- 1           (2)   Submits verification statements.
- 2           (3)   Submits proof of ~~certification~~credentialing as a certified substance
- 3                abuse ~~counselor~~ or a certified counselor, a licensed clinical addictions
- 4                ~~specialist~~specialist, or certification or licensure through an
- 5                organization granted deemed status by the Board.
- 6           (4)   Submits documentation establishing that the applicant has completed
- 7                at least fifty percent of the required clinical supervision specific
- 8                training hours as defined by the Board.
- 9       (c)   The Board shall issue a ~~certificate certifying~~license credentialing an applicant
- 10   as a "~~Certified-Licensed~~ Clinical Addictions Specialist" if, in addition to meeting the
- 11   requirements of subdivisions (a)(1) through ~~(5)~~(5a) of this section, the applicant meets
- 12   one of the following criteria:
- 13       (1)   Criteria A. – The applicant:
- 14           a.   Has a minimum of a master's degree with a clinical application
- 15                in a human services field from a regionally accredited college
- 16                or university.
- 17           b.   Has two years postgraduate supervised substance abuse
- 18                counseling experience.
- 19           c.   Submits three letters of reference from ~~certified~~licensed
- 20                clinical addictions specialists or certified substance abuse
- 21                counselors who have obtained master's degrees.
- 22           d.   Has achieved a combined score set by the Board on a master's
- 23                level written and oral examination administered by the Board.
- 24           e.   Has attained 180 hours of substance abuse specific training as
- 25                ~~described~~from either a regionally accredited college or
- 26                university, which may include unlimited independent study, or
- 27                from training events of which no more than fifty percent (50%)
- 28                shall be in independent study. All hours shall be credited
- 29                according to the standards set forth in G.S. 90-113.41A.
- 30           f.   The applicant has documented completion of a minimum of 300
- 31                hours of supervised practical training and has provided a
- 32                Board-approved supervision contract between the applicant and
- 33                an ~~approved applicant~~ supervisor.
- 34       (2)   Criteria B. – The applicant:
- 35           a.   Has a minimum of a master's degree with a clinical application
- 36                in a human services field from a regionally accredited college
- 37                or university.
- 38           b.   Has been certified as a substance abuse counselor.
- 39           c.   Has one year of postgraduate supervised substance abuse
- 40                counseling experience.
- 41           d.   Has achieved a passing score on a master's level written
- 42                examination administered by the Board.

- 1 e. Submits three letters of reference from ~~certified~~ either licensed  
2 clinical addictions specialists or certified substance abuse  
3 counselors who have obtained master's degrees.
- 4 (3) Criteria C. – The applicant:
- 5 a. Has a minimum of a master's degree in a human services field  
6 with both a clinical application and a substance abuse specialty  
7 from a regionally accredited college or university that includes  
8 180 hours of substance abuse specific education and training  
9 pursuant to G.S. 90-113.41A.
- 10 b. Has one year of postgraduate supervised substance abuse  
11 counseling experience.
- 12 c. Has achieved a passing score on an oral examination  
13 administered by the Board.
- 14 d. Submits three letters of reference from ~~certified~~ licensed  
15 clinical addictions specialists or certified substance abuse  
16 counselors who have obtained master's degrees.
- 17 (4) Criteria D. – The applicant has a substance abuse certification from a  
18 professional discipline that has been granted deemed status by the  
19 Board.
- 20 (d) The Board shall issue a certificate certifying an applicant as a "Substance  
21 Abuse Certified-Residential Facility Director" ~~if, in addition to meeting the~~  
22 ~~requirements of subdivisions (a)(1) through (5) of this section,~~ if the applicant:
- 23 (1) Has been ~~certified~~ credentialed as a substance abuse counselor or a  
24 clinical addictions specialist.
- 25 (2) Has 50 hours of Board approved academic or didactic management  
26 specific training or a combination thereof. Independent study may  
27 compose up to fifty percent (50%) of the total number of hours  
28 required for initial credentialing.
- 29 (3) Submits letters of reference from the applicant's current supervisor and  
30 a colleague or coworker.
- 31 (d1) The Board shall issue a certificate certifying an applicant as a 'Certified  
32 Criminal Justice Addictions Professional', with the acronym 'CCJP', if in addition to  
33 meeting the requirements of subdivisions (a)(1) through (5a) of this section, the  
34 applicant:
- 35 (1) Has attained 270 hours of Board-approved education or training,  
36 unless the applicant has attained a minimum of a masters degree with a  
37 clinical application and a substance abuse specialty from a regionally  
38 accredited college or university whereby the applicant must only  
39 obtain 180 hours. The hours of education shall be specifically related  
40 to the knowledge and skills necessary to perform the tasks within the  
41 International Certification and Reciprocity Consortium/Alcohol and  
42 Other Drug Abuse, Incorporated 'IC&RC/AODA, Inc.' criminal justice  
43 addictions professional performance domains as they relate to both  
44 adults and juveniles. Independent study may compose up to fifty

percent (50%) of the total number of hours obtained for initial certification or renewal.

(2) Has documented 300 hours of Board-approved supervised practical training. This supervision shall mean the administrative, clinical, and evaluative process of monitoring, assessing, and enhancing professional performance. A minimum of 10 hours of supervision in each criminal justice domain established by the IC&RC/AODA, Inc. is required.

(3) Has provided documentation of supervised work experience providing direct service to clients or offenders involved in one of the three branches of the criminal justice system, which include law enforcement, the judiciary, and corrections. The applicant must meet one of the following criteria:

a. Criteria A. – In addition to having a high school degree or GED, the applicant has a minimum of 6,000 hours of documented work experience in direct services in criminal justice or addictions services or any combination of these services that have been obtained during the past 10 years.

b. Criteria B. – In addition to having an associate degree, the applicant has a minimum of 5,000 hours of documented work experience in direct services in criminal justice or addictions services or any combination of these services obtained during the past 10 years.

c. Criteria C. – In addition to having at least a bachelors degree, the applicant has a minimum of 4,000 hours of documented work experience in direct services in criminal justice or addictions services or any combination of these services and this experience has been obtained during the past 10 years.

d. Criteria D. – In addition to having at least a masters degree in a human services field, the applicant has a minimum of 2,000 hours of documented work experience in direct services in criminal justice or addictions services or any combination of these services that has been obtained during the past 10 years.

e. Criteria E. – In addition to having at least a masters degree in a human services field with a specialty from a regionally accredited college or university that includes 180 hours of substance abuse specific education or training, the applicant has a minimum of 2,000 hours of postgraduate supervised substance abuse counseling experience.

f. Criteria F. – In addition to having obtained the credential of a certified clinical addictions specialist or other advanced credential in a human services field from an organization that has obtained deemed status with the Board, the applicant has a minimum of 1,000 hours of documented work experience in



1 direct services in criminal justice or addictions services that has  
2 been obtained during the past 10 years.

3 (4) Has passed the IC&RC/AODA, Inc. certified criminal justice  
4 addictions professional written examination.

5 (e) The Board shall publish from time to time information in order to provide  
6 specifics for potential applicants of an acceptable educational curriculum and the terms  
7 of acceptable supervised fieldwork experience.

8 (f) ~~Effective until January 1, 2001, any person who is certified as a certified~~  
9 ~~clinical supervisor or who functions by his or her job description as a certified clinical~~  
10 ~~supervisor shall be qualified to supervise applicants for certified clinical supervisor.~~

11 ~~Effective from January 1, 2001 until January 1, 2003, only a person who is certified~~  
12 ~~both as a certified clinical supervisor and as a certified clinical addictions specialist~~  
13 ~~shall be qualified to supervise applicants for certified clinical addictions specialist, but a~~  
14 ~~person who is certified as a certified clinical supervisor or a certified clinical addictions~~  
15 ~~specialist shall be qualified to supervise an applicant for certification as a certified~~  
16 ~~substance abuse counselor.~~

17 Effective January 1, 2003, only a person who is certified as a certified clinical  
18 supervisor or a clinical supervisor intern shall be qualified to supervise applicants for  
19 certified clinical supervisor and certified substance abuse counselor and applicants for  
20 ~~certified-licensed~~ clinical addictions specialist who meet the qualifications of their  
21 credential other than through deemed status as provided in G.S. 90-113.40(c)(4).

22 **"§ 90-113.40A. Requirements for registration.**

23 (a) Upon application and payment of the required fee, the Board shall issue a  
24 registration designating an applicant as a registrant if the applicant:

25 (1) Provides documentation that he or she has received a high school  
26 diploma, or the equivalent, and evidence of any baccalaureate or  
27 advanced degrees the applicant has received.

28 (2) Completes a registration application on a form provided by the Board.

29 (3) Provides documentation of three hours of educational training in  
30 ethics.

31 (4) Signs a form attesting to the applicant's commitment to adhere to the  
32 ethical standards adopted by the Board.

33 (4a) Provides a complete criminal history record check pursuant to  
34 G.S. 90-113.46A.

35 (5) Signs a supervision contract provided by the Board that documents the  
36 proposed supervision process by an ~~approved applicant~~ supervisor.

37 (b) Registrant status shall be maintained for a period of up to five years while the  
38 registrant is in the process of completing his or her requirements for ~~certification~~  
39 ~~credentials~~ pursuant to this Article. If at the end of a five-year period a registrant has not  
40 obtained ~~certification~~ a credential under this Article, the Board shall renew the  
41 registration for up to an additional five-year period after the registrant pays the required  
42 fee and complies with all requirements for registration pursuant to G.S. 90-113.40A.  
43 The Board shall terminate the registration of any registrant who fails to renew his or her  
44 registration.

(c) The registrant shall notify the Board of any criminal conviction imposed during the period of registration.

**"§ 90-113.40B. ~~Approved~~ Applicant supervision.**

The Board shall designate a person as an ~~approved~~ applicant supervisor of individuals applying for ~~registration or certification~~ registration, certification, or licensure as a substance abuse professional as follows:

- (1) A certified clinical supervisor shall supervise a clinical supervisor intern.
- (2) A certified clinical supervisor or a clinical supervisor intern shall supervise a substance abuse residential facility director applicant, a clinical addictions specialist applicant, or a substance abuse counselor applicant.
- (3) ~~A certified clinical supervisor, a clinical supervisor intern, a certified clinical addictions specialist, or a certified substance abuse counselor shall supervise a registrant who provides DWI assessments.~~
- (4) A certified substance abuse prevention consultant with a minimum of three years of professional experience, a certified clinical supervisor, or a clinical supervisor intern shall supervise a registrant applying for certification as a prevention consultant.
- (5) Pursuant to the deemed status procedure under G.S. 90-113.41A, the supervision requirements described in subdivisions (1) through (4) of this section shall not apply to persons applying for ~~certification~~ licensure as a ~~certified~~ licensed clinical addictions specialist.
- (6) A criminal justice addictions professional applicant shall be supervised by a certified clinical supervisor or clinical supervisor intern.

**"§ 90-113.41. Examination.**

(a) Except for those individuals applying for ~~certification~~ licensure under G.S. 90-113.41A, applicants for certification or licensure under this Article shall file an application at least 60 days prior to the date of examination and upon the forms and in the manner prescribed by the Board. The application shall be accompanied by the appropriate fee. No portion of this fee is refundable. Applicants who fail an examination may apply for reexamination upon the payment of another examination fee.

(b) Each applicant for certification or licensure under this Article shall be ~~examined~~ tested in an examination ~~that is consistent with the examination requirements of developed by~~ the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Incorporated and the standards adopted by professional disciplines granted deemed status or their successor organizations.

(c) Applicants for certification or licensure shall be examined at a time and place and under the supervision that the Board determines. Examinations shall be given in this State at least twice each year.

(d) Applicants may obtain their examination scores and may review their examination papers in accordance with rules the Board adopts and agreements between Board-authorized test development companies.

**"§ 90-113.41A. Deemed status.**

1 (a) To be granted deemed status by the Board, a credentialing body of a  
2 professional discipline or its designee shall demonstrate that its substance abuse  
3 ~~certification~~ credentialing program substantially meets the following:

4 (1) Each person to whom the credentialing body awards credentials  
5 following the effective date of this act meets and maintains minimum  
6 requirements in substance abuse specific content areas. Each person  
7 also has a minimum of a master's degree with a clinical application in  
8 a human services field.

9 (2) The body requires 180 hours, or the equivalent thereof, of substance  
10 abuse specific education and training that covers the following content  
11 areas:

- 12 a. Basic addiction and cross addiction Physiology and
- 13 Pharmacology of Psychoactive drugs that are abused.
- 14 b. Screening, assessment, and intake of clients.
- 15 c. Individual, group, and family counseling.
- 16 d. Treatment, planning, reporting, and record keeping.
- 17 e. Crisis intervention.
- 18 f. Case management and treatment resources.
- 19 g. Ethics, legal issues, and confidentiality.
- 20 h. Psychological, emotional, personality, and developmental
- 21 issues.
- 22 i. ~~Coexisting~~ Co-occurring physical and mental disabilities.
- 23 j. Special population issues, including age, gender, race, ethnicity,
- 24 and health status.
- 25 k. Traditions and philosophies of recovery treatment models and
- 26 support groups.

27 (3) The program requires one year or its equivalent of post-degree  
28 supervised clinical substance abuse practice. At least fifty percent  
29 (50%) of the practice shall consist of direct substance abuse clinical  
30 care.

31 (b) The professional discipline seeking deemed status shall require its members  
32 to adhere to a code of ethical conduct and shall enforce that code with disciplinary  
33 action.

34 (c) The Board may grant deemed status to any professional discipline that  
35 substantially meets the standards in this section. Once such status has been granted, an  
36 individual within the professional discipline may apply to the Board for ~~certification as~~  
37 ~~a certified clinical addictions specialist~~ the credential of licensed clinical addictions  
38 specialist.

39 (d) The Standards and Credentialing Committee of the Board shall review the  
40 standards of each professional discipline every third year from the date it was granted  
41 deemed status to determine if the discipline continues to substantially meet the  
42 requirements of this section. If the Committee finds that a professional discipline no  
43 longer meets the requirements of this section, it shall report its findings to the Board at  
44 the Board's next regularly scheduled meeting. The deemed status standing of a

professional discipline's credential may be discontinued by a two-thirds vote of the Board.

**"§ 90-113.41B. Change of name or address.**

Every person ~~licensed, certified~~ certified, or registered under the provisions of this Article shall give written notice to the Board of any change in his or her name or address within 60 business days after the change takes place.

**"§ 90-113.42. ~~Exemptions. Violations; exemptions.~~**

(a) It shall be unlawful for any person not licensed or otherwise credentialed as a substance abuse professional pursuant to this Article to engage in those activities set forth in the scope of practice of a substance abuse professional under G.S. 90-113.31B, unless that person is regulated by another profession or is a registrant or intern as defined by this Article.

(b) It is not the intent of this Article to regulate members of other regulated professions who provide substance abuse services or consultation in the normal course of the practice of their profession. ~~Accordingly, this~~

(c) This Article does not apply to any person registered, certified, or licensed by the State or federal government to practice any other occupation or profession while rendering substance abuse services or consultation in the performance of the occupation or profession for which the person is registered, certified, or licensed.

(d) Only individuals ~~certified-registered, certified, or licensed~~ under this Article may use the title ~~certified substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director.~~ 'Certified Substance Abuse Counselor', 'Certified Substance Abuse Prevention Consultant', 'Certified Clinical Supervisor', 'Licensed Clinical Addictions Specialist', 'Certified Substance Abuse Residential Facility Director', 'Certified Criminal Justice Addictions Professional', 'Substance Abuse Counselor Intern', 'Clinical Addictions Specialist Intern', 'Clinical Supervisor Intern', or 'Registrant'.

**"§ 90-113.43. Illegal practice; misdemeanor penalty.**

Except as otherwise authorized in this Article, no person shall:

- (1) ~~Practice,~~ Offer substance abuse professional services, ~~practice,~~ attempt to practice, or supervise while holding himself or herself out to be a ~~certified substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director.~~ substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, certified or licensed clinical addictions specialist, clinical addictions specialist intern, substance abuse residential facility director, certified criminal justice addictions professional, clinical supervisor intern, substance abuse prevention consultant, or registrant without first having obtained a certificate of ~~certification- registration, certification, or licensure~~ from the Board.
- (2) Use in connection with any name any letters, words, numerical codes, or insignia indicating or implying that this person is a ~~certified~~

1 registrant, substance abuse counselor, ~~certified~~ substance abuse  
2 prevention consultant, certified clinical supervisor, ~~certified~~ clinical  
3 addictions specialist, ~~or~~ certified substance abuse residential facility  
4 ~~director~~ director, substance abuse counselor intern, or clinical  
5 addictions specialist intern unless this person is ~~certified~~ registered,  
6 certified, or licensed pursuant to this Article.

7 (3) Practice or attempt to practice as a certified substance abuse counselor,  
8 certified substance abuse prevention consultant, certified clinical  
9 supervisor, ~~certified~~ licensed clinical addictions specialist, certified  
10 criminal justice addictions professional, or certified substance abuse  
11 residential facility director with a revoked, lapsed, or suspended  
12 certification ~~certification~~ or license.

13 (4) Aid, abet, or assist any ~~uncertified~~ person to practice as a certified  
14 substance abuse counselor, certified substance abuse prevention  
15 consultant, certified clinical supervisor, ~~certified~~ licensed clinical  
16 addictions specialist, ~~or~~ certified substance abuse residential facility  
17 ~~director~~ director, registrant, substance abuse counselor intern, clinical  
18 addictions specialist, or clinical supervisor intern in violation of this  
19 Article.

20 (5) Knowingly serve in a position required by State law or rule or federal  
21 law or regulation to be filled by a registrant, certified substance abuse  
22 counselor, certified substance abuse prevention consultant, certified  
23 clinical supervisor, ~~certified~~ licensed clinical addictions specialist, ~~or~~  
24 certified substance abuse residential facility ~~director~~ director,  
25 substance abuse counselor intern, clinical addictions specialist intern,  
26 or clinical supervisor intern unless that person is ~~certified~~ registered,  
27 certified, or licensed under this Article.

28 (6) Repealed by S.L. 1997-492, s. 13.

29 (7) Practice, supervise, or attempt to practice or supervise or knowingly  
30 serve in a position required by State law or rule or federal law or  
31 regulation to be filled by a designated substance abuse intern without  
32 being designated as such by the Board.

33 A person who engages in any of the illegal practices enumerated by this section is  
34 guilty of a Class 1 misdemeanor. Each act of unlawful practice constitutes a distinct and  
35 separate offense.

36 **"§ 90-113.44. Grounds for disciplinary action.**

37 (a) Grounds for disciplinary action for an applicant or credentialed professional  
38 include:

39 (1) The employment of fraud, deceit, or misrepresentation in obtaining or  
40 attempting to obtain ~~certification~~ licensure, certification, or registration  
41 or renewal of ~~certification~~ licensure, certification, or registration.

42 (2) The use of drugs or alcoholic beverages to the extent that professional  
43 competency is affected, until proof of rehabilitation can be  
44 established ~~affected.~~

- 1           (2a) The use of drugs or alcoholic beverages to the extent that a substance  
2           abuse professional suffers impairment, including conviction of the  
3           offense of driving while impaired.
- 4           (3) Conviction of an offense under any municipal, State, or federal  
5           narcotic or controlled substance law, until proof of rehabilitation can  
6           be established law other than traffic laws as prescribed by Chapter 20  
7           of the General Statutes.
- 8           (4) Conviction of a felony or other public offense involving moral  
9           turpitude, until proof of rehabilitation can be established.  
10          turpitude. Conviction of a Class A-E felony shall result in an immediate  
11          suspension of ~~certification~~ licensure, certification, or registration for a  
12          minimum of one year.
- 13          (5) An adjudication of insanity or incompetency, until proof of recovery  
14          from this condition can be established.  
15          established by a licensed  
16          psychologist or psychiatrist.
- 17          (6) Engaging in any act or practice in violation of any of the provisions of  
18          this Article or any of the rules adopted pursuant to it, or aiding,  
19          abetting, or assisting any other person in such a violation.
- 20          (7) The commission of an act of malpractice, gross negligence, or  
21          incompetence in the practice of substance abuse counseling, substance  
22          abuse prevention consulting, clinical supervising, or in serving as a  
23          clinical addictions specialist, residential facility director, or a  
24          registrant while serving as a substance professional, intern, or  
25          registrant.
- 26          (8) Practicing as a certified substance abuse counselor, certified substance  
27          abuse prevention consultant, certified clinical supervisor, certified  
28          clinical addictions specialist or certified residential facility director  
29          without a valid certificate or practicing as a registrant without a valid  
30          registration.
- 31          (9) Engaging in conduct that could result in harm or injury to the public.
- 32          (10) Entering into a dual relationship that impairs professional judgment or  
33          increases the risk of exploitation with a client or supervisee.
- 34          (11) Practicing as a credentialed substance abuse professional outside of his  
35          or her scope of practice pursuant to G.S. 90-113.31B.

36          (b) Denial of an applicant's licensure, certification, or registration or the granting  
37          of licensure, certification, or registration on a probationary or other conditional status  
38          shall be subject to substantially the same rules and procedures prescribed by the Board  
39          for review and disciplinary actions against any person holding a license, certificate, or  
40          registration. A suspension of a credential resulting from relapse or impairment due to  
41          substance use, mental health, or medical disorder shall be imposed for at least six  
42          months beginning from the date of successful discharge from a residential substance  
43          abuse treatment program or other appropriate treatment modality determined as a result  
44          of an assessment by a Board-approved assessor. Disciplinary actions involving a clinical  
45          addictions specialist whose licensure is achieved through deemed status shall be initially

1 heard by the specialist's credentialing body. The specialist may appeal the body's  
2 decision to the Board. The Board shall, however, have the discretionary authority to  
3 hear the initial disciplinary action involving a credentialed professional.

4 **"§ 90-113.45. Enjoining illegal practices.**

5 (a) The Board may, if it finds that any person is violating any of the provisions of  
6 this Article or of the rules adopted pursuant to it, apply in its own name to the superior  
7 court for a temporary or permanent restraining order or injunction to restrain that person  
8 from continuing these illegal practices. The court may grant injunctive relief regardless  
9 of whether criminal prosecution or other action has been or may be instituted as a result  
10 of the violation. In the court's consideration of the issue of whether to grant or continue  
11 an injunction sought by the Board, a showing of conduct in violation of the terms of this  
12 Article shall be sufficient to meet any requirement of general North Carolina injunction  
13 law for irreparable damage.

14 (b) The venue for actions brought under this section is the superior court of any  
15 county in which the illegal acts are alleged to have been committed or in the county  
16 where the defendant resides.

17 **"§ 90-113.46. Application of requirements of Article.**

18 All persons ~~certified~~credentialed by the North Carolina Substance Abuse  
19 Professional ~~Certification-Practice~~ Board, Inc., as of July 1, 1994, shall be ~~certified~~  
20 credentialed by the Board pursuant to this Article. All these persons are subject to all the  
21 other requirements of this Article and of the rules adopted pursuant to it.

22 **"§ 90-113.46A. Criminal history record checks of applicants for registration,**  
23 **certification, or licensure.**

24 (a) All applicants for registration, certification, or licensure shall consent to a  
25 criminal history record check. Refusal to consent to a criminal history record check may  
26 constitute grounds for the Board to deny registration, certification, or licensure to an  
27 applicant. The Board shall ensure that the State and national criminal history of an  
28 applicant is checked. The Board shall be responsible for providing to the North Carolina  
29 Department of Justice the fingerprints of the applicant to be checked, a form signed by  
30 the applicant consenting to the criminal record check and the use of fingerprints and  
31 other identifying information required by the State or National Repositories, the fee  
32 required by the Department of Justice for providing this service, and any additional  
33 information required by the Department of Justice. The Board shall keep all information  
34 obtained pursuant to this section confidential.

35 (b) If an applicant's criminal history record check reveals one or more  
36 convictions as defined in G.S. 90-113.31A(14), the conviction shall not automatically  
37 bar issuance of a credential by the Board to the applicant. The Board shall consider all  
38 of the following factors regarding the conviction:

- 39 (1) The level of seriousness of the crime.
- 40 (2) The date of the crime.
- 41 (3) The age of the person at the time of the conviction.
- 42 (4) The circumstances surrounding the commission of the crime, if known.
- 43 (5) The nexus between the criminal conduct of the person and the job  
44 duties of the position to be filled.

(6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.

(7) The subsequent commission by the person of a crime as defined in G.S. 90-113.31A(14).

If, after reviewing the factors, the Board determines that the grounds set forth in G.S. 90-113.44 exist, the Board may deny registration, certification, or licensure of the applicant. The Board may disclose to the applicant information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant. The applicant shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(c) Limited Immunity. – The Board, its officers and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying registration, certification, or licensure to an applicant based on information provided in the applicant's criminal history record check."

**SECTION 2.** Article 4 of Chapter 114 of the General Statutes is amended by adding the following new section to read:

**"§ 114-19.11A. Criminal record checks of applicants for registration, certification, or licensure as a substance abuse professional.**

The Department of Justice may provide to the North Carolina Substance Abuse Professional Practice Board from the State and National Repositories of Criminal Histories the criminal history of any applicant for registration, certification, or licensure pursuant to Article 5C of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

**SECTION 3.** All members serving on the North Carolina Substance Abuse Professional Practice Board on the effective date of this act shall complete their current three-year terms. Upon completion of their terms, newly appointed or elected members of the Board shall serve four-year terms pursuant to G.S. 90-113.33, as enacted in Section 1 of this act.

**SECTION 4.** Notwithstanding G.S. 90-113.40(d1), as enacted by Section 1 of this act, the North Carolina Substance Abuse Professional Practice Board may certify a person as a certified criminal justice addictions professional during a limited period of 90 days from the date this act becomes effective and the credential is approved by the



1 IC&RC/AODA, Inc., if the applicant qualifies based on experience providing services  
2 to clients or offenders exhibiting substance abuse disorders and is working in a program  
3 determined by the Board to be integrally involved in at least one of the three branches of  
4 the criminal justice system, which include law enforcement, the judiciary, and  
5 corrections. In addition to meeting the requirements of G.S. 90-113.40(a)(1) through  
6 (5a), the person shall do the following:

- 7 (1) Provide two letters recommending certification from a current or  
8 former peer who functions in substantially the same professional  
9 capacity as determined by the Board.
- 10 (2) Provide one letter recommending certification from a person currently  
11 supervising or who has supervised the applicant within the previous  
12 five years attesting to the applicant's competency in the fields of  
13 substance abuse and criminal justice.
- 14 (3) Pay the criminal justice addictions professional certification fee for  
15 certification not to exceed one hundred fifty dollars (\$150.00).
- 16 (4) Provide one of the following:
  - 17 a. A high school diploma or a high school equivalency certificate,  
18 documentation of eight years or 16,000 hours of supervised  
19 work experience providing direct service to clients or offenders  
20 determined by the Board to be integrally involved in at least one  
21 of the three branches of the criminal justice system, which  
22 include law enforcement, the judiciary, and corrections.
  - 23 b. An associate degree and documentation of six years or 12,000  
24 hours of supervised work experience providing direct service to  
25 clients or offenders determined by the Board to be integrally  
26 involved in the three branches of the criminal justice system,  
27 which include law enforcement, the judiciary, and corrections.
  - 28 c. A bachelors degree in the Human Services field with four years  
29 or 8,000 hours of supervised work experience providing direct  
30 service to clients or offenders determined by the Board to be  
31 integrally involved in at least one of the three branches of the  
32 criminal justice system, which include law enforcement, the  
33 judiciary, and corrections.
  - 34 d. A masters degree or above in the Human Services field with  
35 two years or 4,000 hours of supervised work experience  
36 providing direct service to clients or offenders determined by  
37 the Board to be integrally involved in the three branches of the  
38 criminal justice system, which include law enforcement, the  
39 judiciary, and corrections.

40 **SECTION 5.** This act is effective when it becomes law.

## **AGENDA**

### **LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS**

**9:00 a.m., May 26, 2005**

#### **OPENING REMARKS**

**Representative Drew Saunders, Chair**

#### **DISCUSSION ITEMS**

**HB 688 Certify On-Site Wastewater Contractors**

**Representatives Gibson and Culp, Bill Sponsors**

#### **ADJOURNMENT**

## MINUTES

### LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

May 26, 2005

The Legislative Committee on New Licensing Boards met at 9:00 a.m., May 26, 2005, in Room 1425 of the Legislative Building. Members present were: Representative Drew Saunders, Chair, and Representatives Goforth and Parmon. Ms. Cindy Avrette, Committee Counsel, and Judy Collier, Research Assistant, were also present. A Visitor Registration List is attached and made a part of the minutes.

Representative Saunders, Chair, called the meeting to order and introduced Pages: Hannon Myers of Davidson County, sponsored by Representative Holliman, and Chris Evans of Durham County, sponsored by Representative Miller. He, also, recognized Sergeant-At-Arms Staff members Earl Coker and Jim Womack.

The issue to be discussed was the licensing of On-Site Wastewater Contractors as proposed in **HB 688 CERTIFY ON-SITE WASTEWATER CONTRACTORS**, sponsored by Representatives Gibson and Culp, and **SB 568 CERTIFY ON-SITE WASTEWATER CONTRACTORS**, sponsored by Senators Swindell and Stevens.

Mr. Doug Lassiter with the North Carolina Septic Tank Association was recognized to speak in support of the certification of On-Site Wastewater Contractors. He stated that 43,000 septic tanks are installed each year in North Carolina, and the technology for installation has become more complex. He felt that certification would be worthwhile.

Representative Goforth questioned how many other states have certified On-Site Wastewater Contractors, and Mr. Lassiter said that eight other states have certification. North Carolina ranks first or second in the nation in the number of septic tanks installed.

There were no speakers to oppose the certification.

Representative Culp, Bill Sponsor, was then recognized, and he spoke in support of the certification of the On-Site Wastewater Contractors.

Mr. Frank Pearce, President of the North Carolina Septic Tank Association, was called upon to comment on the certification, and he also recommended that the On-Site Wastewater Contractors be licensed.

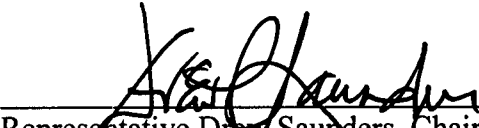
Representative Goforth moved that the Committee find the following:

1. The unregulated practice of On-Site Wastewater Contractors can substantially harm the public health, safety, and welfare.

2. On-Site Wastewater Contractors possess qualities that distinguish them from ordinary labor.
3. The practice of On-Site Wastewater Contractors requires specialized skill or training.
4. The public does not have the knowledge it needs to evaluate the professional competence of On-Site Wastewater Contractors.
5. Licensure is necessary for the public's protection.
6. Licensure will not have an adverse economic impact upon consumers of the practitioner's service.

and in accordance with those findings, the Committee recommends the licensure of On-Site Wastewater Contractors. The motion was approved by vote.

There was no further business, and the meeting was adjourned at 9:18 a.m.

  
\_\_\_\_\_  
Representative Drew Saunders, Chairman

  
\_\_\_\_\_  
Ruth Fish, Committee Assistant

Attachment

## VISITOR REGISTRATION SHEET

NEW LICENSING BOARDS

MAY 26, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

David Crawford	AIA
Lisa Martin	NC Home Builders
Tom Konster	Orange County Environmental Health
Doug Lassiter	NCSTA
Frank Pearce	NCSTA

State Personnel 415 106

**NC STATE UNIVERSITY**

Box 7625  
Raleigh, NC 27695-7625

919.515.2675  
919.515.6772 (fax)

Mr. Doug Lassiter  
Executive Director  
North Carolina Septic tank Association  
Box 35864  
Greensboro, NC, 27425

Dear Mr. Lassiter;

Subject: Certification for Onsite System Installers

Thank you for the opportunity to provide comments concerning the proposed bill to require certification for installers of onsite wastewater treatment systems. For generations, onsite wastewater treatment systems have provided a safe and reliable option to manage the wastewater generated by residents of rural and sub-urban communities throughout the country. Recently, the changes to regulatory requirements in most jurisdictions have changed. Consequently the technologies utilized to treat wastewater through the onsite options have increased in complexity to a very significant degree. Requirements for pressure distribution, pretreatment and disinfection are becoming more common in many applications. Today installers must be capable of reading and complying with complex siting requirements and installation plans, installing complex mechanical systems, and assuring that systems are code compliant. The onsite wastewater management field has changed dramatically since the initial Ground Absorption Law passed through the legislature in the mid 1970's.

Many of the manufacturers of these technologies require some training and certification of individual installers, but that requirement is not common throughout the industry. Most states surveyed in a recent national assessment of onsite professionals and reported in the EPA Onsite Wastewater Systems Manual (2003) indicate a requirement to certify onsite wastewater professionals including: installers, site evaluators, system operators, and regulatory personnel. North Carolina regulates all professionals involved in the onsite industry except the installer. The recently developed EPA Voluntary Guidelines for Management of Onsite and Decentralized Wastewater Systems (USEPA, 2003) reinforces the need to develop certification programs for professionals in the field. For the last few years I have been involved with the USEPA on the development of both the manual and the guidelines and I assure you and the committee members that the USEPA is serious about assuring the permanence of onsite and decentralized wastewater systems as a permanent element of the nations wastewater infrastructure.

The proper installation of a wastewater system is critical for the protection of public health and the environment; but also for protecting homeowner investment,

community image and investment, and local tax base. Without proper certification, these components of the community will suffer as technologies become more complex and as receiver environments become more sensitive. With proper licensing and certification, the public, the homeowner, and the community are protected against poor quality work.

Costs associated with a program such as that proposed are borne by installers and those costs are passed on to the consumer. Those costs are minimal and are quickly recovered.

North Carolina State University and other colleges and universities throughout the country have developed training programs for installers and other wastewater professionals. These training programs are done in cooperation with certification boards to assure the individuals involved in the training and the individuals receiving the training are schooled appropriately. Through programs like that proposed to train and certify individuals, the quality of services provided to the public can be assured.

Thank you for the opportunity to provide these comments. I look forward to working with representatives of your industry to see the training efforts accomplished successfully.

Sincerely,

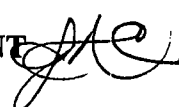
A handwritten signature in black ink, appearing to read 'A. R. Rubin', with a stylized flourish at the end.

A. R. Rubin, Professor and Extension Specialist  
Biological and Agricultural Engineering  
And  
Visiting Scientist, USEPA

# INTEROFFICE MEMO

*VIA HAND DELIVERY*

**TO:** DENISE WEEKS  
HOUSE PRINCIPAL CLERK

**FROM:** JUDY COLLIER, RESEARCH ASSISTANT   
RESEARCH DIVISION

**DATE:** MAY 26, 2005

**RE:** HOUSE BILL 688  
CERTIFY ON-SITE WASTEWATER CONTRACTORS  
ASSESSMENT REPORT

---

The Legislative Committee on New Licensing Boards met this morning to consider licensure of on-site wastewater contractors. For placement in the bill jacket for HB 688—**CERTIFY ON-SITE WASTEWATER CONTRACTORS**, attached please find a copy of the Assessment Report for **CERTIFY ON-SITE WASTEWATER CONTRACTORS** issued May 26, 2005 by the Legislative Committee on New Licensing Boards, under signature of its chair, Representative Drew Saunders.

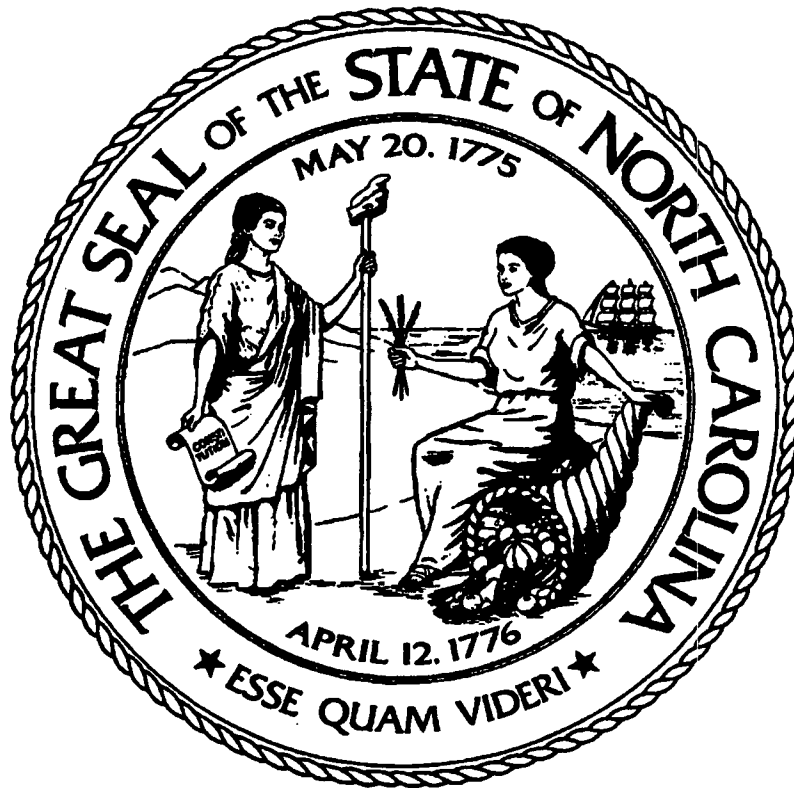
Thank you for your assistance in this matter.

Distribution with attachment:

✓ Rep. Drew Saunders  
Rep. Pryor Gibson  
Rep. Arlie Culp

**COPY**





# LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

Assessment Report

For

**CERTIFY ON-SITE WASTEWATER  
CONTRACTORS**

House Bill 688  
Senate Bill 568



## LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

May 26, 2005

The Legislative Committee on New Licensing Boards is pleased to release this assessment report on the certification of wastewater contractors. This report constitutes both the preliminary and final assessment report.

  
Representative Drew Saunders

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS  
(2005-2006)

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Representative Drew Saunders, Chair

Senator Stan Bingham

Representative Harold Brubaker

Senator Kay Hagan

Representative Becky Carney

Senator David Hoyle

Representative Bruce Goforth

Senator Vernon Malone

Representative Earline Parmon

Staff

Ms. Cindy Avrette, Committee Counsel  
Ms. Judy Collier, Research Assistant  
Ms. Ruth Fish, Committee Clerk

## PREFACE

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The Legislative Committee on New Licensing Boards is a 9-member joint committee of the House and Senate created and governed by statute (Article 18A of Chapter 120 of the General Statutes). The primary purpose of the Committee is to evaluate the need for a new licensing board or the proposed licensing of previously unregulated practitioners by an existing board. The Committee has been in existence since 1985.

The Committee solicits written and oral testimony on each licensing proposal in carrying out its duty to determine whether the proposal meets the following criteria:

- 1) Whether the unregulated practice of the profession can substantially endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- 2) Whether the profession possesses qualities that distinguish it from ordinary labor.
- 3) Whether practice of the profession requires specialized skill or training.
- 4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence.
- 5) Whether the public can effectively be protected by other means.
- 6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's good or services.

The Committee issues an assessment report on its findings and recommendations. The recommendation in the report is not binding on other committees considering the proposal.

HOUSE BILL 688/SENATE BILL 568  
CERTIFY ON-SITE WASTEWATER CONTRACTORS

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BACKGROUND<sup>1</sup>

*Current Standards.*

Under current law, persons who install, extend, repair, or inspect on-site wastewater systems are not regulated. In order to install or repair an on-site wastewater system, a person is only required to register with the local health department. However, the wastewater systems themselves are regulated by the Department of Environment and Natural Resources.

CERTIFICATION REQUIREMENTS

*Who Must Be Certified.*

Any person who constructs, installs, repairs, or inspects an "on-site wastewater system" must hold the required level of certification for the particular system. Also, a certified on-site wastewater system inspector is required for any professional performance inspection of an existing on-site wastewater system. An "on-site wastewater system" is defined as "any wastewater system permitted under Article 11 of Chapter 130A of the General Statutes."

*Exemptions from Certification.*

Persons not required to be certified include:

- A landowner who constructs, installs, or repairs an on-site wastewater system described as a single septic system so long as it is intended for use by that person and members of that person's immediate family.

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<sup>1</sup> Source: *Response to Questionnaire for the Legislative Committee for New Licensing Boards*. A copy of the questionnaire is attached to this report.

- A licensed general contractor who constructs or installs an on-site wastewater system ancillary to the building being constructed.

### ***Initial Certification Requirements.***

**General Requirements:** All applicants for certification must meet the following conditions:

- Be at least 18 years old.
- File a properly completed application with the Board or submit a recognized application from an accepted association.
- Be of good moral character and submit three (3) affidavits of persons not related to the applicant for whom the applicant has provided on-site wastewater services.
- Complete the training program designed by the Board specific to the grade level for which the applicant is applying. Grade levels are established by the Board based on design capacity, complexity, projected costs, and other features of approved on-site wastewater systems.
- Pay the applicable fee.

**Examination:** For grade levels greater than a conventional system or for a conventional system as defined in G.S. 130A-343(a)(3), the applicant must pass a written or oral exam that tests the applicant's proficiency in the following areas:

- Principles of public environmental health associated with on-site wastewater systems.
- Principles of construction and safety.
- Technical and practical knowledge of on-site wastewater systems typical to the specified grade level.
- Laws and rules related to the installation, construction, repair or inspection of the on-site wastewater system.

**Approval of Certification Programs from Recognized Associations:** The Board may issue a certificate at the appropriate grade level to an applicant from a recognized association after review and approval of the continuing education program of the association.

**Applicants with No Prior Experience:** Applicants with no prior experience in providing on-site wastewater services must:

- Complete an application; and
- Complete a basic on-site wastewater education program approved by the Board.

After meeting the above conditions, the applicant is then eligible to participate in training courses designed by the Board for the grade level for which the applicant is applying.

**No Degree Requirement:** Applicants are not required to hold a degree to be certified.

***Certification Renewal Requirements.***

**Expiration of Certification:** The time frame for certification renewals is determined by the Board. However, renewal terms cannot be less than one year.

**Renewal Requirements:** A contractor or inspector must meet all of the following conditions for certification renewal:

- Submit a renewal application.
- Meet continuing education requirements as determined by the Board, up to a maximum of 12 hours per year.
- Pay the renewal fee.

**Fees.** Fees are set by the Board and cannot exceed the following amounts:

Purpose of Fee	Fee Amount
Application for basic certification	\$150.00
Application for each step grade	\$50.00
Certification renewal	\$100.00
Reinstatement of revoked or suspended certification	\$500.00
Application for on-site wastewater system inspector certification	\$200.00
Replacement of a certificate	\$25.00
Late renewal	\$25.00

**Disciplinary Actions.** The Board may:

- Investigate complaints of fraud, deceit, negligence, incompetence, or misconduct.
- Deny, suspend, or revoke a certificate for:
  - Violation of governing law or rules.
  - Use of fraud or deceit in obtaining or renewing a certificate.
  - Any act of gross negligence, incompetence, or misconduct in the construction, installation, repair, or inspection of an on-site wastewater system.
- Seek injunctive relief.
- Establish a voluntary arbitration procedure to resolve complaints.

**Criminal Penalties.** A person who commits any of the following offenses is guilty of a

Class 2 misdemeanor:

- Engages or offers to engage in the construction, installation, repair, or inspection of an on-site wastewater system without the appropriate certificate.
- Gives false or forged evidence in obtaining a certificate.



## GOVERNING BOARD

### *North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.*

The Board will consist of nine members appointed as follows:

- Governor
  - One person engaged in the construction, installation, repair or inspection of on-site wastewater systems.
  - One certified water treatment facility operator.
  - One employee of the Division of Environmental Health.
- General Assembly Upon Recommendation of the President Pro Tem of the Senate
  - One person engaged in construction, installation, repair, or inspection of on-site wastewater systems.
  - One person who inspects on-site wastewater systems.
  - One person recommended by the NC Home Builders Association.
- General Assembly Upon Recommendation of the Speaker of the House.
  - One person engaged in construction, installation, repair, or inspection of on-site wastewater systems.
  - One person who is
    - Employed as an environmental health specialist; and
    - Engaged primarily in the inspection and permitting of on-site wastewater systems.
  - 1 person who is
    - Employed by the North Carolina State University Cooperative Extension Service; and
    - Knowledgeable in the area of on-site wastewater systems.

***Powers of the Board.*** The Board has general administrative powers as well as the power to:

- Determine qualifications for certification.
- Establish grades of certifications based on design capacity, complexity, projected costs and other features of approved on-site wastewater systems.

- Develop and administer examinations for each grade of certification and the power to approve applications by recognized associations for certification of its members after a review of the associations' requirements to ensure that they are equivalent to the requirements of the Board.
- Disciplinary powers.
- Establish fees, not to exceed statutory maximums.

## FINDINGS AND RECOMMENDATIONS

### ON-SITE WASTEWATER CONTRACTORS

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**Findings.** The Legislative Committee on New Licensing Boards finds that the sponsors have met the six criteria by which the Committee judges licensure proposals. Specifically, the Committee finds that:

- 1) The unregulated practice of on-site wastewater contractors can substantially harm or endanger the public health, safety, or welfare because the installation of new on-site wastewater systems, their repair and extensions, and the inspection of existing systems at the time of property transfer are not currently regulated in a way that would provide the public with assurance of competent construction practices. The current requirement of registration with the local health department does not adequately protect the state's environmental health or the public health of the individual citizens of North Carolina.
- 2) The profession possesses qualities that distinguish it from ordinary labor since it requires proficiencies in specialized technologies and equipment such as lasers, pumps, alarm panels, pretreatment devices, telemetry units and disinfection equipment such as UV exposure. The construction of on-site wastewater systems begins with the protection of the site and adherence to the original permit, requiring a knowledge of plan review, soils and hydraulics and a trained eye for potential problems with the functioning of a system.
- 3) The profession of on-site wastewater contractor requires specialized skill or training.
- 4) A substantial majority of the public does not have the knowledge or experience to evaluate the competence of a professional on-site wastewater contractor.
- 5) The public cannot be effectively protected by other means.
- 6) Licensure would not have a substantial adverse economic impact upon the recipient of the services of a professional on-site wastewater contractor.

**Recommendation.** The Legislative Committee on New Licensing Boards recommends the licensing of on-site wastewater contractors. This assessment report constitutes both the preliminary and final assessment report for the licensure of on-site wastewater contractors. This report is based on the proposed licensing of on-site wastewater contractors as set out in House Bill 688 and Senate Bill 568, the response to the Committee's questionnaire (Attachment), and testimony before the Committee on May 26, 2005.

# ATTACHMENT

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## *Response to Questionnaire for the Legislative Committee on New Licensing Boards*

April 25, 2005

Legislative Committee On New Licensing Boards

House Bill 688

Senate Bill 568

**CERTIFY ON-SITE WASTEWATER CONTRACTORS**

*The following are responses to queries requested by the Board.*

1. **In what ways has the marketplace failed to adequately regulate the profession or occupation?**

The installation of new on-site wastewater systems, their repair and extensions, and the inspection of existing systems at time of property transfer are under no current statewide regulation that enables the public to be assured of competent construction practices. Today, any person wishing to install or repair an on-site wastewater system in North Carolina can do so simply by registering with the local health department. This "ease of entry" does not adequately protect the public health, the environmental health of North Carolina, or the property values of the citizen.

2. **Have there been any complaints about the unregulated profession or occupation?**

The nature of the on-site wastewater system tends to make it difficult to receive a true number of specific complaints. When a builder or homeowner is dissatisfied with the workmanship of the installer, the complaint is usually lodged with the local health department. The LHD must then take action to find if the system was installed improperly and who is at fault. Without a license or certification, there is little leverage that can be placed against the installer. Many times, without adequate required training that licensure brings, the LHD will arrive at a site and be confronted with a situation where a system is installed in conflict with the design and construction requirements or installation permits. This may have been brought about by a decision by the homeowner or builder. If the LHD catches the error the permit may have to be modified or the system turned down. The error may even put the entire site in jeopardy and additional suitable sites found. If the error is not found the system shall fail to perform as expected, usually causing premature failure. This legislation would provide for added "Checks and Balances" between the permitting and inspection process.

3. **In what ways has the public health, safety, or welfare sustained harm or in imminent danger of harm because of lack of state regulation.**

The growing population density within North Carolina has increased the potential for groundwater contamination and disease due to surfacing malfunctioning on-site systems. While the continued management and maintenance of the on-site wastewater system is considered the most important factor in system performance, no one can fully expect the system to

be maintained or operated when the initial installation was improper. Centralized water and sewer can only be extended to a certain percentage of the citizens of North Carolina. On-site wastewater systems must still be regarded as a permanent option for wastewater treatment. The sale of existing homes with on-site wastewater systems must also be addressed. There is no specific training involved with these inspections. This legislation would also require specific requirements for these private system inspectors as well as establish the depth of this inspection.

**4. Is there potential for substantial harm or danger by the profession or occupation to the public health, safety, and welfare?**

The State of North Carolina is typically #1 or #2 nationally in the number of new installations each year. There is an average of 42,000 to 45,000 new systems installed each year and over 1.5 million on-site wastewater systems operating in North Carolina. The resulting number of gallons per day treated by these systems and returning treated wastewater back into the groundwater table is staggering. An improperly constructed on-site wastewater system will certainly run greater risk of contaminating the groundwater resources than a system installed correctly.

**5. Has this potential for substantial harm or danger to the public been recognized by other States or the federal government through licensing or certification?**

Yes! The EPA has issued guidelines and recommendations and has included installer accreditation (licensure) as a key to improvement of on-site wastewater systems. North Carolina is perhaps the last of the major users of on-site wastewater systems not to have a formal procedure to certify or license installer/contractors. There has already been established a protocol and certification that can be achieved for on-site system home inspectors through NSF and NAWT. These certifications are not specific to North Carolina regulations and rules and are relatively more costly to acquire than the one envisioned by this legislation.

**6. Will there be economic advantage to licensing to the public?**

Wastewater treatment, either by centralized sewer or on-site systems, is a necessity. The statewide requirement of licensing or certification will build another safeguard for the public by requiring adequate education and training for the practitioners. This can be correlated into real dollar amounts if the system malfunctions or need repair or replacement due to improper workmanship, usually in the thousands of dollars.

**7. What will be the economic disadvantage of licensing to the public?**

There will be a possible disadvantage to the public with the anticipated cost increase of the system due to the expense of the licensing procedure. This cost will be averaged out over the year by the licensed installer, but the bidding process will still minimize the impact of the requirement. When

viewed in relation to the benefits gained, the disadvantages are quickly outweighed.

**8. What will be the economic advantages of licensing to the practitioner?**

Licensure of any occupation or industry should always benefit the practitioners who are currently acting within the existing rules and regulations, and against those who consistently seek shortcuts within the system in search of more profits. Licensure will provide a statewide procedure to train and enforce the industry. This will certainly be a great improvement over the patchwork requirements from county to county. Since almost every contractor works in multiple counties, the advantage of a statewide approach is evident. In the long term, the success of licensure will benefit the reputation of the on-site wastewater technology. Since no State can expect to have the ability to provide centralized sewer to everyone, the safeguards that can be established for the on-site wastewater systems will increase the satisfaction within the public and promote sustained use of this technology into the next generation.

**9. What will be the economic disadvantages of licensing to the practitioner?**

The economic disadvantages will be in the expense of the fees and related costs of continuing education. There will also be the threat of losing the ability to install on-site systems if improper workmanship leads to actions by the Board. Like any industry, the disadvantages are only as great as the practitioner lets them be. The current installer/contractor doing shoddy work would, with passage of this Bill, be subject to greater inspection and punishment. There would be greater entry requirements. A person could not just suddenly decide to become an on-site system installer. This disadvantage should not be viewed as government's interference into free enterprise. The assumption by the public to expect basic training and moral guidelines from the professional practitioners should act as a guide.

**10. Does the current inspection process provide for identification of errors and potential problems?**

The current process establishes an evaluation of the site for suitability and for a final inspection to make sure the system was installed as per the original permit. This Bill would not, and should not, relieve the local health department of its permitting and inspection program. This legislation would simply impose an additional level of performance, however this would take place during the installation process itself and would give greater assurance that the work would be done as per the conditions of the permit.

**11. Please detail the specific specialized skills or training that distinguish the occupation or profession from ordinary labor?**

The installer/contractor must begin with a knowledge of the Rules of North Carolina, and any specific requirements of the proprietary system being installed. This is then joined with the excavation requirements, including the

use of certain equipment such as lasers, pumps, alarm panels, and installation procedures. The more advanced systems will also include knowledge of pretreatment devices, telemetry units, and disinfection equipment such as UV exposure. This technology is very different from that obtained by plumbers or utility contractors. To this end, this Bill sets up grades of certifications so that the individual practitioner can choose the level of system they want. Higher technology will require a higher degree of skill and knowledge.

**12. What are other qualities of the profession or occupation that distinguish it from ordinary labor?**

The construction of on-site wastewater systems begins with the protection of the site and the adherence to the original permit. This will require a knowledge of plan review, a common knowledge of soils and hydraulics, and a trained eye for potential problems that may have been overlooked in the evaluation process. Centralized sewers and utilities do not depend on the soils for treatment. The existing on-site wastewater systems inspectors must also have this knowledge, since the ability to judge if the system will function as expected and what repairs must be made to improve a failing system will come from a knowledge of how and why a system operates.

**13. Will licensing requirements cover all practicing members of the occupation or profession? If any practitioners will be exempt, what is the rationale for the exemption?**

The Bill exempts (1) a person installing a conventional (single tank and gravity distribution field) system for their personal use of their immediate family, and (2) a person licensed under Article 1 of Chapter 87 of the General Statutes (the licensed general contractor). Exemption (1) is typically granted to individuals in other construction areas. The restriction to the most basic of on-site systems should give reasonable safeguards against groundwater contamination. This exemption does not eliminate the final inspection process by the LHD. Exemption (2) was offered because the existing responsibilities of the General Contractor are still intact. In reality, the role of the General Contractor is as a project manager and as such, this Bill will aid the General Contractor in obtaining quality workmanship from the professional installers. The language in the Bill gives the exemption only if the person installing the system is also the General Contractor of the site, meaning a person holding a General Contractor's license could not advertise to the public as an on-site system installer unless they were the GC of the project. This exemption also guarantees that a specific technology could be installed anywhere in the State by the GC even if there were no private, professional installers certified at that level in that section of the State, therefore no interruption of services.

**14. What is the approximate number of persons who will be regulated under this Bill?**

As stated previously, there are approximately 42,000 to 45,000 new systems installed in North Carolina each year. Without a statewide registration or



certification program it would be impossible to determine how many persons install systems. A conservative estimate would be 1500-2000 professional installer/contractors. These are the persons who routinely install on-site wastewater systems. The number of private inspectors of existing systems who provide their services at time of property transfer will be dependent on the number of lending institutions and home buyers who request this service be done. The number of requests for this service is growing, given to the awareness of potential problems with malfunctioning on-site systems and the economic impact of an undisclosed problem.

**15. Does the occupational group have an established code of ethics, a voluntary certification program, or other means to ensure a minimum quality of service?**

Currently, there is not a voluntary certification program because there is no benefit to the practitioner to incur the added expense. Likewise, without a requirement to adhere to a standard of ethical practice, there is little chance that a voluntary standard would evolve. The only current standard is found within a few counties that have individually established a simple registration process. This is very inadequate and fails to protect the public or the industry from untrained or unethical installers.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE AND BILL SPONSOR NOTICE  
2005-2006 SESSION**

You are hereby notified that the **Legislative Committee on New Licensing Boards** will meet as follows:

**DAY & DATE:**     **Thursday, May 26, 2005**

**TIME:**             **9:00 a.m.**

**LOCATION:**        **1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):  
**HB 688 CERTIFY ON-SITE WASTEWATER CONTRACTORS**

Respectfully,

Representative Drew Saunders  
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at  
**11:00 a.m. on May 24, 2005.**

\_\_\_Principal Clerk  
\_\_\_Reading Clerk - House Chamber

Ruth Fish (Committee Assistant)

**Ruth Fish (Rep. Saunders)**

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**From:** Ruth Fish (Rep. Saunders)  
**Sent:** Tuesday, May 24, 2005 1:41 PM  
**Subject:** Responses to Questionnaire for HB 688 for New Licensing Boards Meeting of 5-26-05  
**Importance:** High

<b>Tracking:</b>	<b>Recipient</b>	<b>Read</b>
	Jan Sommer (Sen. Hoyle)	
	Ann Jordan (Rep. Goforth)	
	Claudette Howell (Sen. Malone)	
	Joyce Langdon (Rep. Carney)	
	Marian Phillips (Sen. Hagan)	
	Melissa Midgett (Sen. Hagan)	Read: 5/24/2005 1:41 PM
	Pat Christmas (Rep. Parmon)	
	Penny Williams (Sen. Hoyle)	
	Cindy Coley (Rep. Brubaker)	
	Rep. Drew Saunders	
	Cindy Avrette (Research)	
	Judy Collier (Research)	
	Ruth Fish (Rep. Saunders)	
	Judy Chriscoe (Sen. Bingham)	

April 25, 2005

**Legislative Committee On New Licensing Boards****House Bill 688****Senate Bill 568****CERTIFY ON-SITE WASTEWATER CONTRACTORS**

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 The installation of new on-site wastewater systems, their repair and extensions, and the inspection of existing systems at time of property transfer are under no current statewide regulation that enables the public to be assured of competent construction practices. Today, any person wishing to install or repair an on-site wastewater system in North Carolina can do so simply by registering with the local health department. This "ease of entry" does not adequately protect the public health, the environmental health of North Carolina, or the property values of the citizen.
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5/24/2005

installation permits. This may have been brought about by a decision by the homeowner or builder. If the LHD catches the error the permit may have to be modified or the system turned down. The error may even put the entire site in jeopardy and additional suitable sites found. If the error is not found the system shall fail to perform as expected, usually causing premature failure. This legislation would provide for added "Checks and Balances" between the permitting and inspection process.

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**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
NOTIFICATION TO BILL SPONSOR  
2005-2006**

**BILL SPONSOR:** Reps. Gibson & Culp

**OFFICE:** 419A LOB & 607 LOB

**NOTIFICATION DATE:** May 26, 2005

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**The House Committee on New Licensing Boards will meet as follows:**

**DAY & DATE:** Thursday, May 26, 2005

**TIME:** 9:00 a.m.

**LOCATION:** 1425 LB

Your Bill (or Bills) will be discussed at this time:

**HB 688 CERTIFY ON-SITE WASTEWATER CONTRACTORS**

We would like to have you attend this meeting.

Representative Drew Saunders  
Chairman

Ruth Fish (Committee Assistant)

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 688\*

Short Title: Certify On-Site Wastewater Contractors. (Public)

Sponsors: Representatives Gibson and Culp (Primary Sponsors).

Referred to: Finance.

March 17, 2005

A BILL TO BE ENTITLED  
AN ACT TO PROVIDE FOR THE CERTIFICATION OF ON-SITE WASTEWATER  
CONTRACTORS AND INSPECTORS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 90A of the General Statutes is amended by adding a  
new Article to read:

"Article 5.

"Certification of On-Site Wastewater Contractors and Inspectors.

**"§ 90A-70. Purpose.**

It is the purpose of this Article to protect the environment, public health, and safety  
by ensuring the integrity and competence of on-site wastewater contractors and  
inspectors; to require the examination of on-site wastewater contractors and inspectors  
and the certification of their competency to supervise, conduct, or inspect the  
construction, installation, repair, or inspection of on-site wastewater systems; to  
establish minimum standards for ethical conduct, responsibility, training, experience,  
and continuing education for on-site wastewater system contractors and inspectors; and  
to provide appropriate enforcement procedures for rules adopted by the North Carolina  
On-Site Wastewater Contractors and Inspectors Certification Board.

**"§ 90A-71. Definitions.**

The following definitions apply in this Article:

- (1) 'Board' means the North Carolina On-Site Wastewater Contractors and  
Inspectors Certification Board.
- (2) 'Department' means the Department of Environment and Natural  
Resources.
- (3) 'Inspector' means a person that evaluates and reports on or offers to  
evaluate and report on the performance of an on-site wastewater  
system.



- 1           (4) 'On-site wastewater system' means any wastewater system permitted  
2 under the provisions of Article 11 of Chapter 130A of the General  
3 Statutes.
- 4           (5) 'Contractor' means a person that constructs, installs, or repairs, or  
5 offers to construct, install, or repair an on-site wastewater system in  
6 the State.
- 7           (6) 'Person' means any and all persons, including individuals, firms,  
8 partnerships, associations, public or private institutions, municipalities,  
9 or political subdivisions, governmental agencies, or private or public  
10 corporations organized and existing under the laws of this State or any  
11 other state or country.
- 12           (7) 'Responsible charge' means the direct control and personal supervision  
13 of the installation, construction, repair, or inspection of an on-site  
14 wastewater system.

15 **"§ 90A-72. Certification required; applicability.**

16       (a) Certification Required. – No person shall construct, install, repair, or inspect,  
17 or offer to construct, install, repair, or inspect an on-site wastewater system in the State  
18 without first obtaining and holding the required level of certification for the specified  
19 system. A certified on-site wastewater system inspector shall be required for any  
20 professional performance inspection of an existing on-site wastewater system.

21       (b) Applicability. – This Article does not apply to the following:

- 22           (1) A person who constructs, installs, or repairs an on-site wastewater  
23 system described as a single septic tank with a gravity-fed distribution  
24 system when located on land owned by that person and that is intended  
25 solely for use by that person and members of that person's immediate  
26 family.
- 27           (2) A person licensed under Article 1 of Chapter 87 of the General  
28 Statutes who constructs or installs an on-site wastewater system  
29 ancillary to the building being constructed.

30 **"§ 90A-73. Creation and membership of the Board.**

31       (a) Creation and Appointments. – There is created the North Carolina On-Site  
32 Wastewater Contractors and Inspectors Certification Board. The Board shall consist of  
33 nine members appointed to three-year terms as follows:

- 34           (1) One member appointed by the Governor who, at the time of  
35 appointment, is engaged in the construction, installation, repair, or  
36 inspection of on-site wastewater systems, to a term that expires on 1  
37 July of years that precede by one year those years that are evenly  
38 divisible by three.
- 39           (2) One member appointed by the Governor who, at the time of  
40 appointment, is a certified water treatment facility operator pursuant to  
41 Article 2 of Chapter 90A of the General Statutes, to a term that expires  
42 on 1 July of years evenly divisible by three.
- 43           (3) One member appointed by the Governor who is an employee of the  
44 Division of Environmental Health to a term that expires on 1 July of

years that follow by one year those years that are evenly divisible by three.

(4) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of appointment, is engaged in the construction, installation, repair, or inspection of on-site wastewater systems, to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.

(5) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of appointment, is engaged in the business of inspecting on-site wastewater systems, to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.

(6) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate upon the recommendation of the North Carolina Home Builders Association, to a term that expires on 1 July of years evenly divisible by three.

(7) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is engaged in the construction, installation, repair, or inspection of on-site wastewater systems, to a term that expires on 1 July of years evenly divisible by three.

(8) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is (i) employed as an environmental health specialist, and (ii) engaged primarily in the inspection and permitting of on-site wastewater systems, to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.

(9) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is (i) employed by North Carolina State University Cooperative Extension Service, and (ii) is knowledgeable in the area of on-site wastewater systems, to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.

(b) Vacancies. – An appointment to fill a vacancy on the Commission created by the resignation, dismissal, disability, or death of a member shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled as provided in G.S. 120-122.

(c) Oath. – Each member of the Board, before entering upon the discharge of the duties of the Board, shall take and file with the Secretary of State an oath in writing to perform properly the duties as a member of the Board and to uphold the Constitution of North Carolina and the Constitution of the United States.

1       (d) Officers. – The Board shall elect a Chair from among its members. The Chair  
2 shall serve from the time of their election until 30 June of the following year, or until a  
3 successor is elected.

4       (e) Compensation. – Board members who are State employees shall receive no  
5 per diem compensation for serving on the Board but shall be reimbursed for their  
6 expenses in accordance with G.S. 138-6. All other Board members shall receive per  
7 diem compensation and reimbursement in accordance with the compensation rate  
8 established in G.S. 93B-5.

9       (f) Quorum. – A majority of the members of the Board constitutes a quorum for  
10 the transaction of business.

11       (g) Meetings. – The Board shall meet at least twice each year and may hold  
12 special meetings at the call of the Chair or a majority of the members of the Board.

13       (h) Staff. – The Board may employ staff to carry out the duties of the Board and  
14 the provisions of this Article. The Board shall determine the compensation, duties, and  
15 other terms and conditions of employment of the staff.

16 **"§ 90A-74. Powers and duties of the Board.**

17       The Board shall have the following general powers and duties:

- 18       (1) To adopt rules in the manner prescribed by Chapter 150B of the  
19 General Statutes to govern its actions and to implement the provisions  
20 of this Article.
- 21       (2) To determine the qualifications of persons who are certified pursuant  
22 to this Article.
- 23       (3) To establish grades of certifications based on design capacity,  
24 complexity, projected costs, and other features of approved on-site  
25 wastewater systems.
- 26       (4) To develop and administer examinations for each grade of  
27 certification. The Board may approve applications by recognized  
28 associations for certification of its members after a review of the  
29 requirements of the association to ensure that they are equivalent to the  
30 requirements of the Board.
- 31       (5) To issue, renew, deny, restrict, suspend, or revoke licenses and to carry  
32 out any of the other actions authorized by this Article.
- 33       (6) To establish, publish, and enforce rules of professional conduct of  
34 persons who are certified pursuant to this Article.
- 35       (7) To maintain a record of all proceedings and make available to persons  
36 licensed under this Article, and to other concerned parties, an annual  
37 report of all Board action.
- 38       (8) To establish reasonable fees for application, certification, and renewal,  
39 and other services provided by the Board.
- 40       (9) To conduct investigations for the purpose of determining whether  
41 violations of this Article or grounds for disciplining persons certified  
42 under this Article exist.
- 43       (10) To adopt a common seal containing the name of the Board for use on  
44 all certificates and official reports issued by the Board.

(11) To conduct other services necessary to carry out the purpose of this Article.

**"§ 90A-75. Expenses and fees.**

(a) Expenses. – All salaries, compensation, and expenses incurred or allowed for the purposes of carrying out this Article shall be paid by the Board exclusively out of the funds received by the Board as authorized by this Article. No salary, expense, or other obligations of the Board may be charged against the General Fund of the State. Neither the Board nor any of its members or employees may incur any expense, debt, or financial obligation binding upon the State.

(b) Contributions. – The Board may accept grants, contributions, bequests, and gifts that shall be kept in the same account as the funds deposited in accordance with this Article and other provisions of the law.

(c) Fees. – All fees shall be established in rules adopted by the Board. The Board shall establish fees sufficient to pay the costs of administering this Article, but in no event shall the Board charge a fee at an annual rate in excess of the following:

- |     |  |                  |
|-----|--|------------------|
| (1) | <u>Application for basic certification</u>                 | <u>\$150.00</u>  |
| (2) | <u>Application for each step grade</u>                     | <u>\$50.00</u>   |
| (3) | <u>Certification renewal</u>                               | <u>\$100.00</u>  |
| (4) | <u>Reinstatement of revoked or suspended certification</u> | <u>\$500.00</u>  |
| (5) | <u>Application for on-site wastewater system inspector</u> | <u>\$200.00.</u> |

(d) Audit. – The Board is subject to the oversight of the State Auditor under Article 5A of Chapter 147 of the General Statutes.

**"§ 90A-76. On-Site Wastewater Certification Fund.**

Fund. – The On-Site Wastewater Certification Fund is created as a nonreverting account within the Department. All fees collected pursuant to this Article shall be credited to the Fund. The Fund shall be used for the costs of administering this Article.

**"§ 90A-77. Certification requirements.**

(a) Certification. – The Board shall issue a certificate of the appropriate grade level to an applicant who satisfies all of the following conditions:

- (1) Is at least 18 years of age.
- (2) Files a properly completed application with the Board or submits a recognized application from an accepted association.
- (3) Is of good moral character and submits affidavits of three persons not related to the applicant for whom the applicant provided on-site wastewater services.
- (4) Completes the training program designed by the Board specific to the grade level for which the applicant is applying.
- (5) Pays the applicable fees set by the Board for the particular application.

(b) Examination. – For grade levels greater than conventional systems for a conventional system as defined by G.S. 130A-343(a)(3), the applicant must pass a written or oral examination that tests the applicant's proficiency in the following areas:

(1) Principles of public and environmental health associated with on-site wastewater systems.

(2) Principles of construction and safety.

(3) Technical and practical knowledge of on-site wastewater systems typical to the specified grade level.

(4) Laws and rules related to the installation, construction, repair, or inspection of the specified on-site wastewater system.

(c) Location of Examinations. – The Board shall provide a minimum of three examinations each year; one each in the coastal plain, the Piedmont, and the mountain areas of the State.

(d) Approval of Certification Programs. – The Board may issue a certificate at the appropriate grade level to an applicant from a recognized association after review and approval of the continuing education program of the association.

(e) No Prior Experience. – Applicants with no prior experience in providing on-site wastewater services shall, upon a properly completed application, complete a basic on-site wastewater education program approved by the Board. Upon completion of the basic on-site wastewater education program, the applicant shall be eligible to participate in courses in an on-site wastewater systems training program designed by the Board specific to the grade level for which the applicant is applying.

(f) No Degree Required. – An applicant shall not be required to hold or obtain an educational diploma or degree to obtain a certificate. If the applicant meets all the conditions for certification except for passage of the Board examination, the applicant may take the examination on two more occasions without having to file for a new application, pay an additional application fee, or repeat the training program. If the applicant fails to pass the Board examination on three successive occasions, the applicant must reapply to the Board, pay the application fee, and repeat the training program.

(g) Certificate. – The certification shall show the full name of the certificate holder. The certificate shall provide a unique identification number and shall be signed by the Chair. Issuance of the certificate by the Board shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a certified on-site wastewater contractor or inspector, at the grade level specified on the certificate, while the certificate remains in effect.

(h) Replacement Certificate. – A new certificate to replace one lost, destroyed, or mutilated shall be issued subject to rules adopted by the Board and with the payment of a fee set by the Board. The fee for a duplicate or replacement certificate shall not exceed twenty-five dollars (\$25.00).

**"§ 90A-78. Certification renewal.**

(a) Renewal. – All certifications shall expire at intervals determined by the Board unless they are renewed. In no event may the interval determined by the Board be less than one year. To renew a certification, a contractor or inspector must meet all of the following conditions:

(1) Submit an application for renewal on the form prescribed by the Board.

(2) Meet the continuing education requirements prescribed by the Board.

(3) Pay the certification renewal fee.

(b) Late Fee. – A contractor or inspector with an expired certificate may renew the certification within 90 days of its expiration upon payment of a late fee set by the Board. The late fee shall not exceed twenty-five dollars (\$25.00). If a certification is not renewed within 90 days of its expiration, the certification shall not be renewed, and the holder must apply for a new certificate.

**"§ 90A-79. Continuing education.**

(a) Requirements. – The Board shall require continuing education as a condition of certification and renewal. The Board shall determine the number of hours, based on grade levels applied for, up to a maximum of 12 hours per year, and the subject material for the specified grade level. The Board shall maintain records of continuing education coursework successfully completed by each certificate holder.

(b) Approval of Continuing Education Programs. – The Board may approve a continuing education program or course if the Board finds that the program or course offers useful educational experience that will enhance the construction, installation, repair, or inspection of on-site wastewater systems. The Board may develop and offer continuing education programs.

**"§ 90A-80. Responsibility of the certificate holder.**

(a) Responsibilities. – The certificate holder shall be responsible for all crew actions and quality of workmanship. A certificate may be issued jointly to an individual doing business under the name of the individual, under a trade name, or under the name of a firm, partnership, association, or corporation. The certificate holder shall be the person of responsible charge and shall assume all duties and liabilities for the construction, installation, repair, or inspection of the system.

(b) Separation of Employment. – If the certificate holder is an employee of the firm, partnership, association, or corporation, employment must continue for the certificate to remain in force. If separation of the employee occurs, the firm, partnership, association, or corporation must employ a certified contractor or inspector within 60 days for the certificate to remain in force.

**"§ 90A-81. Investigation of complaints.**

(a) Misconduct. – A person may refer to the Board charges of fraud, deceit, negligence, incompetence, or misconduct against any contractor or inspector licensed under this Article. The charges shall be in writing and sworn to by the complainant and submitted to the Board. These charges, unless dismissed without a hearing by the Board as unfounded or trivial, shall be heard and determined by the Board in accordance with the provisions of Chapter 150B of the General Statutes. An association that receives professional recognition of its own certification process by the Board shall be responsible for the conduct and competency of its members.

(b) Records. – The Board shall establish and maintain detailed records regarding complaints concerning each certified contractor or inspector. The records shall include those certified by recognized associations. The records shall also detail the levels of certification held by each contractor or inspector.

1       (c) Notification. – The Board shall notify local health departments of updates in  
2 certifications, complaints, suspensions, or reinstatements.

3 **"§ 90A-82. Remedies.**

4       (a) Denial, Suspension, and Revocation of Certification. – The Board may deny,  
5 suspend, or revoke a certificate under this Article for:

6           (1) A violation of this Article or a rule of the Board.

7           (2) The use of fraud or deceit in obtaining or renewing a certificate.

8           (3) Any act of gross negligence, incompetence, or misconduct in the  
9 construction, installation, repair, or inspection of an on-site wastewater  
10 system.

11       (b) Arbitration. – The Board may establish a voluntary arbitration procedure to  
12 resolve complaints concerning a certificate holder or any work performed by the  
13 certificate holder, or conflicts involving any certificate holder and the Division of  
14 Environmental Health or a local health department.

15       (c) Injunction. – The Board may ask the Attorney General to seek an injunction  
16 to restrain any person, firm, partnership, or corporation from violating the provisions of  
17 this Article or rules adopted by the Board. The Attorney General may bring an action  
18 for an injunction in the name of the State in the superior court of any county in which  
19 the violator resides or the violator's principal place of business is located. In any  
20 proceedings for an injunction, it shall not be necessary to allege or prove either that an  
21 adequate remedy at law does not exist, or that substantial or irreparable damage would  
22 result from the continued violation. Members of the Board shall not be personally or  
23 professionally liable for any act or omission pursuant to this subsection. The Board shall  
24 not be required to post a bond in connection with any action to obtain an injunction.

25       (d) Offenses. – A person who commits any one or more of the following offenses  
26 is guilty of a Class 2 misdemeanor:

27           (1) Engages in or offers to engage in the construction, installation, repair,  
28 or inspection of an on-site wastewater system without the appropriate  
29 certificate for the specific grade of on-site wastewater system.

30           (2) Gives false or forged evidence of any kind in obtaining a certificate.

31           (3) Falsely impersonates a certificate holder."

32       **SECTION 2.(a)** In order to provide for a system of staggered three-year  
33 terms for the members of the On-Site Wastewater Contractors and Inspectors  
34 Certification Board established by G.S. 90A-73(a), as enacted by Section 1 of this act,  
35 the following provisions shall apply:

36           (1) The term of the member initially appointed to serve in the position  
37 established by G.S. 90A-73(a)(1) shall be three years and shall expire  
38 on 1 July 2008.

39           (2) The term of the member initially appointed to serve in the position  
40 established by G.S. 90A-73(a)(2) shall be four years and shall expire  
41 on 1 July 2009.

42           (3) The term of the member initially appointed to serve in the position  
43 established by G.S. 90A-73(a)(3) shall be five years and shall expire  
44 on 1 July 2010.

- (4) The term of the member initially appointed to serve in the position established by G.S. 90A-73(a)(4) shall be five years and shall expire on 1 July 2010.
- (5) The term of the member initially appointed to serve in the position established by G.S. 90A-73(a)(5) shall be three years and shall expire on 1 July 2008.
- (6) The term of the member initially appointed to serve in the position established by G.S. 90A-73(a)(6) shall be four years and shall expire on 1 July 2009.
- (7) The term of the member initially appointed to serve in the position established by G.S. 90A-73(a)(7) shall be four years and shall expire on 1 July 2009.
- (8) The term of the member initially appointed to serve in the position established by G.S. 90A-73(a)(8) shall be five years and shall expire on 1 July 2010.
- (9) The term of the member initially appointed to serve in the position established by G.S. 90A-73(a)(9) shall be three years and shall expire on 1 July 2008.

**SECTION 2.(b)** In the event that the General Assembly fails to appoint one or more initial members to the On-Site Wastewater Contractors and Inspectors Certification Board while the General Assembly is in session during 2003, the failure to make an initial appointment shall be treated as though a vacancy had occurred, and the vacancy may be filled by appointment as provided in G.S. 120-122.

**SECTION 3.** This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The On-Site Wastewater Contractors and Inspectors Certification Board may adopt temporary rules to implement the provisions of this act until 1 July 2005. Notwithstanding G.S. 150B-21.1(d), a temporary rule adopted in accordance with this section shall remain in effect until a permanent rule adopted to replace the temporary rule becomes effective. Prior to the adoption of temporary rules under this section, the Board shall:

- (1) Consult with persons who may be interested in the subject matter of the temporary rule during the development of the text of the proposed temporary rule.
- (2) Establish a mailing list pursuant to G.S. 150B-21.2(d) and notify persons on the mailing list of its intent to adopt a temporary rule.
- (3) Publish a notice of intent to adopt a temporary rule in the North Carolina Register. The notice shall set out the text of the proposed temporary rule and include the name of the person to whom questions and written comments on the proposed rule may be submitted. The Board shall accept written comments on the proposed temporary rule for at least 30 days after the notice of intent to adopt the temporary rule as published in the North Carolina Register.
- (4) Hold at least one public hearing on the proposed temporary rule.



1           **SECTION 4.** Section 1 of this act is effective when it becomes law except  
2 that G.S. 90A-72, 90A-79, and 90A-82, as enacted by Section 1 of this act, become  
3 effective January 1, 2007. Sections 2, 3, and 4 of this act are effective when the act  
4 becomes law.

## **AGENDA**

### **LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS**

**July 6, 2005**

#### **OPENING REMARKS**

**Representative Drew Saunders, Chair**

#### **DISCUSSION ITEMS**

**HB 1330 Amend Electrolysis Practice Act/Fees  
Rep. Jeffus, Bill Sponsor**

**HB 613 Update Certification/Licensure/Rec. Therapy  
Reps. Harrell and Womble**

#### **ADJOURNMENT**

## **MINUTES**

### **LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS**

**July 6, 2005**

The Legislative Committee on New Licensing Boards met at 12:00 Noon on July 6, 2005, in Room 1425 of the Legislative Building. Members present were: Representative Drew Saunders, Chair, and Senator Bingham, Representative Goforth, and Representative Parmon. Ms. Cindy Avrette, Committee Counsel, was also in attendance. A Visitor Registration List is attached and made a part of the minutes. (See Attachment #1.)

Representative Saunders called the meeting to order and introduced the following pages: Rebecca Searles of Buncombe County, sponsored by Representative Goforth; Brittany Hill of Buncombe County, sponsored by Representative Goforth; Cameron Parrish of Wilkes County, sponsored by Representative Harrell; D'Arby LaMont of Forsyth County, sponsored by Representative Parmon; and Michael Madrey of Forsyth County, sponsored by Representative Womble. He, also, recognized Sergeant At Arms Staff members: Dusty Rhodes, Earl Coker, and John Fitchett.

The first item on the agenda to be considered was **HB 613 UPDATE CERTIFICATION/LICENSURE RECREATIONAL THERAPY**, sponsored by Representatives Harrell and Womble. Ms. Avrette, Committee Counsel, was asked to explain the bill. The bill changes certification to licensure and changes the titles of licensees. In addition, it changes the number of board members and fees. Representative Harrell was recognized to comment on the licensure, and he asked Ms. Becky Garrett with the North Carolina Therapeutic Recreation Certification Board to speak. Ms. Garrett spoke in support of the licensure and educational requirements. A question and answer period followed. Then, Representative Goforth moved that the Committee finds the following:

1. The unregulated practice of Recreation Therapists can substantially endanger the public's health, safety, and welfare.
2. Recreation Therapists possess qualities that distinguish them from ordinary labor.
3. The profession requires specialized skill or training.
4. A substantial majority of the public does not have the knowledge or experience to evaluate the practitioner's competence.
5. Licensure is necessary for the public's protection.
6. The licensure will not have a substantial adverse economic impact upon consumers of the practitioner's service.

and in accordance with those findings, the Committee recommends the licensure of Recreation Therapists. A vote was taken, and the motion was approved.

The next item on the agenda was HB 1330 AMEND ELECTROLYSIS PRACTICE ACT/FEES, and Representative Jeffus, bill sponsor, was recognized to speak on the bill. She asked for support of the bill and commented that the bill addressed safety, training, and education issues of Electrologists and Laser Clinicians. Ms. Avrette, Committee Counsel, was asked to give an overview of the bill. Currently, Laser Treatment Clinicians have to practice under the supervision of doctors. House Bill 1330 would amend the Electrolysis Practice Act to provide for the Licensure of an electrologist who meets the education requirements as a laser clinician to perform the medical act.

Representative Saunders asked for speakers who supported the bill and those who were opposed to comment on the licensure. The first speaker was Trudy Brown, Chair of the North Carolina Board of Electrolysis Examiners, who spoke in support of the licensure. She stated that the licensure was a safety issue, and she presented a handout on the course of study for Electrolysis. (See Attachment #2.)

The second speaker was Ronda Jones, Licensed Electrologist, who opposed the bill. She stated that she represented 70% of the electrologists who had not been informed of the bill being filed by the North Carolina Board of Electrolysis Examiners. She presented a handout to the members of the Legislative Committee on New Licensing Boards. (See Attachment #3.)

The third speaker was Thelma White, a member of the North Carolina Board of Electrolysis Examiners. She asked for support of licensure and gave information on the required training level as stated in the bill.

The fourth speaker was Steve Keene with the North Carolina Medical Society. He opposed the bill and said the North Carolina Medical Board is in the middle of discussions and would be making recommendations.


The fifth speaker was Roger Bone, who represented Sona Med. He stated that he was neither supporting nor opposing the licensure.

The sixth speaker was Dana Combopiano, who is an electrologist and laser clinician with businesses in Cary and Wake Forest. She spoke in support of licensure in order to protect the consumers.

The last speaker was Dorenda Stillwell, President of the Greater Piedmont Electrolysis Association. She spoke in support of the licensure for safety and training purposes.

A question and answer period followed the speakers' comments. Senator Bingham asked when the North Carolina Medical Board would be making recommendations, and Mr. Tom Mansfield, Director of the North Carolina Medical Board, said that the Board would be meeting in two weeks.

Representative Saunders stated that the Legislative Committee on New Licensing Boards would not make a recommendation for licensure at this meeting, but they will reconvene at a later date to consider the licensure of electrologists and laser clinicians. There was no further business, and the meeting was adjourned at 12:42 p.m.

  
\_\_\_\_\_  
Representative Drew Saunders, Chair

  
\_\_\_\_\_  
Ruth Fish, Committee Assistant

Attachments

## VISITOR REGISTRATION SHEET

LEG. COM. ON NEW LICENSING BOARDS

July 6, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rogues Bone	Bone + Assoc.
J. Bone	" "
John Cyrus	NCS Group
Becky Garrett	NC Therapeutic Recreation Cert. Board
Amelia Wilson	NC Therapeutic Recreation Cert Board
Mike Waters	NCRPA
Trudy Brown	NC Board of Electrolysis Examiners
Dana Combsprano	Electrolysis / Laser Therapy
Don Vaughn	Attorney
THELMA GLENN WHITE	N.C. BOARD OF ELECTROLYSIS EXAMINERS
Dorenda Stilwell	Electrolysis / Laser

# VISITOR REGISTRATION SHEET

LEG. COM. ON NEW LICENSING BOARDS

July 6, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Alice Saintsing	Electrolysis / Laser
Kevin Combopiano	Corlase / Electrolysis, Laser
Steve Keene	NC Med. Soc.
Jayulatus	JP Assoc
Ann Jo Hume	NCMS
Joanna Stevens	nursing
Abby Reynolds	NCGA Intern
Cheryl Batchelor	NCNA Nurse of Day
Peggie Potter	NCDS & NCDTA
Myrtle Hamrick	Electrolysis
Marilyn Harper	Retired Electrolysis

## VISITOR REGISTRATION SHEET

## LEG. COM. ON NEW LICENSING BOARDS

July 6, 2005

**Name of Committee****Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME

### FIRM OR AGENCY AND ADDRESS

Ronda Jone

134 W. Mountain  
Kernersville (Electrologist)

Richard O'Brien

PFFPNC

James Andrews

NC State AFL-CIO



Attachment #2  
July 6, 2005

21 NCAC 19.0601

# CURRICULUM

The course of study for electrolysis shall consist of at least 600 clock hours of instruction in theory and clinical practice as set out in the following table:

Subject	Theory Hours	Clinical Hours
General Orientation	20	0
Rules of the school		
Personal hygiene and dress		
Professional ethics and office rules		
State and local laws governing electrolysis		
History of electrolysis		
Trichology (Hair Growth)	20	0
Hair structure and function		
Growth cycles, including regrowth cycles		
Follicle structure and function		
Endocrinology	20	0
Causes of hair growth, including new hair stimulation		
Study and function of glands		
Dermatology	30	0
Skin structure and function		
Disease of the skin (as related to the practice of electrolysis)		
Reaction of the skin as related to the clinical application of electrolysis		
Neurology/Angiology (as related to electrolysis)	20	0
Nervous system		
Pain thresholds		
Pain variables		
Synoptic responses		
Circulatory system		
Cardiovascular system		
Lymphatic system		
Bacteriology	25	40
Sanitation		
Sterilization		
Rules and standards promulgated by the Board		
Principles of Electricity	20	80
Short wave (Alternating) current		
Direct (Galvanic) current		
Equipment	30	200
Modalities		
Electrolysis (DC - Galvanic)		
Thermolysis (SW - Shortwave)		
Blend (Combination of Galvanic and Shortwave)		
Variables		
Probes		
Intensity		
Timing		
Depth of insertion		
Equipment maintenance and upkeep		
General Treatment Procedure		
Consultation with clients		
	25	30

Consultation instruction shall include methods of developing case histories and health history assessments and providing information on hair growth cycles, modalities used, pain factors, scheduling of appointments, and fees

Positioning and draping		
Development of Practice	20	20
Public relations and advertisement		
Office procedure and management		
Record keeping		
Telephone etiquette		
Housekeeping (Office)		
Totals:	230	370

*History Note:* Authority G.S. 88A-6; 88A-19;  
Eff. June 1, 1993.

#### **21 NCAC 19 .0602 APPLICATION FOR CERTIFICATION**

Each person applying for a school certification shall submit to the Board the information required by G.S. 88A-19 and:

- (1) A copy of the student contract required by Rule .0605 of this Section; and
- (2) A copy of the form for student authorization to receive electrolysis treatment required by Rule .0605 of this Section.

*History Note:* Authority G.S. 88A-6; 88A-19;  
Eff. November 1, 1993.

#### **21 NCAC 19 .0603 CERTIFICATIONS NOT TRANSFERABLE**

Consistent with G.S. 88A-19, school certifications are valid only for the location named in the certification and are not transferable either to a new owner or to a new location. A school shall within 10 business days notify the Board in writing of a sale, transfer, change in management or change in ownership. Each school shall display its certification in a conspicuous place near the main entrance.

*History Note:* Authority G.S. 88A-6; 88A-19; 88A-20;  
Eff. November 1, 1993.

#### **21 NCAC 19 .0604 PROGRAM DIRECTORS**

Each school certified by the Board shall at all times be under the direction and supervision of a program director. The program director of each school shall be responsible for the organization, administration, development and general effectiveness of the school's electrolysis training program.

*History Note:* Authority G.S. 88A-6; 88A-19; 88A-20;  
Eff. December 1, 1993.

#### **21 NCAC 19 .0605 ENROLLMENT PROCEDURES**

**Licensing Committee Meeting  
July 6, 2005**

**Ladies and Gentlemen:**

**Thank you for opportunity to speak on the behalf of the 70% of the state's licensed electrologists that have been unaware of the recent activities of the North Carolina Board of Electrolysis Examiners.**

**My name is Ronda Jones, Licensed Electrologist and Internationally Board Certified Professional Electrologist. I own and operate an established practice in Kernersville, NC. I am also a NC State licensed teacher.**

**Please bear with me as I outline events that have led up to this meeting. I can assure you that it will enlighten you. All statements are substantiated in your packet.**

**Prior to House Bill# 1330 being filed on April 19, 2005 by Representative, Maggie Jeffus, as sponsor, a meeting was held by the North Carolina Medical Board on March 16, 2005.**

**At this meeting the future position and involvement of the Medical Board in regards to laser hair removal were to be discussed. It was determined that a formal policy would be written by May and go before the full NCMB for a vote in July.**

**In response to the March meeting, SB# 1009 was filed on March 24 sponsored by Senator Kay Hagen.**

**On April 19, 2005 the same day HB# 1330 was filed, a Lobbyist Registration Statement was filed authorizing Donald Vaughan as lobbyist on behalf of Advanced Electrolysis and Laser Clinic, Inc. Trudy Brown, President.**

On April 14, 2005 notice was sent by NCBEE that a meeting would be held on Monday, April 25, 2004. Clearly this should have read 2005. Legislative matters and expired licenses were to be discussed. This was the first meeting to discuss laser hair removal. It should be noted that only a few electrologists were privy to this meeting and there was only eleven days notice. Typically, there is a 30 day notice of a planned meeting unless it is deemed an emergency meeting. At this meeting a motion was made by Chairman, Trudy Brown to approve SB# 1009 and HB# 1330. Please recognize that this "vote" took place after both SB# 1009 and HB# 1330 were already filed. There was also no mention that she had already hired Lobbyist, Don Vaughan, to represent Advanced Electrolysis and Laser Clinic.

On June 1, 2005 an email went out to eight addresses from Chairman, Trudy Brown. I'll read you the email.

Hello everyone,

I spoke with Don Vaughan today and he told me it was D-Day. We have had the Legislation on hold due to lack of money. We were scheduled to go to the House tomorrow for cross over. In order to continue I need a commitment to determine who is on board with us and willing to contribute to the Legislative efforts.

I need to have a commitment from everyone by Thursday so I will know how to proceed and if we can go forth or to stop. If every electrologist that has a Laser will pay \$5,000.00 then this will mainly pay for our Bill and the rest of the money we could get from the Laser Companies. The estimated cost is \$100,000.00. (this is less than what Ohio and Florida paid) Unfortunately, this is a costly process. Our original Licensing cost over \$100,000.00 fifteen years ago. It was the same thing then, we had only about 20 electrologists that actually contributed money to pay for it.

This amendment is important to our profession. If we don't get this passed then we could face a number of different circumstances. The word is out that the Medical Board is going to require on site supervision. It is difficult to know exactly what is going to happen. Our best protection is to have it in our Electrolysis Practice Act which makes it Law that we can do this.

Please make check payable to: Don Vaughan, (mark it Legislation) and mail it to me at

803 N. Main St. Suite A, High Point, N.C. 27262. I will keep a record and keep everybody posted on who has paid what.

We have a good opportunity here to get this through. Please let me know as soon as possible what you are willing to do.

Thanks!

**One would assume that if a lobbyist was reserved on behalf of Advanced Electrolysis, then, Advanced Electrolysis should not be soliciting money from other electrologists. And one would wonder why all the state's electrologists weren't given an opportunity to participate. Surely, if this amendment to the Electrolysis Practice Act was really for the good of all we would all be given equal opportunity to be informed, to vote and to participate in choosing a lobbyist.**

**In addition, I would like to bring to your attention that Chairman, Trudy Brown is named as Vice President of Advanced Med Corp. The main product sold are lasers. Her daughter, Valarie, as well as, her son in-law have vested interest in your decision today.**

**I feel it's important to understand that we are not against our colleagues choosing to practice laser hair removal. We do not want to discount their opinions or the right to earn a living. On the other hand, we feel that our Board is being railroaded by a few that have a conflict of interest. To date, there have been no mailings to the state's electrologists from the North Carolina Board of Electrolysis Examiners to inform us of these important changes nor have we been given a vote.**

**Lastly, the Federal Drug Administration have posted on their website that they have authorized the Medical Licensing Boards to determine who qualifies as a licensed practitioner. It seems to reason that voting on this bill before the July meeting of the Medical Board would be undermining the authority of a federal agency, as well as, our own state's Medical Board.**

**Thank you,**

**Ronda Jones, LE, CPE**

# House Bill 1330

2005-2006 Session

## Amend Electrolysis Practice Act/Fees.

Text	Fiscal Note
Filed (PDF)	-
Edition 1 (PDF)	-

<b>Status:</b>	[H] Ref To Com On Finance on 04/20/2005
<b>Sponsors</b>	
<b>Primary:</b>	Jeffus;
<b>Co:</b>	N/A
<b>Attributes:</b>	Public;

History	
Date	Action
04/19/2005	[H] Filed
04/20/2005	[H] Ref To Com On Finance

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.

### ABBREVIATIONS KEY

- H = House Action
- S = Senate Action
- R = Ratified
- HF = Failed in the House
- SF = Failed in the Senate
- HA = Adopted in the House
- SA = Adopted in the Senate

# Changes Approved for Laser Hair Removal



Shiri Berg died Jan. 5, after nine days in the hospital.

By Shae Crisson

(05/18/05 — RALEIGH) — Changes are on the way for laser hair removal procedures in North Carolina.

A North Carolina Medical Board committee in Raleigh said Wednesday that laser hair removal is a medical act, which should require physician oversight. The committee fully agreed that patients should have a physical examination by a doctor in clinics where medication is sold in conjunction with laser hair removal. Members voted 3-2 against having a doctor examine patients on site if they are not using medicine or drugs.

The committee's recommendations will be written into a formal policy and go before the full N.C. Medical Board for a vote in July.

The hearing stems from the death of Shiri Berg, an N.C. State student who died from a lidocaine overdose by using too much numbing gel in preparation for laser hair removal. Berg's father, Dr. Ron Tzur, appeared before the committee to talk about how his daughter died. He told Eyewitness News how his family is holding up.

"We're bad," Tzur said. "Some days we are down, others we are 'downer.'"

He says people should be skeptical of laser hair removal.

"More important to us is that families know that it's dangerous," Tzur said. "It's dangerous. It's lethal."

*Last Updated: May 18, 2005*

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North Carolina

## General Assembly

2005-2006 S

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## Senate Bill 1009

2005-2006 Ses

## Amend Electrolysis Practice Act/Fees.

## Text Fiscal Note

Filed [PDF]

-

Edition 1 [PDF]

-

Status: [S] Ref to Health Care. If fav, re-ref to Finan  
03/24/2005

## Sponsors

Primary: Kay R. Hagan;

Co: N/A

Attributes: Public;

## History

Date	Action
03/23/2005	[S] Filed
03/24/2005	[S] Ref to Health Care. If fav, re-ref to Finance

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## ABBREVIATIONS KEY

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Look Up another Bill: 2005-2006 Session

Bill No: Lot

North Carolina General Assembly \* Legislative Building \* 16 West Jones Street \* Raleigh, NC 27603 \* 919-733-7





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APR 19 2005

CERTIFICATION & FILING DIVISION

## Lobbyist Authorization Statement for the 2005-2006 Session

Elaine F. Marshall, Secretary of State  
Mary Kelly, Lobbyist Registrar

4443

To the Secretary of State:

In accordance with N.C.G.S. §120-47.4, I hereby authorize Donald R. Vaughan

to act as a lobbyist on behalf of Advanced Electrolysis and Laser Clinic, Inc.

for the 2005-2006 session of the General Assembly of North  
Carolina.

Trudy Brown  
Signature of Officer

Date 4/13/05

### Please type or print (in ink) the following information:

Name of Principal: Advanced Electrolysis and Laser Clinic, Inc.

Name of Officer: Trudy Brown

Title: President

Address of Officer: 2105-B W. Cornwallis Drive, Greensboro, NC 27401

Telephone Number of Officer: (336) 288-5660

Email of Officer: bm@advancedmedcorp.com

This form must be filed by all principals who have employed or retained a lobbyist within ten days after a Lobbyist Registration Statement (Form LR-1) has been filed with the Secretary of State. Registrations shall be effective from the date of filing until January 1 of the following odd-numbered year unless written notification is received prior to that date. Please mail this statement to Lobbyist Registration, Department of the Secretary of State, P.O. Box 29622, Raleigh, NC 27626-0622. If any questions, please call 919-807-2156.

For further explanation of regulations and guidelines,

This message has been scanned for known viruses.

**From:** Advanced Electrolysis & Laser Clinic, Inc.  
**To:** Thelma White, Melissa Smith, Maxine Hammonds  
**Cc:** Margaret Wingate, Electmyrt@aol.com, Dorenda Stilwell, Cynthia White, Charlene  
**Subject:** NCBEE Board Meeting  
**Date:** Thu, 14 Apr 2005 07:54:25 -0400

April 14, 2004

The NCBEE will meet on Monday, April 25, 2004 at 8:00 am in the conference room at the Pinehurst Building, 2 Centerview Dr., Greensboro, N.C.

The purpose of the meeting is to discuss legislative matters and expired licenses.

Thank You.

Trudy Brown, LEI  
Chairman

Minutes from the 77<sup>th</sup> meeting of the NCBEE held at the Boards office in Greensboro, NC on April 25, 2005

Meeting was called to order at 8:05 am

Members present: Trudy Brown, Maxine Hammond, Thelma White and Melissa Smith

Minutes of the January meeting were read by Thelma White and accepted as submitted.

Old Business:

- A. School Renewals: Orlando Institute of Electrolysis and Electrolysis Institute of New England both of which are now teaching laser hair removal.  
Thelma White made motion to approve schools. Maxine Hammond seconded, motion carried
- B. Inspections: Kelly Kearin doesn't have office yet to inspect and Mildred Pearce is waiting for inspection
- C. Licenses expired: Diane Rawls, Janet Hensley, and Anita Jacobs  
Trudy Brown made motion to send certified letter. Thelma White seconded, motion carried

New Business: Amendment was introduced by Senator Kay Hagan to amend the Electrolysis Practice Act requiring 30 hrs of additional training to practice laser hair removal. Also an amendment in the House introduced by Maggie Jeffus stating same.

Board asked for comments from the floor. Comments were made by Barbara Hussey and Valerie Messenheimer

Chairman Brown made a motion for the Board to support Senate Bill 1009 and House Bill 1330. Thelma White seconded, motion carried

Chairman Brown made motion that as Chairman of the Board she be allowed to address the Finance and Health Committees on behalf of these two Bills. Thelma White seconded, motion carried.

Next meeting: July 18, 2005 at 8:00am

Meeting was adjourned at 8:35am

Respectfully submitted by Melissa Smith

To: Rondaworks

Hello everyone,

I spoke with Don Vaughan today and he told me it was D-Day. We have had the Legislation on hold due to lack of money. We were scheduled to go to the House tomorrow for cross over. In order to continue I need a commitment to determine who is on board with us and willing to contribute to the Legislative efforts.

I need to have a commitment from everyone by Thursday so I will know how to proceed and if we can go forth or to stop. If every electrologist that has a Laser will pay \$5,000.00 then this will mainly pay for our Bill and the rest of the money we could get from the Laser Companies. The estimated cost is \$100,000.00. (this is less than what Ohio and Florida paid) Unfortunately, this is a costly process. Our original Licensing cost over \$100,000.00 fifteen years ago. It was the same thing then, we had only about 20 electrologists that actually contributed money to pay for it.

This amendment is important to our profession. If we don't get this passed then we could face a number of different circumstances. The word is out that the Medical Board is going to require on site supervision. It is difficult to know exactly what is going to happen. Our best protection is to have it in our Electrolysis Practice Act which makes it Law that we can do this.

Please make check payable to: Don Vaughan, (mark it Legislation) and mail it to me at 803 N. Main St. Suite A, High Point, N.C. 27262. I will keep a record and keep everybody posted on who has paid what.

We have a good opportunity here to get this through. Please let me know as soon as possible what you are willing to do.

Thanks!

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#### ABOUT US

#### CONTACT PAGE

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
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## **FDA LASER FACTS**

### **HAIR REMOVAL**

The popularity of laser hair removal has increasingly grown, prompting many laser manufacturers to conduct research and seek FDA clearance for their lasers for this indication. The market is growing so quickly that FDA cannot maintain an up-to-date list of all laser manufacturers whose devices have been cleared for hair removal, as this list continues to change. To learn if a specific manufacturer has received FDA clearance, you can check FDA's Website at <http://www.fda.gov/cdrh/databases.html> under the 510(k) database. You will need to know the manufacturer or device name of the laser. You can also call FDA's Center for Devices and Radiological Health, Consumer Staff, at 1-888-INFO-FDA or 301-827-3990, fax your request to 301-443-9535 or send an e-mail to: [DSMICA@cdrh.fda.gov](mailto:DSMICA@cdrh.fda.gov).

Manufacturers should be aware that receiving an FDA clearance for general permission to market their devices does not permit them to advertise the lasers for either hair removal or wrinkle treatment, even though hair removal or wrinkle treatment may be a by-product of any cleared laser procedure. Further, manufacturers may not claim that laser hair removal is either painless or permanent unless the FDA determines that there are sufficient data to demonstrate such results. Several manufacturers received FDA permission to claim, "permanent reduction," NOT "permanent removal" for their lasers. This means that although laser treatments with these devices will permanently reduce the total number of body hairs, they will not result in a permanent removal of all hair. The specific claim granted is "intended to effect stable, long-term, or permanent reduction" through selective targeting of melanin in hair follicles. Permanent hair reduction is defined as the long-term, stable reduction in the number of hairs re-growing after a treatment regime, which may include several sessions. The number of hairs regrowing must be stable over time greater than the duration of the complete growth cycle of hair follicles, which varies from four to twelve months according to body location. Permanent hair reduction does not necessarily imply the elimination of all hairs in the treatment area.

FDA does not make comparisons between systems or how well or safely they work compared to another company's system. FDA does not recommend one laser system over another.

Lasers cleared for body hair removal are also cleared for facial hair removal.

### **PRACTITIONERS**

States regulate who can use lasers for various therapeutic procedures. Medical lasers are prescription devices available for sale only to licensed practitioners. You should check with your state medical licensing board to determine who qualifies as a licensed practitioner in your state.

# INTEROFFICE MEMO

VIA HAND DELIVERY

TO: → DENISE WEEKS  
HOUSE PRINCIPAL CLERK

JANET PRUITT  
SENATE PRINCIPAL CLERK

FROM: JUDY COLLIER  
RESEARCH ASSISTANT  
RESEARCH DIVISION

DATE: JULY 7, 2005

RE: HOUSE BILL 613  
UPDATE CERTIFICATION/LICENSURE/REC. THERAPY  
ASSESSMENT REPORT

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Accompanying this memo please find a copy of the Assessment Report for HB 613, UPDATE CERTIFICATION/LICENSURE/REC. THERAPY, issued July 6, 2005 by the Legislative Committee on New Licensing Boards, under signature of its chair, Representative Drew Saunders.

The Assessment Report is hereby transmitted for placement in the Bill Jacket for HB 613, UPDATE CERTIFICATION/LICENSURE/REC. THERAPY. HB 613 has passed the House and is tentatively scheduled for hearing before Senate Health Care Committee on Wednesday, July 13, 2005.

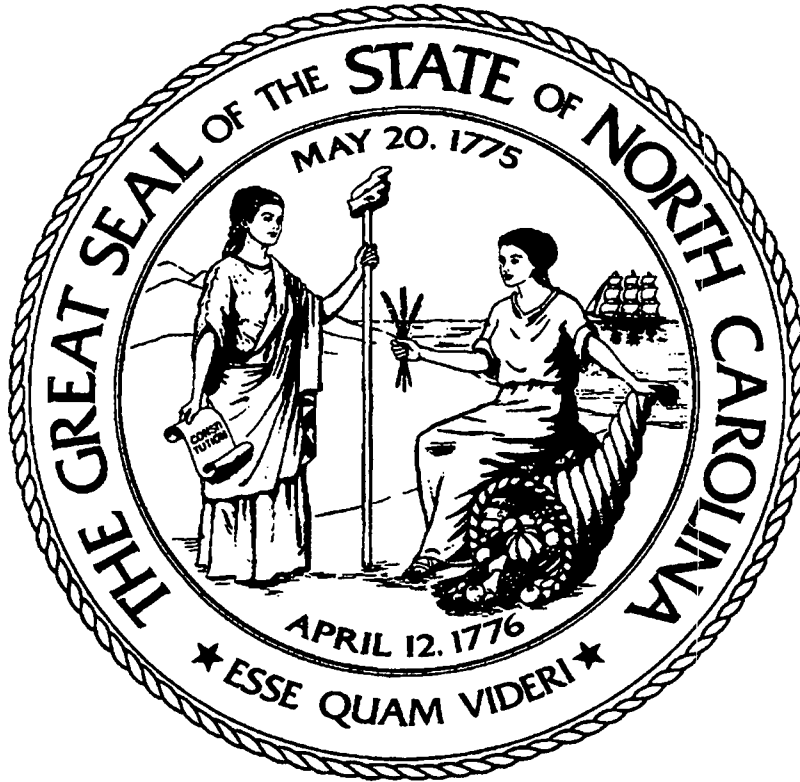
Thank you for your assistance. Should your office need anything further, please let me know.

Distribution with attachment:

→ Rep. Drew Saunders  
Rep. Jim Harrell  
Rep. Larry Womble

COPY





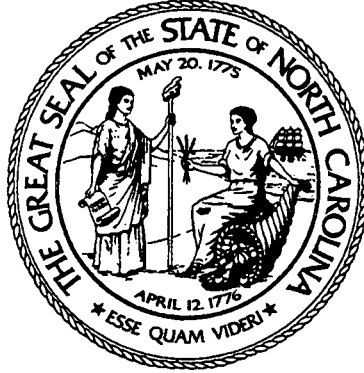
# LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

Assessment Report

For

UPDATE CERTIFICATION/LICENSURE/  
RECREATIONAL THERAPY


House Bill 613



## LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

July 6, 2005

The Legislative Committee on New Licensing Boards is pleased to release this assessment report on regulation of the practice of recreational therapy. This report constitutes both the preliminary and final assessment report.

  
\_\_\_\_\_  
Representative Drew Saunders

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS  
(2005-2006)

---

Representative Drew Saunders, Chair

Senator Stan Bingham

Representative Harold Brubaker

Senator Kay Hagan

Representative Becky Carney

Senator David Hoyle

Representative Bruce Goforth

Senator Vernon Malone

Representative Earline Parmon

Staff

Ms. Cindy Avrette, Committee Counsel

Ms. Judy Collier, Research Assistant

Ms. Ruth Fish, Committee Clerk

## PREFACE

---

The Legislative Committee on New Licensing Boards is a 9-member joint committee of the House and Senate created and governed by statute (Article 18A of Chapter 120 of the General Statutes). The primary purpose of the Committee is to evaluate the need for a new licensing board or the proposed licensing of previously unregulated practitioners by an existing board. The Committee has been in existence since 1985.

The Committee solicits written and oral testimony on each licensing proposal in carrying out its duty to determine whether the proposal meets the following criteria:

- 1) Whether the unregulated practice of the profession can substantially endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- 2) Whether the profession possesses qualities that distinguish it from ordinary labor.
- 3) Whether practice of the profession requires specialized skill or training.
- 4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence.
- 5) Whether the public can effectively be protected by other means.
- 6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's good or services.

The Committee issues an assessment report on its findings and recommendations.

The recommendation in the report is not binding on other committees considering the proposal.

## HOUSE BILL 613

### UPDATE CERTIFICATION/LICENSURE/RECREATIONAL THERAPY

---

#### BACKGROUND<sup>1</sup>

##### *Current Standards.*

The State Board of Therapeutic Recreation Certification was established by the General Assembly in 1986 when it enacted the Therapeutic Recreation Personnel Certification Act "to protect the public from misrepresentation of status by persons who hold themselves out to be 'certified therapeutic recreation specialists' or 'certified therapeutic recreation assistants.'"<sup>2</sup> The Scope of Therapeutic Recreation includes all direct client services of consultation, research, planning, design, and implementation of specific programs for either individuals or groups that require specific therapeutic recreation, education, training, and experience as defined in this Chapter.<sup>3</sup> Therapeutic Recreation is the use of recreation services that improve, develop, and/or maintain physical, psychological, emotional, and/or social behaviors that assist individuals in establishing and expressing an independent lifestyle.<sup>4</sup> However, the Board's scope of authority is currently limited to title protection licensure of two Board authorized professional titles: Certified Therapeutic Assistant and Certified Therapeutic Recreation Specialist. The Board has the authority to investigate complaints about professionals in these two categories who are either certified by the Board or in the process of becoming certified, but it has no authority to investigate or

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<sup>1</sup> Source: *Response to Questionnaire for the Legislative Committee for New Licensing Boards*. A copy of the questionnaire is attached to this report.

<sup>2</sup> G.S. § 90C-2

<sup>3</sup> As defined in G.S. § 90C-4(5)

<sup>4</sup> As defined in G.S. § 90C-4(6)

pursue complaints about individuals engaging in recreational therapy treatment oriented services utilizing some other non-regulated occupational title.

Current law authorizes certification as a Therapeutic Recreation Specialist or a Therapeutic Recreation Assistant. The proposed legislation, House Bill 613, changes certification to licensure and changes the titles of licensees, authorizing the licensure of a Recreational Therapist and a Recreational Therapy Assistant and defining a Recreational Therapy Aide as a non-licensed person who aids in providing recreational therapy services under the direct supervision of a licensed Recreational Therapist or licensed Recreational Therapy Assistant.

Since 1981, the national credential standard has been that of Certified Therapeutic Recreation Specialist (CTRS), a voluntary national professional certification process administered by the National Council for Therapeutic Recreation Certification (NCTRC). National credentialing in recreational therapy requires a bachelors or masters degree in recreational therapy/therapeutic recreation from an accredited institution with requisite courses in recreational therapy and the social and biological sciences as well as direct service field experience under the supervision of a CTRS or in North Carolina, a state credentialed TRS.

The federal government requires that recreational therapists employed by the Veterans Administration, National Institutes of Health, and the U. S. Department of Defense be nationally certified as Certified Therapeutic Recreation Specialists (CTRS).

North Carolina is among the top three producers of nationally credentialed CTRS in the nation, with 12 institutions of higher education preparing recreational therapists. Currently, there are 736 nationally credentialed CTRS in the state of North Carolina. North Carolina has had a state professional certification program for therapeutic recreational

specialists (TRS) since 1987. NCTRC has established a national task force to monitor North Carolina's licensing initiative as a model for national application.

### LICENSING REQUIREMENTS

#### *Who Must Be Licensed.*

Under the proposed legislation, it would be a Class 1 misdemeanor with a maximum fine of \$500 to engage in the practice recreational therapy or therapeutic recreation without being licensed by the North Carolina Recreational Therapy Licensure Board. The Board shall establish reasonable competency requirements for licensure, including the power to adopt or use examination materials, study or training courses, and standards of recognized accrediting and credentialing agencies and professional associations and the power to establish or approve reasonable standards for renewal of licensure, including requirements for continuing recreational therapy or therapeutic recreation education for the following categories:

#### *Licensed Recreational Therapist:*

- Pass an examination as a therapeutic recreation specialist or a recreational therapist by the North Carolina Recreational Therapy Licensure Board or possess current certification as a "Certified Therapeutic Recreation Specialist" by the National Council for Therapeutic Recreation Certification.
- Meet the minimum education or experience standards, as defined by rules of the Board, inclusive of practice competency standards or guidelines promulgated by professional associations and credentialing and accrediting organizations.
- Meet all required standards published by the Board.

#### *Licensed Recreational Therapy Assistant:*

- Meet the minimum education or experience standards, as defined by rules of the Board, inclusive of practice competency standards or guidelines promulgated by professional associations and credentialing and accrediting organizations as deemed appropriate by the Board.
- Meet all required standards published by the Board.

### *Exemptions from Certification.*

The Board may grant a license, without examination or by special examination, to any person who, at the time of application, is licensed as a recreational therapist or therapeutic recreation specialist by a similar Board of another county, state, or territory whose licensing standards are substantially equivalent to or higher than those required in the proposed legislation. Persons and practices not affected include:

- 1) Any person qualified, registered, certified, or licensed to engage in another profession or occupation or any person working under the supervision of a person registered, certified, or licensed to engage in another profession or occupation in this State from performing work incidental to the practice of that profession or occupation as long as that person does not represent himself or herself as a recreational therapy assistant or recreational therapist or the work to be recreational therapy or therapeutic recreation as defined by Chapter 90C of the General Statutes.
- 2) Any person employed as a therapeutic recreation specialist, therapeutic recreation assistant, or recreational therapist, or a recreational therapy assistant by the government of the United States, if he or she provides therapeutic recreation or recreational therapy solely under the direction and control of the organization by which he or she is employed.
- 3) Any person pursuing a course of study leading to a degree in recreational therapy or therapeutic recreation at an accredited college or university that meets the minimum academic requirements for a major or specialization in recreational therapy as defined by the rules and regulations of the Board.
- 4) Any person fulfilling the supervised fieldwork experience required for a degree and for licensure, as defined by the rules of the Board, if the person is designated by a title that clearly indicates his or her status as a student.

Any current State-certified person working within the scope of recreational therapy before January 30, 2006, may be exempt from all educational, examination, and experience requirements for initial licensure under the proposed legislation. In order to qualify for this exemption, an applicant:

- 1) Must apply to the Board for licensure before January 15, 2008; and
- 2) Must be working within the scope of recreational therapy and previously certified by the Board at the time of application.



**Fees.** Fees are set by the Board and cannot exceed the following amounts:

Purpose of Fee	Fee Amount
Initial Licensure	May not exceed \$200.00
Licensure Renewal Fee	Shall not exceed \$200.00
Record Maintenance Fee (mailing directory and newsletters; maintaining website)	Shall not exceed \$100.00
Inactive Fee	Shall not exceed \$ 50.00
Fees (nonrefundable) for the actual cost of duplication services, materials, and returned bank items	To be established by the Board

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

- 1) Given false information or withheld material information from the Board in procuring or attempting to procure a license pursuant to Chapter 90C of the General Statutes.
- 2) Been convicted of, or pleaded guilty or nolo contendere to, any crime that indicates that the person is unfit or incompetent to be licensed pursuant to 90C of the General Statutes.
- 3) Is unable to perform the functions for which a license has been issued due to impairment of mental or physical faculties.
- 4) Engaged in conduct that endangers the public health.
- 5) Is unfit or incompetent to be licensed pursuant to Chapter 90C of the General Statutes by reason of deliberate or negligent acts or omissions regardless of whether active injury to the patient or client is established.
- 6) Engaged in conduct that deceives, defrauds, or harms the public in the course of claiming licensed status or practicing recreational therapy.
- 7) Willfully violated any provision of Chapter 90C of the General Statutes, rules, or code of ethics enacted by the Board.

- 8) Aided, abetted, or assisted any person in violating the provisions of Chapter 90C of the General Statutes.

### GOVERNING BOARD

***North Carolina Board of Recreational Therapy Licensure.*** The 7-member North Carolina State Board of Therapeutic Recreation Certification already exists. The proposed legislation would change its name to the 'North Carolina Board of Recreational Therapy Licensure' and expand its powers and duties to include licensure. One additional member, to be appointed by the Governor and who must be a licensed physician in North Carolina, would increase its membership<sup>5</sup>. The term of membership would remain at three-years.

***Powers of the Board.*** The Board's powers and duties remain similar to the Board's existing powers and duties:

- 1) To administer this Chapter.
- 2) To issue interpretations of this Chapter.
- 3) To adopt, amend, or repeal rules and regulations in the manner prescribed by Chapter 150B of the General Statutes, as may be necessary to carry out the provisions of this Chapter.
- 4) To establish qualifications of, employ and set the compensation of the Executive Director who shall not be a member of the Board.
- 5) To employ and fix the compensation of the personnel that the Board determines are necessary to carry out the provisions of this Chapter and to incur other expenses necessary to effectuate this Chapter.
- 6) To determine the qualifications of persons who are licensed pursuant to this Chapter.

---

<sup>5</sup> Eight members composed of three (3) practicing recreational therapists, one appointed by the Governor, one appointed by the General Assembly upon recommendation of the President Pro Tempore, and one appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives; one (1) licensed practicing recreational therapy assistant, appointed by the Governor; one (1) licensed practicing recreational therapist who is engaged primarily in providing education or training for recreational therapists or recreational therapy assistants, appointed by the Governor; one (1) licensed physician, appointed by the Governor; two (2) public members, one appointed by the General Assembly upon recommendation of the President Pro Tempore and one appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives.

- 7) To issue, renew, deny, suspend, or revoke licenses and carry out any of the other actions authorized by this Chapter.
- 8) To conduct investigations for the purpose of determining whether violations of this Chapter are grounds for revoking, denying, suspending, or refusing to renew the licenses of persons licensed pursuant to this Chapter.
- 9) To maintain a record of all proceedings and make available to persons who hold a license and other concerned parties an annual report of all Board action.
- 10) To set fees for licensure, license renewal, and other services deemed necessary to carry out the purpose of this Chapter.
- 11) To adopt a seal containing the name of the Board to be used on licenses and official reports it issues.
- 12) To issue annually a list stating the names of persons currently licensed under the privilege of this Chapter.
- 13) To establish or approve, as defined by rule, reasonable competency requirements for licensure, including the power to adopt or use examination materials, study or training courses, and standards of recognized accrediting and credentialing agencies and professional associations and the power to establish or approve, as defined by rule, reasonable standards for renewal of licensure, including requirements for continuing recreational therapy or therapeutic recreation education.

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

*SPECIFIC FINDINGS REGARDING  
RECREATIONAL THERAPY*

*HOUSE BILL 613*

---

- (1) Whether the unregulated practice of the profession or occupation can substantially harm or endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument;
- (2) Whether the profession or occupation possesses qualities that distinguish it from ordinary labor;
- (3) Whether practice of the profession or occupation requires specialized skill or training;
- (4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence;
- (5) Whether the public can be effectively protected by other means; and
- (6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's goods or services.

## FINDINGS AND RECOMMENDATIONS

### UPDATE CERTIFICATION/LICENSURE/RECREATIONAL THERAPY

---

**Findings.** The Legislative Committee on New Licensing Boards finds that the sponsors have met the six criteria by which the Committee judges licensure proposals. Specifically, the Committee finds that:

- 1) The unregulated practice of recreational therapy can substantially harm or endanger the public health, safety, or welfare because there is not a regulatory body in place to investigate and resolve allegations of impropriety by recreational therapy practitioners that are not certified by the existing State Board of Therapeutic Recreation Certification. The greatest potential for harm would be from individuals who lack the appropriate professional credentials but are engaging in the direct delivery of recreational therapy services to persons in need of rehabilitation and other health care services.
- 2) The profession possesses qualities that distinguish it from ordinary labor since professional education and training includes college level degrees as well as supervised direct service field experience.
- 3) The practice of recreational therapy requires specialized skill or training.
- 4) A substantial majority of the public does not have the knowledge or experience to evaluate the competence of recreational therapy professionals.
- 5) The public cannot be effectively protected by other means.
- 6) Licensure would not have a substantial adverse economic impact upon the recipient of the services of a recreational therapy professional.

**Recommendation.** The Legislative Committee on New Licensing Boards recommends the licensing of recreational therapists and recreational therapy assistants. This assessment report constitutes both the preliminary and final assessment report for the licensure of recreational therapists and recreational therapy assistants. The report is based on the proposed licensing of recreational therapists and recreational therapy assistants as set out in House Bill 613, the response to the Committee's questionnaire (Attachment), and testimony before the Committee on July 6, 2005.

# ATTACHMENT

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## *Response to Questionnaire for the Legislative Committee on New Licensing Boards*

# *Response to Questionnaire*

Response of the North Carolina Therapeutic Recreation Certification Board  
Request for recognition as the North Carolina Recreational Therapy Licensure Board

1. In what ways has the marketplace failed to regulate adequately the profession or occupation?

**Currently, recreational therapy practice is not adequately regulated via the use of the existing language under Chapter 90-C, The Therapeutic Recreation Personnel Certification Act. There are several distinct issues in which the existing system fails to adequately regulate the profession.**

- **The existing law regulates only the titles of Therapeutic Recreation Specialist and Recreational Therapist. Therefore, an individual may engage in recreational therapy treatment oriented services utilizing some other non-regulated occupational title. In turn, the consumer of services may not be receiving appropriate services from a qualified professional.**
- **Secondly, Chapter 90-C law was passed in 1985 utilizing the standards at that time. Since the passage and implementation of the Therapeutic Recreation Personnel Certification Act and the creation of the North Carolina Therapeutic Recreation Certification Board (TRCB), professional preparation standards have dramatically changed. The existing standards are not congruent with current practice and professional preparation standards. Note that North Carolina has 12 professional preparation programs in institutions of higher education within the state.**
- **Finally, in the initial submission of the act in 1985, the original language was changed in such a way that the first two sections of Chapter 65 were not consistent with the remaining body of the law. This has resulted in conflicting messages of authority. The body of Chapter 90C reads as a licensure law however, the first sections only provide authority over title usage. This conflicting language has caused confusion over practice under different job titles. The focus was changed to title legislation versus recreational therapy practice regulation. The TRCB oversight has, therefore, been interpreted differently by varying authorities. Furthermore, Human Resource Departments across the state have developed their own**

**interpretation of the law, causing inconsistency and misinterpretation statewide.**

2. Have there been any complaints about the unregulated profession or occupation? *Please give specific examples including (unless confidentiality must be maintained) complainants' names and addresses.*

**Yes. Since the title of recreational therapist is currently regulated in the state under Chapter 90C, one level of regulation exists. This has not effectively protected the public or employing agencies from misrepresentation of practice. To date, there have been numerous complaints of individuals practicing recreational therapy services under different titles and without appropriate professional preparation or existing state certification. The TRCB established a Professional Conduct Committee to review and respond to these complaints. Historically, there have been 4 or more complaints per year that require review by the Professional Conduct Committee. Some complaints have the potential for causing harm to the consumer and/or agency that has employed the individual (See #3 below.)**

**Most state and private agencies do not report practice complaints since existing law covers title legislation only.**

3. In what ways has the public health, safety, or welfare sustained harm or is in imminent danger of harm because of the lack of state regulation? *Please give specific examples.*

**With the implementation of Chapter 90C, one level of protection was afforded the citizens of North Carolina, that of title regulation. The existing language of Chapter 90C, however, has not kept pace with current practice and does not adequately protect the consumer from inappropriate or potentially harmful practice under some other non-regulated occupational title.**

**Examples of misrepresentation are reflected by the following:**

- The TRCB receives 4 or more complaints per year of title misuse. These complaints do not, however, address the unregulated application of recreational therapy treatment services by non-professionally credentialed individuals. Chapter 90C does not adequately address this issue.**
- In 1997, TRCB received a report of an individual, who claimed to be a state credentialed Therapeutic Recreation Specialist (TRS) at a Raleigh Nursing Home. He had conducted a fund raising activity for the residents. Upon completion of the fund**



raising activity, the individual took the money earned through the fund raiser, as well as individual clients' money and left town. This individual had operated under seven different alias names. While the Nursing Supervisor responsible for confirming his credentials was fired for not performing an appropriate check of his credentials, the existing law also does not offer protection and recourse. Under Chapter 90C, as written, the TRCB had no recourse once the individual left town. Furthermore, the existing regulations do not offer adequate recourse to arrest the individual prior to the incident.

4. Is there potential for substantial harm or danger by the profession or occupation to the public health, safety, or welfare? How can this potential for substantial harm or danger be recognized?

Yes, the potential for substantial harm or danger to the public health, safety, and welfare by non-credentialed individuals engaged in the delivery of recreational therapy services exists. Recreational therapy services are provided to consumers who are in need of rehabilitation and other health care services. The characteristics of the consumer and their need to access competent health care providers, including recreational therapists, place them in a position for potential harm from unqualified and non-credentialed providers. Untrained and non-credentialed individuals may harm the consumer through the application of the poor assessment of consumer needs and the application of inappropriate intervention strategies based on consumer characteristics and needs.

The vast majority of therapists are employed in hospital or personal care facilities with a growing number being hired in residential facilities, community mental health centers, adult day care programs, substance abuse centers, hospice care, vocational rehabilitation, community centers and in school systems. According to the U.S. Department of Labor, fast employment growth of therapists is expected in assisted living, outpatient physical and psychiatric rehabilitation and services for individuals with disabling conditions.

Recreational therapy is a recognized health care provider by agencies such as the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities and the Centers for Medicare and Medicaid Services. This recognition attests to the role of recreational therapy within health care and the potential for harm to the public by non-licensed individuals.

**A recreational therapist utilizes a wide range of intervention activities and community based treatment strategies and techniques to improve the physical, cognitive, emotional, and social needs of their clients. Recreational therapists assist clients to develop skills, knowledge and behaviors for daily living and community involvement. The therapist works with the client and their family to incorporate specific interests and community resources into therapy to achieve optimal outcomes that transfer to their real life situation. Potential harm can be recognized through the application of inappropriate assessment, treatment planning and implementation, and evaluation of services. Qualified recreational therapists utilize techniques that respond to the unique needs of the individual with a disabling condition.**

5. Has this potential harm or danger to the public been recognized by other states or the federal government through the licensing or certification process? *Please list the other states and any applicable federal law (including citations).*

- **There currently exists a voluntary national professional certification process under the National Council for Therapeutic Recreation Certification (NCTRC) since 1981. NCTRC is an independent professional credentialing recognized by the National Organization for Competency Assurance (NOCA). The national credential is that of Certified Therapeutic Recreation Specialist. NCTRC has established a national task force to monitor North Carolina's licensing initiative as a model for national application.**
- **The federal government requires that recreational therapists employed by the Veterans Administration, National Institutes of Health, and the U.S. Department of Defense be nationally certified as Certified Therapeutic Recreation Specialists (CTRS).**
- **The State of Utah has a state licensing board for recreational therapy.**
- **The State of North Carolina has had a state professional certification program for therapeutic recreation specialists (TRS) since 1987. Chapter 90C called for the creation of the NC Therapeutic Recreation Certification Board (TRCB) which has been recognized by the State of North Carolina as a licensing board.**

6. What will be the economic advantage of licensing to the public?

**The true economic advantage of licensing of recreational therapists to the public will be in the assurance of appropriate and effective health**

care and rehabilitation outcomes. Improved health care outcomes by qualified recreational therapy practitioners is a wise use of health care dollars. In addition, statistics indicate that use of recreational therapy services is approximately 30% less than occupational and physical therapy services and 20% less than nursing services. In turn, where appropriate, the use of a licensed recreational therapist may save valuable health care dollars.

7. What will be the economic disadvantage of licensing to the public?

**To our knowledge, no potential economic disadvantage exists.**

8. What will be the economic advantages of licensing to the practitioners?

**Given that recreational therapists are currently employed throughout the state in both public and private health care and rehabilitation agencies, an economic advantage to the practitioner should not exist. The measure will, however, ensure consistency in both professional preparation and practice of services leading to more productive outcomes for consumers and their families.**

9. What will be the economic disadvantages of licensing to the practitioners?

**While there exists an established fee structure, the process in amending Chapter 90C included the implementation of thirty-six (36) open forums state-wide. Across the state, recreational therapy practitioners were in support of the fee structure and ultimate content of the amendment.**

10. Please give other potential benefits to the public of licensing that outweigh the potential harmful effects of licensure such as a decrease in the availability of practitioners and higher cost to the public.

**It is not anticipated that there will be a decrease in availability of practitioners or a higher cost to the public as a result of this licensing effort. Recreational therapists currently work in agencies across the state and many settings for employment are financed through a prospective payment system such as Medicare and Medicaid. Furthermore, the potential benefits of ensuring consistency of service delivery and professional background and preparation will benefit the individual consumer of services, their family and the facility administrators.**

11. Please detail the specific specialized skills or training that distinguish the occupation or profession from ordinary labor.

**National voluntary credentialing in recreational therapy requires a bachelor's or master's degree in recreational therapy/therapeutic recreation from an accredited institution of higher education. This professional preparation requires substantial course work within recreational therapy as well as supportive course work in the social and biological sciences. Furthermore, pre-professionals are required to complete a field experience (direct service practicum) under the supervision of a CTRS or in North Carolina, a state credentialed TRS. The state of North Carolina is among the top three producers of nationally credentialed CTRS in the nation with 12 institutions of higher education preparing recreational therapists.**

12. What are other qualities of the profession or occupation that distinguish it from ordinary labor?

**Recreational therapists utilize a wide range of therapeutic interventions designed to respond to the unique needs of the individual consumer with a medical or disabling condition. Professionals utilized prescribed interventions to develop or improve functional performance of the individual in social, physical, emotional, and cognitive domains. Recreational therapists are members of interdisciplinary health care teams responding to the holistic health care of the individual in their progress toward functional independence. Recreational therapy is recognized as a rehabilitation therapy service in the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) standards; in addition to the inpatient rehabilitation standards of the Commission on Accreditation of Rehabilitation Facilities (CARF). The Centers for Medicare and Medicaid Services (CMS) include Recreational Therapy in the treatment used to determine federal compliance in skilled nursing, rehabilitation and long-term care facilities.**

13. Will licensing requirements cover all practicing members of the occupation or profession? If any practitioners will be exempt, what is the rationale for the exemption?

**The licensing bill will cover all practicing recreational therapists with the exception of those employed by the federal government (credentialing of these individuals is covered under the voluntary national credentialing process of NCTRC) and students engaged in professional preparation working under the supervision of a licensed recreational therapist. The act will not effect other licensed or state credentialed professions from engaging in their professional practice.**

14. What is the approximate number of persons who will be regulated and the number of persons who are likely to utilize the services of the occupation or profession?

**Currently, there are 736 nationally credentialed CTRS in the state of North Carolina. The number of persons likely to utilize the service include health care consumers within state psychiatric rehabilitation institutions, general hospitals, private psychiatric hospitals and units, rehabilitation facilities and units, vocational rehabilitation, developmental disabilities centers, residential facilities, nursing homes and other long-term care facilities, community mental health providers, school systems and community public and private agencies serving persons with disabling conditions. The number of persons who currently utilize and are likely to continue to utilize recreational therapy services is significant.**

15. What kind of knowledge or experience does the public need to evaluate the services offered by the practitioner?

**The public are able to evaluate services via several mechanisms. Many agencies utilize internal patient care satisfaction surveys. These surveys are designed to assist in the evaluation of services. Furthermore, the promotion of functional outcomes for consumers and their families and the realization of a higher quality of life are measures for service evaluation**

16. Does the occupational group have an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service?

**Recreational therapy, as a profession, does have a code of ethics that is distributed through the American Therapeutic Recreation Association and the National Council for Therapeutic Recreation Certification.**

**As noted, recreational therapists can participate in a national voluntary certification program. This program provides an opportunity to register as a Certified Therapeutic Recreation Specialist for those that meet the minimum standards and qualifications and successfully pass the national certification examination.**

**The State of North Carolina has Chapter 90C, the Therapeutic Recreation Professional Certification Act, enacted in 1987. The North Carolina Therapeutic Recreation Certification Board (TRCB) was established as a result. The proposed amendment to Chapter 90C is**

**intended to make the language and requirements for professional practice of existing law consistent with professional practice and health care demands. In addition, the amendment would rename the existing TRCB as the North Carolina Recreational Therapy Licensure Board.**

**CORRECTED MEETING NOTICE  
THE TIME HAS BEEN CHANGED TO 12:00 NOON.**

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2005-2006 SESSION**

You are hereby notified that the Legislative Committee on New Licensing Boards will meet as follows:

**DAY & DATE:     Wednesday, July 6, 2005**

**TIME:                 12:00 Noon**

**LOCATION:            1425 LB**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):  
**HB 1330 Amend Electrolysis Practice Act/Fees - Rep. Jeffus, Bill Sponsor**  
**HB 613 Update Certification/Licensure/Rec. Therapy**  
**Reps. Harrell & Womble, Bill Sponsors**

Respectfully,  
Representative Drew Saunders  
Chair

I hereby certify this notice was filed by the committee assistant at the following offices at  
**2:40 p.m. on July 5, 2005.**

\_\_\_\_Principal Clerk  
\_\_\_\_Reading Clerk - House Chamber

Ruth Fish (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2005-2006 SESSION**

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Respectfully,  
Representative Drew Saunders  
Chair

I hereby certify this notice was filed by the committee assistant at the following offices at  
**10:50 a.m. on June 30, 2005.**

\_\_\_\_Principal Clerk  
\_\_\_\_Reading Clerk - House Chamber

Ruth Fish (Committee Assistant)



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

2

HOUSE BILL 613  
Committee Substitute Favorable 5/18/05

Short Title: Update Certification/Licensure/Rec. Therapy.

(Public)

Sponsors:

Referred to:

March 14, 2005

A BILL TO BE ENTITLED  
AN ACT TO UPDATE THE LAWS REGULATING THE PRACTICE OF  
RECREATIONAL THERAPY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90C-1 through G.S. 90C-19 are repealed.

SECTION 1.1. The title of Chapter 90C reads as rewritten:

"Chapter 90C.

~~Therapeutic Recreation Personnel Certification Act, North Carolina Recreational~~  
Therapy Licensure Act."

SECTION 2. Chapter 90C of the General Statutes is amended by adding the  
following new sections to read:

"§ 90C-20. Short title.

This Chapter shall be known as the 'North Carolina Recreational Therapy Licensure  
Act'.

"§ 90C-21. Purpose.

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

"§ 90C-22. Definitions.

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

(1) Board. – The North Carolina Board of Recreational Therapy  
Licensure.

(2) Licensed recreational therapist. – A person who holds a license  
pursuant to this Chapter as a recreational therapist. A person licensed  
as a 'Recreational Therapist' under this Chapter may practice in  
clinical, residential, educational, and community settings and may:

(12) To issue annually a list stating the names of persons currently licensed under the privilege of this Chapter.

(13) To establish or approve, as defined by rule, reasonable competency requirements for licensure, including the power to adopt or use examination materials, study or training courses, and standards of recognized accrediting and credentialing agencies and professional associations and the power to establish or approve, as defined by rule, reasonable standards for renewal of licensure, including requirements for continuing recreational therapy or therapeutic recreation education.

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

**"§ 90C-25. Executive Director.**

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

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

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

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

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

(1) Passage of an appropriate examination as a therapeutic recreation specialist or a recreational therapist by the North Carolina Recreational Therapy Licensure Board or current certification as a 'Certified Therapeutic Recreation Specialist' by the National Council for Therapeutic Recreation Certification.

(2) A minimum level of education or experience, as defined by rules of the Board, inclusive of practice competency standards or guidelines promulgated by professional associations and credentialing and accrediting organizations.

(3) For purposes of this subsection, an academic major or specialization shall be defined by rules of the Board and shall be inclusive of information gathered through surveys of educational institutions in the State having a bachelors or masters degree with a specialization in recreational therapy or therapeutic recreation.

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

(1) A minimum level of education or experience, as defined by rules of the Board, inclusive of practice competency standards or guidelines

promulgated by professional associations and credentialing and accrediting organizations as deemed appropriate by the Board.

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

**"§ 90C-28. Licensure fees.**

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

(1)	Initial application for licensure fee	\$200.00
(2)	Licensure renewal fee	\$200.00
(3)	Record maintenance fee	\$100.00
(4)	Inactive fee	\$ 50.00.

**"§ 90C-29. License renewal.**

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

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

**"§ 90C-30. Reinstatement.**

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

**"§ 90C-31. Inactive list.**

When a person licensed by the Board submits a request for inactive status and pays the inactive fee, the Board shall issue to the person a statement of inactive status and shall place the person's name on the 'Inactive Status' list. While on that list, the person shall not hold himself or herself out as licensed pursuant to this Chapter. When that person desires to be removed from the inactive list and returned to an active list, an

1 application shall be submitted to the Board on a form furnished by the Board, and the  
2 fee shall be paid for license renewal. The Board shall require evidence of competency as  
3 defined by rule to resume practice before returning the applicant to the active status.

4 **"§ 90C-32. Revocation, suspension, or denial of licensure.**

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

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

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

30 **"§ 90C-33. Reciprocity.**

31 The Board may grant a license, without examination or by special examination, to  
32 any person who, at the time of application, is licensed as a recreational therapist or  
33 therapeutic recreation specialist by a similar Board of another country, state, or territory  
34 whose licensing standards are substantially equivalent to or higher than those required  
35 by this Chapter. The Board shall determine the substantial equivalence upon which  
36 reciprocity is based.

37 **"§ 90C-34. Persons and practices not affected.**

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

- 39 (1) Any person qualified, registered, certified, or licensed to engage in  
40 another profession or occupation or any person working under the  
41 supervision of a person registered, certified, or licensed to engage in  
42 another profession or occupation in this State from performing work  
43 incidental to the practice of that profession or occupation as long as  
44 that person does not represent himself or herself as a recreational

1 therapy assistant or recreational therapist or the work to be recreational  
2 therapy or therapeutic recreation as defined by this Chapter.

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

8 (3) Any person pursuing a course of study leading to a degree in  
9 recreational therapy or therapeutic recreation at an accredited college  
10 or university that meets the minimum academic requirements for a  
11 major or specialization in recreational therapy as defined by the rules  
12 and regulations of the Board.

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

17 **"§ 90C-35. Reports; immunity from suit.**

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

27 **"§ 90C-36. Violations and penalties.**

28 Any person not licensed under this Chapter who holds himself or herself out to be  
29 licensed under this Chapter or who practices recreational therapy or therapeutic  
30 recreation shall be guilty of a Class 1 misdemeanor. Any fine imposed as a result of  
31 conviction shall not exceed five hundred dollars (\$500.00).

32 **"§ 90C-37. Enjoining illegal practices.**

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

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

41 **SECTION 3.** Members serving on the North Carolina State Board of  
42 Therapeutic Recreation Certification on the effective date of this act shall continue to  
43 serve and complete their current terms on the North Carolina Recreational Therapy  
44 Licensure Board established in G.S. 90C-23, as enacted in Section 2 of this act. The

1 Governor shall appoint the physician member to serve a three-year term pursuant to  
2 G.S. 90C-23(b)(4), as enacted in Section 2 of this act. Members appointed thereafter  
3 shall serve three-year staggered terms.

4       **SECTION 4.** Any current State-certified person working within the scope of  
5 recreational therapy, as defined in G.S. 90C-22(7), as enacted in Section 2 of this act, as  
6 a recreational therapist or a recreational therapy assistant before January 30, 2006, may  
7 be exempt from all educational, examination, and experience requirements for initial  
8 licensure pursuant to this Chapter, as enacted in Section 2 of this act. In order to qualify  
9 for this exemption, an applicant must apply to the Board for licensure before January  
10 15, 2008, and the applicant must be working within the scope of recreational therapy  
11 and previously certified by the Board at the time of application. The Board shall attempt  
12 in good faith to notify all current State-certified persons of the availability of this  
13 exemption and the deadlines for qualifying and applying for licensure under this act.

14       **SECTION 5.** This act becomes effective October 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

1

HOUSE BILL 1330

Short Title: Amend Electrolysis Practice Act/Fees.

(Public)

Sponsors: Representative Jeffus.

Referred to: Finance.

April 20, 2005

A BILL TO BE ENTITLED

AN ACT ALLOWING THE NORTH CAROLINA BOARD OF ELECTROLYSIS EXAMINERS TO PROVIDE FOR THE CERTIFICATION OF LASER CLINICIANS AND LASER CLINICIAN INSTRUCTORS UPON MEETING CERTAIN REQUIREMENTS ESTABLISHED BY THE BOARD AND AUTHORIZING THE BOARD TO CHARGE FEES RELATED TO THOSE CERTIFICATIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 88A-3 is amended by adding the following new subdivisions to read:

**"§ 88A-3. Definitions.**

As used in this Chapter, unless the context requires otherwise:

- ...
- (5) 'Laser clinician' means a person who engages in laser, light source, or pulsed light treatments of skin or hair.
- (6) 'Laser, light source, or pulsed-light treatments' means the use of laser or pulsed-light devices for nonablative procedures for the removal of hair.
- (7) 'Laser, light source, or pulsed-light devices' means a device used in the nonablative procedure for the removal of hair."

**SECTION 2.** G.S. 88A-9(b) reads as rewritten:

"(b) All fees may be calculated by the Board in amounts sufficient to pay the costs of administration of this act, but in no event may they exceed the following:

(1)	Application for licensure as an electrologist .....	\$150.00
(1a)	Initial license .....	150.00
(1b)	Examination or reexamination .....	125.00
(2)	Licensure of electrology renewal .....	200.00
(3)	Application for certification as an electrology instructor .....	150.00
(4)	Certificate of electrology instructor renewal .....	75.00

1 **"§ 88A-17.1. Requirements for certification as a laser clinician instructor.**

2 (a) Any person who desires certification as a 'laser clinician instructor' pursuant  
3 to this Chapter shall meet the following requirements:

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

5 (2) Be a licensed electrologist.

6 (3) Be a licensed electrology instructor.

7 (4) Have practiced laser and light-based treatments actively for at least  
8 one year immediately before the application.

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

10 (b) When the Board determines that an applicant has met all qualifications for  
11 certification as a laser clinician instructor and has submitted the required fee, the Board  
12 shall issue an instructor's certification to the applicant."

13 **SECTION 7.** G.S. 88A-18 reads as rewritten:

14 **"§ 88A-18. Renewal of instructor's certificate.**

15 An electrology or laser clinician instructor's certificate shall be renewed annually.  
16 On or before the date the current certificate expires, the applicant must submit an  
17 application for renewal of certification on a form approved by the Board, meet criteria  
18 for renewal established by the Board, and pay the required fee. Any person whose  
19 instructor's certificate has expired for a period of five years or more shall be required to  
20 take and pass the instructor's examination before the certificate can be renewed."

21 **SECTION 8.** Chapter 88A of the General Statutes is amended by adding the  
22 following new section to read:

23 **"§ 88A-19.1. Requirements for certification as a Board-approved school of laser,**  
24 **light source, or pulsed-light treatments.**

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

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

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

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

34 (4) Submit a copy of the planned laser, light source, or pulsed-light  
35 curriculum consisting of the number of hours and subject matter  
36 determined by the Board, provided that the number of hours required  
37 shall not be less than 30 hours and not more than 600 hours;

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

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

40 (7) Any additional information the Board may require.

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



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

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

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

9       (f) All laser, light source, or pulsed-light devices used in the school must be  
10 approved by the federal Food and Drug Administration."

11       **SECTION 9.** G.S. 88A-20 reads as rewritten:

12       **"§ 88A-20. Certification renewal.**

13       Every certificate issued pursuant to G.S. 88A-19 or G.S. 88A-19.1 shall be renewed  
14 annually. On or before the date the current certificate expires, the applicant must submit  
15 an application for renewal of certification on a form approved by the Board, meet  
16 criteria for renewal established by the Board, and pay the required fee. Failure to renew  
17 the certificate within 90 days after the expiration date shall result in automatic forfeiture  
18 of any certification issued pursuant to this Chapter."

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

## **AGENDA**

### **LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS**

**August 2, 2005**

#### **OPENING REMARKS**

**Representative Drew Saunders, Chair**

#### **DISCUSSION ITEMS**

**HB 1330 Amend Electrolysis Practice Act/Fees  
Rep. Jeffus, Bill Sponsor**

#### **ADJOURNMENT**

## MINUTES

### LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

August 2, 2005

The Legislative Committee on New Licensing Boards met at 1:00 p.m. on August 2, 2005, in Room 1425 of the Legislative Building. Members present were: Representative Drew Saunders, Chair, Senator Bingham, and Representatives Carney, Goforth, and Parmon. Cindy Avrette, Committee Counselor, was also in attendance. A Visitor Registration List is attached and made a part of the minutes. (See Attachment #1.)

Representative Saunders called the meeting to order and introduced the following Pages:

Thomas Rusher of Wake County, sponsored by Representative Martin  
Fiana Lu of Catawba County, sponsored by Representative Hilton  
Eric Till of Wake County, sponsored by Representative Capps  
Deion Hurst of Wake County, sponsored by Representative Stam  
Kimmy Helsey of Halifax County, sponsored by Representative Jones.

Representative Saunders then recognized Sergeant-At-Arms Staff Members: Bill Freeman, Tom Wilder, and James Worth.

The only item on the agenda was **HB 1330 AMEND ELECTROLYSIS PRACTICE ACT/FEES**, sponsored by Representative Jeffus. This bill would amend the Electrolysis Practice Act to provide for the licensure of an electrologist who meets the education requirements as a laser clinician to perform the medical act.

Representative Saunders stated that the public spoke on the licensure at the last meeting and that this meeting would be devoted to questions from committee members. Senator Bingham asked if the Medical Society had met and taken a position on the licensure of laser clinicians. Ms. Amy Jo Horne with the North Carolina Medical Society was asked to address the question. She said that the Medical Society is waiting on a recommendation from the North Carolina Medical Board. Mr. Thom Mansfield, Attorney with the North Carolina Medical Board, was recognized, and he passed a position statement to the members of the committee. (See Attachment #2.) Representative Saunders stated that the position statement had no bearing on the Legislative Committee on New Licensing Boards. There were no further questions.

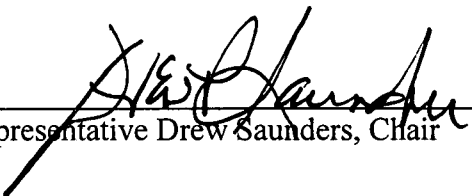
Prior to Senator Bingham's question, Representative Parmon moved that the Legislative Committee on New Licensing Boards find the following:

1. The unregulated practice of electrologists who meet the education requirements as laser clinicians can substantially endanger the public's health, safety, or welfare.
2. Laser clinicians possess qualities that distinguish them from ordinary labor.

3. The profession requires specialized skill or training.
4. A substantial majority of the public does not have the knowledge or experience to evaluate the practitioner's competence.
5. Licensure is necessary for the public's protection.
6. The licensure will not have a substantial adverse economic impact upon consumers of the practitioner's service.

Following Senator Bingham's question and statements from Ms. Horne and Mr. Mansfield, a vote was taken on the motion. The motion was approved with no opposing votes.

There was no further business, and the meeting was adjourned at 1:10 p.m.

  
\_\_\_\_\_  
Representative Drew Saunders, Chair

  
\_\_\_\_\_  
Ruth Fish, Committee Assistant

Attachments

## VISITOR REGISTRATION SHEET

LEG. COMMITTEE ON NEW LICENSING BOARDS AUGUST 2, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Trudy Brown	NC Board of Examiners
Alice Saintsing	Greater Piedmont Electrolysis Assoc
THELMA GLENN WHITE	NC BOARD OF EXAMINERS
Liz Fisher	Greater Piedmont Electrolysis Assoc
Lisa Humm	Washington Laser & Electrolysis
Don Vaughan	Attorney
Cathy Suffredini	NC Med Board
Myrtha Hancock	electrolysis by Myrtha
Abbey Reynolds	NCCA Intern
Thom Mansfield	NC Medical Board
Jimmy Jo Helme	NCMS

# VISITOR REGISTRATION SHEET

LEG. COMMITTEE ON NEW LICENSING BOARDS    AUGUST 2, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Meera Ally

NCA LITCF

Jon Klein

NCA LITCF

Roger Bone

Bone + Assoc -

Jay Peters

JP Assoc

For Bone

Bone + Assoc.

W H Pote for NCDS & NCPTA

North Carolina Medical Board Position Statement**LASER SURGERY**

It is the position of the North Carolina Medical Board that the revision, destruction, incision, or other structural alteration of human tissue using laser technology is surgery.\* Laser surgery should be performed only by a physician or by a licensed health care practitioner working within his or her professional scope of practice and with appropriate medical training functioning under the supervision, preferably on-site, of a physician or by those categories of practitioners currently licensed by this state to perform surgical services.

Licensees should use only devices approved by the U.S. Food and Drug Administration unless functioning under protocols approved by institutional review boards. As with all new procedures, it is the licensee's responsibility to obtain adequate training and to make documentation of this training available to the North Carolina Medical Board on request.

*Laser Hair Removal*

Lasers are employed in certain hair-removal procedures, as are various devices that (1) manipulate and/or pulse light causing it to penetrate human tissue and (2) are classified as "prescription" by the U.S. Food and Drug Administration. Hair-removal procedures using such technologies should be performed only by a physician or by an individual designated as having adequate training and experience by a physician who bears full responsibility for the procedure. The physician who provides medical supervision is expected to provide adequate oversight of licensed and non-licensed personnel both before and after the procedure is performed. The Board believes that the guidelines set forth in this Position Statement are applicable to every licensee of the Board involved in laser hair removal, whether as an owner, medical director, consultant or otherwise.

It is the position of the Board that good medical practice requires that each patient be examined by a physician, physician assistant or nurse practitioner licensed or approved by this Board prior to receiving the first laser hair removal treatment and at other times as medically indicated. The examination should include a history and a focused physical examination. Where prescription medication such as topical anesthetics are used, the Board expects physicians to follow the guidelines set forth in the Board's Position Statement titled "Contact with Patients Before Prescribing." When medication is prescribed or dispensed in connection with laser hair removal, the supervising physician shall assure the patient receives thorough instructions on the safe use or application of said medication.

The responsible supervising physician should be on site or readily available to the person actually performing the procedure. What constitutes "readily available" will depend on a variety of factors. Those factors include the specific types of procedures and equipment used; the level of training of the persons performing the procedure; the level and type of licensure, if any, of the persons performing the procedure; the use of topical anesthetics; the quality of written protocols for the performance of the procedure; the frequency, quality and type of ongoing education of those performing the procedures; and any other quality assurance measures in place. In all cases, the Board expects the physician to be able to respond quickly to patient emergencies and questions by those performing the procedures.

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\*Definition of surgery as adopted by the NCMB, November 1998:

Surgery, which involves the revision, destruction, incision, or structural alteration of human tissue performed using a variety of methods and instruments, is a discipline that includes the operative and non-operative care of individuals in need of such intervention, and demands pre-operative assessment, judgment, technical skills, post-operative management, and follow up.

(Adopted July 1999)

(Amended January 2000, March 2002, August 2002, July 2005)


*Back to NCMB Home Page*



# INTEROFFICE MEMO

VIA HAND DELIVERY

TO: DENISE WEEKS  
HOUSE PRINCIPAL CLERK

FROM: JUDY COLLIER   
RESEARCH ASSISTANT  
RESEARCH DIVISION

DATE: AUGUST 9, 2005

RE: HOUSE BILL 1330  
AMEND ELECTROLYSIS PRACTICE ACT/FEES  
ASSESSMENT REPORT

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Accompanying this memo please find a copy of the Assessment Report for HB 1330, AMEND ELECTROLYSIS PRACTICE ACT/FEES, issued August 2, 2005 by the Legislative Committee on New Licensing Boards, under signature of its chair, Representative Drew Saunders.

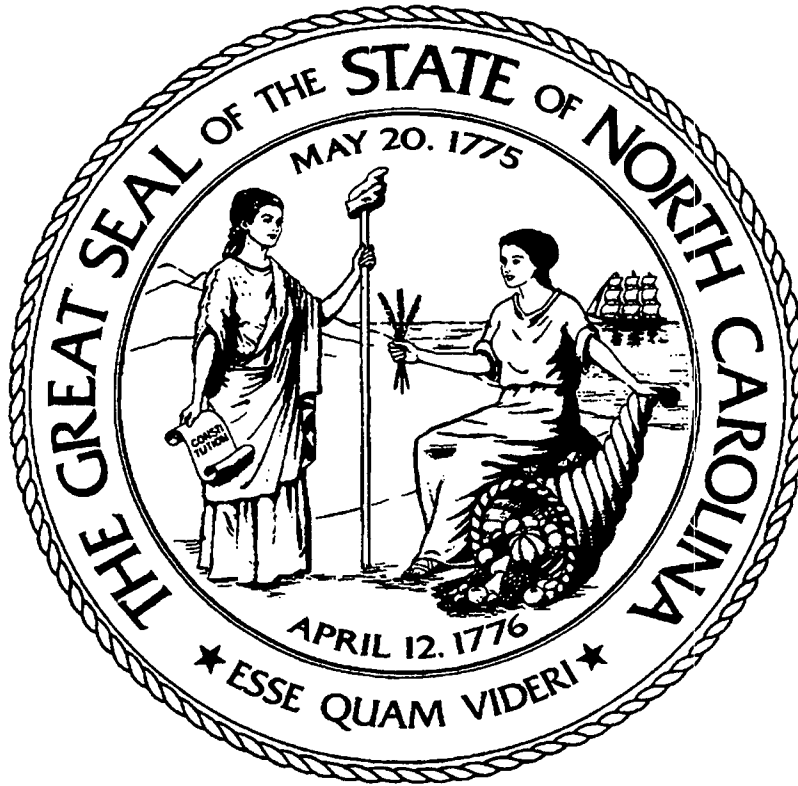
The Assessment Report is hereby transmitted for placement in the Bill Jacket for HB 1330, AMEND ELECTROLYSIS PRACTICE ACT/FEES. HB 1330 is scheduled for hearing before House Health Committee on Thursday, August 11, 2005.

Thank you for your assistance. Should your office need anything further, please let me know.

Distribution with attachment:

✓ Rep. Drew Saunders  
Rep. Margaret Jeffus

COPY



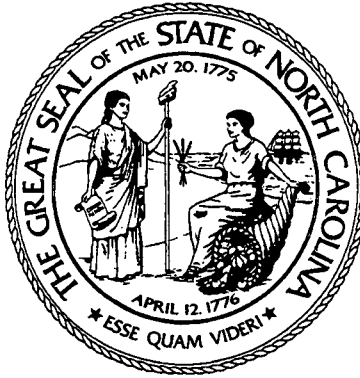
# LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

Assessment Report

For

AMEND ELECTROLYSIS PRACTICE  
ACT/FEES

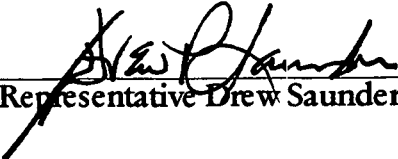
House Bill 1330  
Senate Bill 1009



## LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

August 2, 2005

The Legislative Committee on New Licensing Boards is pleased to release this assessment report on the proposed licensure of laser clinicians, laser clinician instructors and schools of laser, light source, or pulsed-light treatments. This report constitutes both the preliminary and final assessment report.

  
Representative Drew Saunders

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS  
(2005-2006)

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Representative Drew Saunders, Chair

Senator Stan Bingham

Representative Harold Brubaker

Senator Kay Hagan

Representative Becky Carney

Senator David Hoyle

Representative Bruce Goforth

Senator Vernon Malone

Representative Earline Parmon

Staff

Ms. Cindy Avrette, Committee Counsel

Ms. Judy Collier, Research Assistant

Ms. Ruth Fish, Committee Clerk

## PREFACE

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The Legislative Committee on New Licensing Boards is a 9-member joint committee of the House and Senate created and governed by statute (Article 18A of Chapter 120 of the General Statutes). The primary purpose of the Committee is to evaluate the need for a new licensing board or the proposed licensing of previously unregulated practitioners by an existing board. The Committee has been in existence since 1985.

The Committee solicits written and oral testimony on each licensing proposal in carrying out its duty to determine whether the proposal meets the following criteria:

- 1) Whether the unregulated practice of the profession can substantially endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument.
- 2) Whether the profession possesses qualities that distinguish it from ordinary labor.
- 3) Whether practice of the profession requires specialized skill or training.
- 4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence.
- 5) Whether the public can effectively be protected by other means.
- 6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's good or services.

The Committee issues an assessment report on its findings and recommendations. The recommendation in the report is not binding on other committees considering the proposal.

HOUSE BILL 1330  
SENATE BILL 1009  
AMEND ELECTROLYSIS PRACTICE ACT/FEES

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BACKGROUND<sup>1</sup>

*Current Standards.*

The North Carolina Medical Board issued a policy statement in November 1998 that the revision, destruction, incision, or other structural alteration of human tissue using laser technology is surgery and should be performed only by a physician or by an appropriately trained health care practitioner working under the supervision of a physician. Approximately one hundred licensed electrologists are currently practicing laser hair removal.<sup>2</sup> To the extent these health care practitioners perform laser hair removal without the supervision of a licensed physician, they are practicing medicine without a license. House Bill 1330 and Senate Bill 1009 would amend the Electrolysis Practice Act to provide for the licensure of an electrologist who meets the requisite educational requirements as a laser clinician who may perform this medical act.

The North Carolina Board of Electrolysis Examiners was established by the General Assembly in 1990 when it enacted the Electrolysis Practice Act "to ensure minimum standards of competency, to protect the public from misrepresentation of status by persons who hold themselves out to be 'certified electrologists', and to provide the public with safe care by the mandatory licensing of electrologists."<sup>3</sup> Electrolysis is the permanent removal of hair by the application of an electrical current to the dermal papilla by a filament to cause

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<sup>1</sup> **Source:** *Response to Questionnaire for the Legislative Committee for New Licensing Boards.* A copy of the questionnaire is attached to this report.

<sup>2</sup> **Source:** *Response to Questionnaire for the Legislative Committee for New Licensing Boards.* A copy of the questionnaire is attached to this report.

<sup>3</sup> G.S. § 88A-2

decomposition, coagulation, or dehydration within the hair follicle as approved by the Food and Drug Administration of the United States Government.<sup>4</sup> Chapter 88A of the General Statutes sets out the requirements for licensure as an electrologist, certification as an electrology instructor, and certification as a Board-approved school of electrology. A violation of practicing electrolysis without a license is a Class 2 misdemeanor.

The proposed legislation would expand the Board's scope of authority to include the licensure of a laser clinician and laser clinician instructor, and to certify Board-approved schools of laser, light source, or pulsed-light treatments that meet requirements established by the Board. The proposed legislation defines a laser clinician as a person who engages in laser, light source, or pulsed light treatments of skin or hair. "Laser, light source, or pulsed-light treatments" are defined as the use of laser or pulsed-light devices for nonablative procedures for the removal of hair.

#### LICENSING REQUIREMENTS

##### *Who Must Be Licensed.*

Under the proposed legislation, it would be a Class 2 misdemeanor to engage in the practice of laser, light source, or pulsed-light treatments without a license. Licenses must be renewed annually according to the criteria for renewal established by the Board. The proposed legislation establishes the following professional requirements for licensure:

##### Laser Clinician:

- Be a licensed electrologist.
- Complete a 30-hour laser, light source, or pulsed-light treatment course approved by the Board and in accordance with rules adopted by the Board.
- Be certified to operate and currently using or anticipate using laser, light source, or pulsed-light devices.

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<sup>4</sup> As defined in G.S. § 88A-3(2).

*Laser Clinician Instructor:*

- Submit a Board-approved application
- Be a licensed electrologist.
- Be a licensed electrology instructor.
- Have practiced laser and light-based treatments actively for at least one year immediately before the application.
- Have at least 100 hours of training in laser and light-based treatments.

*School of laser, light source, or pulsed-light treatments:*

- Submit a Board-approved application.
- Submit a detailed institutional floor plan demonstrating adequate school facilities.
- Submit a detailed list of equipment to be used by students in the course of study.
- Submit a copy of the curriculum consisting of the hours and subject matter determined by the Board, with the hours required being not less than 30 and not more than 600.
- Submit a certified copy of the school manual of instruction.
- Submit the names and qualifications of the licensed instructors.
- Submit any additional information the Board may require.

*License Renewal Requirements.*

**Renewal Requirements:** Every license issued pursuant to Chapter 88 must be renewed annually. An electrologist or laser clinician must meet all of the following conditions for license renewal:

- Submit a renewal application on Board approved forms.
- Provide evidence of successful completion of a long-term educational program approved by the Board.
- Meet the criteria for renewal established by the Board.
- Pay the required fee.

Laser clinicians are required to complete 10 hours of continuing education annually to maintain their licensure.



**Fees.** Fees are set by the Board and cannot exceed the following amounts:

Purpose of Fee	Fee Amount
Application for licensure as an electrologist	\$150.00
Initial license	\$150.00
Examination or reexamination	\$125.00
Licensure of electrology renewal	\$200.00
Application for licensure as an electrology instructor	\$150.00
Licensure of electrology instructor renewal	\$75.00
Application for certification as a Board-approved school of electrology	\$500.00
Application for licensure as a laser clinician	\$150.00
Licensure as laser clinician renewal	\$200.00
Application for licensure as laser clinician instructor	\$150.00
Licensure as laser clinician instructor renewal	\$75.00
Application for certification as a Board-approved school of laser, light source, or pulsed-light treatments	\$500.00
Certificate of Board-approved school of laser, light source, or pulsed-light renewal	\$250.00
Certificate of Board-approved school of electrology renewal	\$250.00
Certification of out-of-state schools	\$100.00
Certification of out-of-state schools renewal	\$75.00
Office inspection or reinspection	\$100.00
License by reciprocity	\$150.00
Late renewal charge	\$75.00
Reinstatement of expired license or certification	\$300.00
Reactivation of license	\$200.00
Duplicate license or certification	\$25.00

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

*SPECIFIC FINDINGS REGARDING  
LASER CLINICIANS*

*HOUSE BILL 1330  
SENATE BILL 1009*

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- (1) Whether the unregulated practice of the profession or occupation can substantially harm or endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument;
- (2) Whether the profession or occupation possesses qualities that distinguish it from ordinary labor;
- (3) Whether practice of the profession or occupation requires specialized skill or training;
- (4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence;
- (5) Whether the public can be effectively protected by other means; and
- (6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's goods or services.

## FINDINGS AND RECOMMENDATIONS

### AMEND ELECTROLYSIS PRACTICE ACT/FEES

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**Findings.** The Legislative Committee on New Licensing Boards finds that the sponsors have met the six criteria by which the Committee judges licensure proposals. Specifically, the Committee finds that:

- 1) The unregulated practice of laser hair removal can substantially harm or endanger the public health, safety, or welfare because there is not a regulatory body in place to investigate and resolve allegations of impropriety by laser clinicians that are not licensed or certified by the existing Board of Electrolysis Examiners. The greatest potential for harm would be from individuals who lack the appropriate professional credentials but are engaging in the direct delivery of laser hair removal services to persons seeking laser hair removal procedures or services.
- 2) The profession possesses qualities that distinguish it from ordinary labor due to the requirement that an applicant for laser clinician licensure already be licensed as an electrologist before being allowed to complete a Board approved course of study in laser practice.
- 3) The practice of laser hair removal requires specialized skill or training.
- 4) A substantial majority of the public does not have the knowledge or experience to evaluate the competence of laser clinicians.
- 5) The public cannot be effectively protected by other means.
- 6) Licensure would not have a substantial adverse economic impact upon the recipient of the services of a laser clinician.

**Recommendation.** The Legislative Committee on New Licensing Boards recommends that the practice of laser hair removal be performed by a licensed professional. The Committee does not make a recommendation as to who that licensed professional should be. This assessment report constitutes both the preliminary and final assessment report for the licensure of laser clinicians, laser clinician instructors and schools of laser, light source, or pulsed-light treatments. The report is based on the proposed licensing of laser clinicians, laser clinician instructors and schools of laser, light source, or pulsed-light treatments as set

out in House Bill 1330 and Senate Bill 1009, the response to the Committee's questionnaire (Attachment), and testimony before the Committee on July 6, 2005 and August 2, 2005.

# ATTACHMENT

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## *Response to Questionnaire for the Legislative Committee on New Licensing Boards*

## **Legislative Questions Regarding HB1330**

**NORTH CAROLINA BOARD OF ELECTROLYSIS EXAMINERS**  
**Pinehurst Building, Box 34, 2 Centerview Drive, Greensboro, NC 27407**  
**Office: 336 856-1010**  
**(E-mail: ncbeexam@yahoo.com)**

1. The marketplace has failed to regulate adequately the profession in numerous ways. First, lack of required education and training. Second, allowing anyone who can afford to purchase a laser to use it. Untrained people without the proper background and training cannot safely offer light treatments without understanding tissue interaction, contra-indications, post treatment guidelines and the amount of destruction light can cause to the skin if administered improperly.
2. There have been complaints about the unregulated profession. A specific example would be the recent death of a young woman in Raleigh, after receiving a topical lidocaine solution from a laser hair removal clinic named Premier Body Laser Clinic. The Clinic was owned and operated by a Certified Public Accountant.
3. The public thinks that because someone advertises in the yellow pages they have passed some type of professional requirement. The lack of state regulations allows anyone to operate a laser without training or guidelines. This creates a potential harm to public health, safety and welfare.
4. There is potential harm and danger to the public due to lack of regulation. Unfortunately, some of these dangers are only recognized after there has been injury to the public.
5. The potential harm or danger to the public is recognized by other states and Florida and Ohio have been the leaders in issuing regulations for practitioners who offer laser hair removal. Florida requires an electrology license and 40 hours of additional training, while physicians are exempt. Ohio requires 50 hours of additional training by electrologists and physicians are exempt.
6. The economic advantage of licensing to the public will be that they will get better results for their money. It will cost them less because a properly trained practitioner will get better results with less treatments.
7. The economic disadvantage to the public is non existent. Untrained people cannot provide effective results and it takes more treatments with a higher risk of injury such as burns, hypo/hyperpigmentation and other tissue damage.
8. The economic advantage to licensing for the practitioners would be lower insurance rates due to higher skill levels and repeat business because of quality control and credentials. Also, the fly by night businesses that provide poor treatments and endanger the public would be made to achieve better skill levels or exit the profession.
9. No economic disadvantages are foreseeable if licensing occurs to this field.
10. The potential benefits to the public of licensing outweigh the potential harmful effects of licensure because of safer treatments for the public, lower risk of injury and lower insurance cost which would be passed on to the consumer since physicians and their staff would still be able to offer this service and the cost of treatments should remain the same.

11. The specific skill of training that distinguishes the profession from ordinary labor includes 600 hours of education, including the following: Trichology (Hair Growth ) Hair Structure and function, Growth cycles, including re-growth cycles. Follicle structure and function. Endocrinology. Causes of hair growth, including new hair stimulation. Study and function of glands. Dermatology. Skin structure and function. Disease of the skin (as related to this procedure) Reaction of the skin as related to the clinical application of the procedure. Neurology/Angiology. Nervous system. Pain thresholds. Pain variables. Synoptic responses. Circulatory System, Cardiovascular system, Lymphatic system, Bacteriology, Sanitation, Sterilization rules and standards promulgated by the Board. Principles of Electricity. Short wave (Alternating) current. Direct (Galvanic) current. Equipment. Modalities; alternating, direct, laser and light based sources. Expectations, tissue reaction to currents, wavelengths, contra-indications and the practitioner must pass a written and practical examination given by the North Carolina Board of Electrologist Examiners.
12. The professional qualities that distinguish it from ordinary labor is the ability to assess medical history, evaluate if the client is a good candidate for the treatment and determine safe protocols and treat within safe parameters. The treatments that the patient receives are medical, and all medical practitioners must be licensed and/or certified in their scope of practice.
13. Licensing requirements will cover all practicing members of the profession that have an interest in doing light based hair removal.
14. Currently, there are approximately one hundred professionals practicing laser hair removal that are also electrologists that are expected to apply for licensure and tens of thousands would utilize the services of these practitioners.
15. The public at this time does not have the knowledge or experience to evaluate the services offered by the practitioner. This regulation will assist them because they will be dealing with practitioners with better qualifications.
16. There is voluntary certification for laser practitioners made recently available through the North Carolina Board of Electrologist Examiners and electrologists are already licensed. Full disclosure of both certifications are available for review at the Legislative Committee's advanced request.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES  
COMMITTEE MEETING NOTICE  
AND  
BILL SPONSOR NOTIFICATION  
2005-2006 SESSION**

You are hereby notified that the Legislative Committee on New Licensing Boards will meet as follows:

**DAY & DATE:** Tuesday, August 2, 2005

**TIME:** 1:00 p.m.

**LOCATION:** 1425 LB

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**H1330 AMEND ELECTROLYSIS PRACTICE ACT/FEES**

**Rep. Jeffus, Bill Sponsor**

Respectfully,  
Representative Drew Saunders  
Chair

I hereby certify this notice was filed by the committee assistant at the following offices at  
**11:15 a.m. on July 28, 2005.**

\_\_\_\_Principal Clerk  
\_\_\_\_Reading Clerk - House Chamber

Ruth Fish (Committee Assistant)