

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL DRS15256-NBf-2A

Short Title: Various OLB and Administrative Law Changes. (Public)

Sponsors: Senator Wells (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REFORM FINANCIAL REPORTING OF OCCUPATIONAL LICENSING
3 BOARDS, COMBINE THE FUNCTIONS OF THE NORTH CAROLINA BOARD OF
4 BARBER EXAMINERS AND THE NORTH CAROLINA BOARD OF ELECTROLYSIS
5 EXAMINERS, AUTHORIZE AGENCIES TO MAKE TECHNICAL CORRECTIONS TO
6 ADOPTED RULES WITHOUT REVIEW BY THE RULES REVIEW COMMISSION,
7 AUTHORIZE THE CODIFIER OF RULES TO MAKE TECHNICAL CORRECTIONS TO
8 ADOPTED RULES, CLARIFY THAT A PARTY MAY COMMENCE A CONTESTED
9 CASE IN A DISPUTE WITH AN AGENCY WITHOUT PETITIONING THE AGENCY
10 FOR RULE MAKING OR OBTAINING A DECLARATORY RULING, REVISE THE
11 PROCESS FOR THE REVIEW AND READOPTION OF EXISTING RULES, AND
12 EXPAND THE MASSAGE AND BODYWORK THERAPY BOARD.

13 The General Assembly of North Carolina enacts:

14
15 **PART I. REFORM OLB FINANCIAL REPORTING**

16 **SECTION 1.1.** The Joint Legislative Administrative Procedure Oversight
17 Committee shall study whether the definition of "occupational licensing board" under G.S. 93B-1
18 and the definition of "occupational licensing agency" under G.S. 150B-2 should include specific
19 lists of occupational licensing boards in order to clarify which State agencies should be
20 considered occupational licensing boards for purposes of Chapters 93B and 150B of the General
21 Statutes. If the Committee determines that the definitions should include specific lists, the
22 Committee shall recommend which State agencies should be listed under each definition. The
23 Committee shall report the results of the study required by this section to the 2020 Regular
24 Session of the 2019 General Assembly.

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

26 "**§ 143B-426.39. Powers and duties of the State Controller.**

27 The State Controller shall:

28 ...

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

34 **SECTION 1.3.** In developing the financial statement audit reporting format for
35 occupational licensing boards required by Section 1.2 of this act, the State Controller shall consult



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1 with the State Auditor and occupational licensing boards. The State Controller shall require the
2 use of the financial statement audit reporting format for reports submitted on or after July 1, 2020.

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

5 **"§ 93B-2.1. Fiscal year.**

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

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

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

12 **"§ 93B-2. Annual reports and audits required; contents; open to inspection; sanction for**
13 **failure to report.**

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

18 ...

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

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

22 (b) No later than October 31 of each year, each occupational licensing board shall ~~file~~
23 ~~electronically with the Secretary of State, the Attorney General, conduct an annual financial audit~~
24 ~~of its operations and provide an electronic copy of the audit to the State Auditor, the State~~
25 ~~Controller, the Office of State Budget and Management, and the Joint Legislative Administrative~~
26 ~~Procedure Oversight Committee a financial report that includes the source and amount of all~~
27 ~~funds credited to the occupational licensing board and the purpose and amount of all funds~~
28 ~~disbursed by the occupational licensing board during the previous fiscal year.~~ Committee. The
29 audit shall be conducted in compliance with auditing standards for governmental entities
30 developed by the United States Government Accountability Office and provided in a form as
31 prescribed by the State Controller pursuant to G.S. 143B-426.39.

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

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

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

43 **"§ 93B-4. Audit of Occupational Licensing Boards; Boards by the State Auditor; payment**
44 **of costs.**

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

- 1 (2) One electrologist who has engaged in the practice of electrolysis for at least
2 five years.
- 3 (3) One physician licensed under Chapter 90 of the General Statutes nominated
4 by the North Carolina Medical Board.
- 5 (4) One public member not licensed under this Chapter or under Chapter 90 of
6 the General Statutes.

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

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

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

17 **"§ 86B-4. Powers and duties of the Board.**

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

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

24 **"§ 86B-5. Meetings and compensation of the Board; officers and executive director.**

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

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

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

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

48 **"§ 86B-6. Qualifications for licensure as a barber.**

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

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

- 1 (2) Has completed a 12-month apprenticeship under the supervision of a licensed
2 barber, as provided in G.S. 86B-7.
3 (3) Has passed a clinical examination conducted by the Board.
4 (4) Has submitted to the Board the affidavit required by G.S. 86B-7 certifying
5 that the applicant has served the apprenticeship required by this section.

6 **"§ 86B-7. Qualifications for licensing barber apprentices.**

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

10 (b) An apprentice license expires on May 31 of each year. Every holder of an apprentice
11 license shall annually renew the apprentice license by the expiration date and pay the required
12 renewal fee. An apprentice license issued under this Chapter is automatically expired by
13 operation of law after failure to renew the apprentice license by the expiration date. An apprentice
14 whose apprentice license has expired may have the certificate restored immediately upon paying
15 all lapsed renewal fees and the required late fee. The apprentice license is valid only so long as
16 the apprentice works under the supervision of a licensed barber. The licensed barber shall remain
17 present on the premises of the barbershop at all times while the apprentice is working. No
18 apprentice shall operate a barbershop.

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

24 (d) Applicants who pass the initial written examination and pass the practical
25 examination with a score of eighty-five percent (85%) or higher shall be exempt from the
26 apprenticeship requirement and may apply for a temporary permit pursuant to G.S. 86B-13(g).
27 Applicants who pass the initial written examination and pass the initial practical examination
28 with a score of less than eighty-five percent (85%) shall be permitted to retake the initial practical
29 examination no more than two additional times upon payment of the fee authorized under
30 G.S. 86B-30. Individuals holding a current and valid apprentice license that have passed the
31 initial written examination and have passed the initial practical examination with a score of
32 eighty-five percent (85%) or higher shall be entitled to obtain a temporary permit pursuant to this
33 subsection upon payment of the fee authorized under G.S. 86B-30.

34 **"§ 86B-8. Qualifications for licensure as an electrologist.**

35 (a) Any person who desires to be licensed as an electrologist pursuant to this Chapter
36 must be at least 21 years of age and do all of the following:

- 37 (1) Submit an application on a form approved by the Board.
38 (2) Provide proof of graduation from a school certified by the Board pursuant to
39 G.S. 86B-19.
40 (3) Pass an examination given by the Board.
41 (4) Submit the application and examination fees required in G.S. 86B-31.

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

46 (c) When the Board determines that an applicant has met all the requirements for
47 licensure, the Board shall issue a license to the applicant.

48 **"§ 86B-9. Requirements for licensure as a laser hair practitioner; limitations on licensed**
49 **laser hair practitioners.**

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

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

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

11 (c) Each laser hair practitioner shall practice laser, light source, or pulsed-light treatments
12 under the supervision of a physician licensed under Article 1 of Chapter 90 of the General
13 Statutes. The physician shall be readily available, but is not required to be on the premises, when
14 the laser, light source, or pulsed-light treatments are being performed. However, the authority to
15 regulate laser clinicians shall remain with the Board.

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

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

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

25 **"§ 86B-10. Qualifications for licensing barbering instructors.**

26 (a) Applicants for any barbering instructor's license issued by the Board shall (i) possess
27 a high school diploma or a high school graduation equivalency certificate and (ii) pay the fees
28 required by G.S. 86B-30.

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

- 31 (1) Be a licensed barber.
32 (2) Pass an instructor's examination given by the Board that covers subject matter
33 determined by the Board as well as the subjects in the Textbook of
34 Barber-Styling approved by the Board.
35 (3) Submit an application, on a form to be furnished by the Board.
36 (4) Pay the fee required by G.S. 86B-30.

37 **"§ 86B-11. Requirements for certification as an electrology instructor.**

38 (a) Any person who desires to be certified as an electrology instructor pursuant to this
39 Chapter shall meet all of the following requirements:

- 40 (1) Submit an application on a form approved by the Board.
41 (2) Be a licensed electrologist.
42 (3) Have practiced electrology actively for at least five years immediately before
43 the application.
44 (4) Pass a written examination given by the Board.

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

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

4 **"§ 86B-12. Requirements for licensure as a laser hair practitioner instructor.**

5 (a) Any person who desires licensure as a laser hair practitioner instructor pursuant to
6 this Chapter shall meet all of the following requirements:

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

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

10 (3) Have practiced laser, light source, or pulsed-light treatments actively for at
11 least five years immediately before applying for licensure.

12 (4) Have at least 100 hours of training in laser, light source, or pulsed-light
13 treatments.

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

17 **"§ 86B-13. Temporary employment permit; extensions; limits on practice.**

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

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

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

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

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

32 (c) The holder of a temporary employment permit may practice only under the
33 supervision of a licensed barber, electrologist, or laser hair practitioner, as appropriate, and may
34 not operate a barbershop or an electrologist or laser hair practitioner office.

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

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

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

48 (g) Notwithstanding the apprenticeship requirements in this Chapter, for graduates of a
49 barber school that pass the initial written examination and pass the initial practical examination
50 with a score of eighty-five percent (85%) or higher, the Board shall grant a temporary permit
51 upon payment of the fee authorized under G.S. 86B-30. One year after receiving a temporary

1 permit pursuant to this subsection, the permittee may apply for examination and certification to
2 become licensed under this Chapter. A temporary permit issued pursuant to this subsection shall
3 remain valid until the first Board examination of applicants for certification is held that is more
4 than one year after issuance of the temporary permit.

5 **"§ 86B-14. Applicants licensed in other states.**

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

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

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

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

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

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

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

24 **"§ 86B-15. Licensing of barbershops.**

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

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

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

36 (d) A licensed barbershop shall not be permitted to operate in a location licensed as a
37 barber school.

38 **"§ 86B-16. Practice outside barbershops.**

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

45 **"§ 86B-17. Licensing and regulation of barber schools.**

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

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

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

8 **(d)** A licensed barber school shall not be permitted to operate in a location licensed as a
9 barbershop.

10 **"§ 86B-18. Bond required for private barber schools.**

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

16 **(b)** A guaranty bond obtained pursuant to this section shall meet all of the following
17 criteria:

18 **(1)** The applicant shall file the guaranty bond with the clerk of superior court in
19 the county in which the school is located. The bond shall be in favor of the
20 students. The bond shall be executed by the applicant as principal and by a
21 bonding company authorized to do business in this State. The bond shall be
22 conditioned to provide indemnification to any student or the student's parent
23 or guardian who has suffered loss of tuition or any fees by reason of the failure
24 of the school to offer or complete student instruction, academic services, or
25 other goods and services as related to course enrollment for any reason,
26 including suspension, revocation, or nonrenewal of a school's approval,
27 bankruptcy, foreclosure, or the school's ceasing to operate.

28 **(2)** The bond amount shall be at least equal to the maximum amount of prepaid
29 tuition held at any time by the school during the last fiscal year, but in no case
30 shall be less than ten thousand dollars (\$10,000). Each application for license
31 or license renewal shall include a letter signed by an authorized representative
32 of the school showing the calculations made and the method of computing the
33 amount of the bond in accordance with rules prescribed by the Board. If the
34 Board finds that the calculations made and the method of computing the
35 amount of the bond are inaccurate or that the amount of the bond is otherwise
36 inadequate to provide indemnification under the terms of the bond, the Board
37 may require the applicant to provide an additional bond.

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

42 **(c)** An applicant who is unable to secure a bond may seek from the Board a waiver of the
43 guaranty bond requirement and approval of one of the guaranty bond alternatives set forth in this
44 subsection. Instead of a bond with the clerk of court in the county in which the school is located
45 and with the approval of the Board, an applicant may file one of the following:

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

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

6 **"§ 86B-19. Requirements for certification as a Board-approved school of electrology.**

7 (a) Any school in this State or another state that desires to be certified as a
8 Board-approved school of electrology shall submit all of the following:

- 9 (1) An application on a form approved by the Board.
10 (2) A detailed projected floor plan of the institutional area demonstrating
11 adequate school facilities to accommodate students for purposes of lectures,
12 classroom instruction, and practical demonstration.
13 (3) A detailed list of the equipment to be used by the students in the practical
14 course of their studies.
15 (4) A copy of the planned electrology curriculum consisting of the number of
16 hours and subject matter determined by the Board, provided that the number
17 of hours required shall not be less than 120 hours and not more than 600 hours.
18 (5) A certified copy of the school manual of instruction.
19 (6) The names and qualifications of the instructors certified in accordance with
20 G.S. 86B-11.
21 (7) Any additional information the Board may require.

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

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

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

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

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

33 **"§ 86B-20. Requirements for certification as a Board-approved school of laser, light source,**
34 **or pulsed-light treatments.**

35 (a) Any school in this State or another state that desires to be certified as a
36 Board-approved school of laser, light source, or pulsed-light treatments shall submit all of the
37 following:

- 38 (1) An application on a form approved by the Board.
39 (2) A detailed projected floor plan of the institutional area demonstrating
40 adequate school facilities to accommodate students for purposes of lectures,
41 classroom instruction, and practical demonstration.
42 (3) A detailed list of the equipment to be used by the students in the practical
43 course of their studies.
44 (4) A copy of the planned laser, light source, or pulsed-light curriculum consisting
45 of the number of hours and subject matter determined by the Board, provided
46 that the number of hours required shall not be less than 30 hours pursuant to
47 rules adopted by the Board.
48 (5) A certified copy of the school manual of instruction.
49 (6) The names and qualifications of the instructors certified.
50 (7) Any additional information the Board may require.

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

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

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

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

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

12 **"§ 86B-21. Barber examinations.**

13 **(a)** The Board shall conduct examinations of applicants for certificates of licensure to
14 practice as licensed barbers and licensed apprentices, not less than four times each year, at a time
15 and place as will prove most convenient and as the Board may determine. The Board may adopt
16 rules establishing procedures for the administration of examinations.

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

24 **"§ 86B-22. Sanitary rules and regulations; inspections.**

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

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

28 **a.** The location and construction of buildings and structures where
29 barbering, electrolysis, or laser, light source, or pulsed-light treatment
30 service is rendered.

31 **b.** The layout of areas where barbering, electrolysis, or laser, light source,
32 or pulsed-light treatment service is rendered or where a combination
33 of barbering, electrolysis, and laser, light source, and pulsed-light
34 treatment service is rendered to ensure proper separation of functions.

35 **c.** The minimum sanitary conditions for walls, floors, and fixtures,
36 including tanks and lavatories.

37 **d.** The provision and location of sinks and running water, hot and cold,
38 to enable proper handwashing, and the provision of proper drainage
39 for the facility.

40 **e.** The compliance with applicable building and fire codes and
41 regulations.

42 **(2)** The use of equipment, material, and instruments, to include the following
43 conditions:

44 **a.** The standards for use, storage, cleaning, and sterilization of combs,
45 hairbrushes, lather brushes, mugs, razors, tweezers, combs, and
46 contact cups or pads.

47 **b.** The standards for construction, sanitary preparation, and cleanup of
48 chairs, receptacles, workstations, and other surfaces.

49 **c.** The standards for storing, providing, handling, and laundering clean
50 towels or linens for each patron.

- 1 d. The standards for proper use and cleaning of hair cloths and other
2 protective material to prevent the hair cloth from touching the skin of
3 the patron.
4 e. The standards for proper hygiene and handwashing prior to contact
5 with each patron.
6 f. The standards for serving patrons with an infectious or communicable
7 disease.
8 g. The standards for obtaining appropriate health certification for
9 shampooing.

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

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

19 (d) All schools and facilities where barbering, electrolysis, or laser, light source, or
20 pulsed-light treatment service is rendered shall be open for inspection at all times during business
21 hours to any members of the Board or its agents or assistants to determine compliance with the
22 provisions of this Chapter. Initial inspections conducted by the Board pursuant to this Chapter
23 shall not be delayed if the sole reason for delay is the lack of a certificate of occupancy by a unit
24 of local government. A copy of the sanitary rules shall be furnished by the Board to the owner or
25 manager of each school, facility, or any other place where barbering, electrolysis, or laser, light
26 source, or pulsed-light treatment service is rendered in the State and shall be posted in a
27 conspicuous place.

28 **"§ 86B-23. Renewal requirements; expired licenses; inactive status.**

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

- 30 (1) Barbers, barbering instructors, and barber schools. – Any license not renewed
31 by May 31 of each year shall expire and a late fee shall be charged for renewal.
32 (2) Electrologists and laser hair practitioners. – Every electrologist license or laser
33 hair practitioner license issued pursuant to this Chapter must be renewed
34 annually. On or before the date the current license expires, a person who
35 desires to continue to practice electrology or as a laser hair practitioner shall
36 apply for license renewal to the Board on forms approved by the Board,
37 provide evidence of the successful completion of a continuing educational
38 program approved by the Board, meet the criteria for renewal established by
39 the Board, and pay the required fee. The Board may provide for the late
40 renewal of licensure upon payment of a late fee as set by the Board, but late
41 renewal may not be granted more than 90 days after expiration of the license.
42 Any person who has failed to renew his or her license for more than 90 days
43 after expiration may have it reinstated by applying to the Board for
44 reinstatement on a form approved by the Board, furnishing a statement of the
45 reason for failure to apply for renewal prior to the deadline, and paying the
46 required fee. The Board may require evidence of competency to resume
47 practice before reinstating the applicant's license.
48 (3) Schools of electrology and schools of laser, light source, and pulsed-light
49 treatments. – Every certificate for a school of electrology or a school of laser,
50 light source, and pulsed-light treatment shall be renewed annually. On or
51 before the date the current certificate expires, the applicant must submit an

1 application for renewal of certification on a form approved by the Board, meet
2 criteria for renewal established by the Board, and pay the required fee. Failure
3 to renew the certificate within 90 days after the expiration date shall result in
4 automatic forfeiture of any certification issued pursuant to this Chapter.

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

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

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

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

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

36 **"§ 86B-24. Revocation of licenses and other disciplinary measures.**

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

- 39 (1) Gross malpractice or gross incompetency as determined by the Board.
- 40 (2) Advertising by means of knowingly false or deceptive statements.
- 41 (3) Practicing or permitting any individual under one's employ to practice
42 barbering, electrolysis, or laser, light source, or pulsed-light treatment without
43 a license or temporary employment permit, with an expired license or
44 temporary employment permit, or with an invalid license or temporary
45 employment permit.
- 46 (4) Obtaining or attempting to obtain a license for money or other thing of value
47 other than the required fee or by fraudulent misrepresentation.
- 48 (5) Practicing or attempting to practice by fraudulent misrepresentation.
- 49 (6) Willful failure to display a certificate of license as required by this Chapter.
- 50 (7) Continued practice by a person knowingly having an infectious or contagious
51 disease after being warned in writing by the Board to cease practice.

- 1 (8) Continued violation of any one or more of the sanitary rules and regulations
2 established by the Board or by statute.
- 3 (9) Willful violation of the rules adopted by the Board.
- 4 (b) The Board may also restrict, suspend, revoke, or refuse to issue, renew, or reinstate
5 any license upon conviction of a felony shown by certified copy of the record of the court of
6 conviction. Prior to taking action against a licensee for a felony conviction, the Board shall
7 consider all of the following factors regarding the conviction:
- 8 (1) The level of seriousness of the crime.
- 9 (2) The date of the crime.
- 10 (3) The age of the person at the time of conviction.
- 11 (4) The circumstances surrounding the commission of the crime, if known.
- 12 (5) The nexus between the criminal conduct of the person and the duties of the
13 licensee.
- 14 (6) The person's prison, jail, probation, parole, rehabilitation, and employment
15 records since the date the crime was committed.
- 16 (c) The Board may not restrict, suspend, revoke, or refuse to issue, renew, or reinstate a
17 license except in accordance with its rules and the provisions of Chapter 150B of the General
18 Statutes.
- 19 (d) The Board shall keep a record of its proceedings relating to the issuance, renewal,
20 denial, restriction, suspension, and revocation of licenses. This record shall also contain each
21 licensee's name, address, license number, and the date the license was issued.
- 22 **"§ 86B-25. Misdemeanors.**
- 23 Each of the following acts constitutes a Class 3 misdemeanor:
- 24 (1) Violation of any of the provisions of G.S. 86B-26.
- 25 (2) Violation of any of the provisions described in subdivisions (3) through (6) of
26 G.S. 86B-24(a).
- 27 **"§ 86B-26. Licenses required.**
- 28 (a) Except as provided in this Chapter, no person may practice or attempt to practice
29 barbering, electrolysis, or laser, light source, or pulsed-light treatments for pay or reward in any
30 form, either directly or indirectly, without being licensed by the Board pursuant to this Chapter.
31 An individual licensed by the Board for a particular specialty may practice only that part of
32 barbering, electrolysis, or laser, light source, or pulsed-light treatments for which the individual
33 is licensed.
- 34 (b) Except as provided in this Chapter, no person may open or operate a barbershop, or
35 electrologist or laser hair practitioner office, or practice barbering, electrolysis, or laser, light
36 source, or pulsed-light treatments in any form, for pay or reward in any form, either directly or
37 indirectly, outside of a facility licensed by the Board pursuant to this Chapter.
- 38 (c) No person may teach barbering, electrolysis, or laser, light source, or pulsed-light
39 treatments in a Board-approved school unless the person is an instructor licensed pursuant to this
40 Chapter. A guest lecturer may be exempt from the requirements of this subsection upon approval
41 by the Board.
- 42 (d) An apprentice licensed under the provisions of this Chapter shall apprentice under the
43 supervision of a licensed barber or the supervision of an electrologist or laser hair practioner, as
44 appropriate. An apprentice shall not operate a barbershop or an electrologist or laser hair
45 practitioner office.
- 46 (e) Nothing in this Chapter shall be construed to prohibit a person from practicing
47 barbering, electrolysis, or laser, light source, or pulsed-light treatments on a family member. For
48 purposes of this subsection, a "family member" means a spouse, brother, sister, parent,
49 grandparent, child, grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law,
50 stepparent, or stepchild.

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

5 **"§ 86B-27. Enjoining illegal practices.**

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

11 **"§ 86B-28. Civil penalties; disciplinary costs.**

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

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

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

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

26 (d) In a disciplinary proceeding, the Board may charge costs, including reasonable
27 attorneys' fees, to the licensee against whom the proceedings were brought.

28 **"§ 86B-29. Persons exempt from the provisions of this Chapter.**

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

- 32 (1) Persons licensed to practice funeral service pursuant to Article 13A of Chapter
33 90 of the General Statutes.
- 34 (2) Persons authorized to practice medicine or surgery under Chapter 90 of the
35 General Statutes.
- 36 (3) Nurses licensed under Chapter 90 of the General Statutes.
- 37 (4) Commissioned medical or surgical officers of the United States Army, Air
38 Force, Navy, Marine, or Coast Guard.

39 (b) The following persons shall be permitted to practice electrology without a license
40 while engaged in the proper discharge of their duties:

- 41 (1) Any veterinarians licensed under Article 11 of Chapter 90 of the General
42 Statutes.
- 43 (2) A student at an approved school of electrology when electrolysis is performed
44 in the course of study.
- 45 (3) A person demonstrating on behalf of a manufacturer or distributor any
46 electrolysis equipment or supplies, if such demonstration is performed without
47 charge.
- 48 (4) An employee of a hospital licensed under Chapter 131E of the General
49 Statutes and working under the supervision of a physician licensed under
50 Article 1 of Chapter 90 of the General Statutes who is certified by the
51 American Board of Dermatology.

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

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

(a) The Board may charge the applicant the actual cost of preparation, administration, and grading of examinations in addition to the following exam fees:

- (1) Examination to become a licensed barber..... \$85.00
- (2) Examination to become a licensed apprentice barber \$85.00
- (3) Examination to become a barber school instructor \$165.00

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

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

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

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

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

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

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

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

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

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

- (1) Application for licensure as an electrologist \$150.00
- (2) Initial license..... \$125.00
- (3) Examination or reexamination..... \$150.00
- (4) Licensure of electrology renewal..... \$150.00
- (5) Application for licensure as an electrology instructor \$150.00

1	(6)	<u>Licensure of electrology instructor renewal</u>	\$150.00
2	(7)	<u>Application for certification as a</u>	
3		<u>Board-approved school of electrology</u>	\$500.00
4	(8)	<u>Application for licensure as laser hair practitioner</u>	\$150.00
5	(9)	<u>Licensure of laser hair practitioner renewal</u>	\$150.00
6	(10)	<u>Application for licensure as laser hair practitioner instructor</u>	\$150.00
7	(11)	<u>Licensure of laser hair practitioner instructor renewal</u>	\$150.00
8	(12)	<u>Application for certification as a Board-approved school of</u>	
9		<u>laser, light source, or pulsed-light treatments</u>	\$500.00
10	(13)	<u>Certificate of Board-approved school of laser, light source,</u>	
11		<u>or pulsed-light renewal</u>	\$400.00
12	(14)	<u>Certificate of Board-approved school of</u>	
13		<u>electrology renewal</u>	\$250.00
14	(15)	<u>Certification of out-of-state schools</u>	\$150.00
15	(16)	<u>Certification of out-of-state schools renewal</u>	\$100.00
16	(17)	<u>Office inspection or reinspection</u>	\$100.00
17	(18)	<u>License by reciprocity</u>	\$150.00
18	(19)	<u>Late renewal charge</u>	\$125.00
19	(20)	<u>Reinstatement of expired license or certification</u>	\$250.00
20	(21)	<u>Reactivation of license</u>	\$200.00
21	(22)	<u>Duplicate license or certification</u>	\$25.00."

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

- 25 (1) Four barbers serving on the Board of Barber Examiners as of December 31,
 26 2019, until their current terms expire.
- 27 (2) One electrologist serving on the Board of Electrolysis Examiners as of
 28 December 31, 2019, as determined by the Governor, for a three-year term.
- 29 (3) One physician, appointed by the Governor, for a two-year term.
- 30 (4) One public member, appointed by the Governor, for a one-year term.

31 The initial appointments required by G.S. 86B-3, as enacted by Section 2.2 of this act,
 32 shall be made on or before October 1, 2019, and the initial terms of the appointees shall begin on
 33 January 1, 2020. Once these initial terms expire, all vacancies will be filled according to the
 34 provision of G.S. 86B-3, as enacted by Section 2.2 of this act.

35 **SECTION 2.4.(a)** The North Carolina Board of Barber and Electrolysis Examiners,
 36 established by Section 2.2 of this act, shall review the licensing fee limitations, established by
 37 Section 2.2 of this act, and the fees adopted by rule by the State Board of Barber Examiners and
 38 the North Carolina Board of Electrolysis Examiners and determine whether the fee limitations
 39 and fees should be reduced to reflect savings and efficiencies generated by the consolidation of
 40 the Boards. No later than March 1, 2020, the North Carolina Board of Barber and Electrolysis
 41 Examiners shall report its findings and recommendations to the Joint Legislative Administrative
 42 Procedure Oversight Committee.

43 **SECTION 2.4.(b)** The North Carolina Board of Barber and Electrolysis Examiners,
 44 established by Section 2.2 of this act, shall review the licenses established by Section 2.2 of this
 45 act and determine whether certain licenses could be consolidated or eliminated as a result of the
 46 consolidation of the State Board of Barber Examiners and the North Carolina Board of
 47 Electrolysis Examiners. No later than March 1, 2020, the North Carolina Board of Barber and
 48 Electrolysis Examiners shall report its findings and recommendations to the Joint Legislative
 49 Administrative Procedure Oversight Committee.

50 **SECTION 2.5.(a)** Licenses and registrations issued by the State Board of Barber
 51 Examiners and the North Carolina Board of Electrolysis Examiners, prior to the effective date of

1 this act, shall remain in full force and confer the same authority as when they were issued until
2 those licenses and registrations expire, are revoked, or are renewed by the North Carolina Board
3 of Barber and Electrolysis Examiners.

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

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

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

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

18 **SECTION 2.6.** Section 2.3 of this Part is effective when it becomes law. The
19 remainder of this Part becomes effective January 1, 2020, and applies to applications for
20 licensure, examination, and renewal submitted on or after that date.

21 **PART III. VARIOUS ADMINISTRATIVE LAW CHANGES**

22 **AUTHORIZE RULE TECHNICAL CORRECTIONS**

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

24 **"§ 150B-21.5. Circumstances when notice and rule-making hearing not required.required;**
25 **circumstances when submission to the Commission not required.**

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

- 29 (1) Reletter or renumber the rule or subparts of the rule.
- 30 (2) Substitute one name for another when an organization or position is renamed.
- 31 (3) Correct a citation in the rule to another rule or law when the citation has
32 become inaccurate since the rule was adopted because of the repeal or
33 renumbering of the cited rule or law.
- 34 (4) Change information that is readily available to the public, such as an ~~address~~
35 ~~or address~~, a telephone ~~number~~ number, or a Web site.
- 36 (5) Correct a ~~typographical error in the North Carolina Administrative~~
37 ~~Code~~ typographical error.
- 38 (6) ~~Change a rule in response to a request or an objection by the Commission,~~
39 ~~unless the Commission determines that the change is substantial.~~

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

44 ...
45 (e) An agency that adopts or amends a rule pursuant to subsection (a) or (c) of this section
46 shall notify the Codifier of Rules of its actions. When notified of an agency action taken pursuant
47 to subsection (a) or (c) of this section, the Codifier of Rules shall make the appropriate change
48 to the North Carolina Administrative Code."

49 **SECTION 3.1.(b)** G.S. 150B-21.20 reads as rewritten:
50
51

1 **"§ 150B-21.20. Codifier's authority to revise ~~form of~~ rules.**

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

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

29 (b) Effect. – Revision of a rule by the Codifier of Rules under this section does not affect
30 the effective date of the rule or require the agency to readopt or resubmit the rule. When the
31 Codifier of Rules revises the form of a rule, the Codifier of Rules must send the agency that
32 adopted the rule a copy of the revised rule. The revised rule is the official rule, unless the rule
33 was revised under subdivision (a)(6) of this section to omit graphic material. When a rule is
34 revised under that subdivision, the official rule is the published text of the rule plus the graphic
35 material that was not published.
36

37 **CLARIFY CONTESTED CASE POLICY**

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

39 **"§ 150B-22. Settlement; contested case.**

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

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

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

1 **"§ 150B-43. Right to judicial review.**

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

14 **AMEND PERIODIC REVIEW OF RULES PROCESS**

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

16 **"§ 150B-21.3A. Periodic review and expiration of existing rules.**

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

18 (1) Commission. – ~~Means the~~ The Rules Review Commission.

19 (2) Committee. – ~~Means the~~ The Joint Legislative Administrative Procedure
20 Oversight Committee.

21 (2a) Necessary rule. – Any rule other than an unnecessary rule.

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

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

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

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

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

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

45 (1) Step 1: The agency shall conduct an analysis of each existing rule and make
46 an initial determination as to whether the rule is ~~(i) necessary with substantive~~
47 ~~public interest, (ii) necessary without substantive public interest, or (iii)~~
48 necessary or unnecessary. The agency shall then post the results of the initial
49 determination on its Web site and invite the public to comment on the rules
50 and the agency's initial determination. The agency shall also submit the results
51 of the initial determination to the Office of Administrative Hearings for

1 posting on its Web site. The agency shall accept public comment for no less
2 than 60 days following the posting. The agency shall review the public
3 comments and prepare a brief response addressing the merits of each
4 comment. After completing this process, the agency shall submit a report to
5 the Commission. The report shall include the following items:

- 6 a. The agency's initial determination.
- 7 b. All public comments received in response to the agency's initial
8 determination.
- 9 c. The agency's response to the public comments.

10 (2) Step 2: The Commission shall review the reports received from the agencies
11 pursuant to subdivision (1) of this subsection. If a public comment relates to
12 a rule that the agency determined to be ~~necessary and without substantive~~
13 ~~public interest or unnecessary~~, the Commission shall determine whether the
14 public comment has merit and, if so, designate the rule as ~~necessary with~~
15 ~~substantive public interest.~~ necessary. For purposes of this subsection, a public
16 comment has merit if it addresses the specific substance of the ~~rule and relates~~
17 ~~to any of the standards for review by the Commission set forth in G.S.~~
18 ~~150B-21.9(a).~~ rule. The Commission shall prepare a final determination report
19 and submit the report to the Committee for consultation in accordance with
20 subdivision (3) of this subsection. The report shall include the following
21 items:

- 22 a. The agency's initial determination.
- 23 b. All public comments received in response to the agency's initial
24 determination.
- 25 c. The agency's response to the public comments.
- 26 d. A summary of the Commission's determinations regarding public
27 comments.
- 28 e. ~~A determination that all rules that the agency determined to be~~
29 ~~necessary and without substantive public interest and for which no~~
30 ~~public comment was received or for which the Commission~~
31 ~~determined that the public comment was without merit be allowed to~~
32 ~~remain in effect without further action.~~
- 33 f. A determination that all rules that the agency determined to be
34 unnecessary and for which no public comment was received or for
35 which the Commission determined that the public comment was
36 without merit shall expire on the first day of the month following the
37 date the report becomes effective in accordance with this section.
- 38 g. A determination that all rules that the agency determined to be
39 necessary ~~with substantive public interest or that the Commission~~
40 ~~designated as necessary with public interest as provided in this~~
41 ~~subdivision shall be readopted as though the rules were new rules in~~
42 ~~accordance with this Article.~~

43 (3) Step 3: The final determination report shall not become effective until the
44 agency has consulted with the Committee. The determinations contained in
45 the report pursuant to sub-subdivisions ~~e., f., f.~~ and g. of subdivision (2) of
46 this subsection shall become effective on the date the report is reviewed by
47 the Committee. If the Committee does not hold a meeting to hear the
48 consultation required by this subdivision within 60 days of receipt of the final
49 determination report, the consultation requirement is deemed satisfied, and the
50 determinations contained in the report become effective on the 61st day
51 following the date the Committee received the report. If the Committee

1 disagrees with a determination regarding a specific rule contained in the
2 report, the Committee may recommend that the General Assembly direct the
3 agency to conduct a review of the specific rule in accordance with this section
4 in the next year following the consultation.

5 (d) Timetable. – The Commission shall establish a schedule for the review and readoption
6 of existing rules in accordance with this section on a decennial basis as follows:

7 (1) With regard to the review process, the Commission shall assign each Title of
8 the Administrative Code a date by which the review required by this section
9 must be completed. In establishing the schedule, the Commission shall
10 consider the scope and complexity of rules subject to this section and the
11 resources required to conduct the review required by this section. The
12 Commission shall have broad authority to modify the schedule and extend the
13 time for review in appropriate circumstances. Except as provided in
14 subsections (e) and (f) of this section, if the agency fails to conduct the review
15 by the date set by the Commission, the rules contained in that Title which have
16 not been reviewed will expire. The Commission shall report to the Committee
17 any agency that fails to conduct the review. The Commission may exempt
18 rules that have been adopted or amended within the previous 10 years from
19 the review required by this section. However, any rule exempted on this basis
20 must be reviewed in accordance with this section no more than 10 years
21 following the last time the rule was amended.

22 (2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g.
23 of this section, once the final determination report becomes effective, the
24 Commission shall establish a date by which the agency must readopt the rules.
25 The Commission shall consult with the agency and shall consider the agency's
26 rule-making priorities in establishing the readoption date. The agency may
27 amend a rule as part of the readoption process. If a rule is readopted without
28 substantive change or if the rule is amended to impose a less stringent burden
29 on regulated persons, the agency is not required to prepare a fiscal note as
30 provided by G.S. 150B-21.4.

31 ~~(e) Rules to Conform to or Implement Federal Law. – Rules adopted to conform to or~~
32 ~~implement federal law shall not expire as provided by this section. The Commission shall report~~
33 ~~annually to the Committee on any rules that do not expire pursuant to this subsection.~~

34 ~~(e1) Rules to Protect Inchoate or Accrued Rights of Retirement Systems Members. – Rules~~
35 ~~deemed by the Boards of Trustees established under G.S. 128-28 and G.S. 135-6 to protect~~
36 ~~inchoate or accrued rights of members of the Retirement Systems administered by the State~~
37 ~~Treasurer shall not expire as provided by this section. The Commission shall report annually to~~
38 ~~the Committee on any rules that do not expire pursuant to this subsection.~~

39 (e2) Exclusions. – The Commission shall report annually to the Committee on any rules
40 that do not expire pursuant to this subsection. The following rules shall not expire:

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

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

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

1 **SECTION 3.4.** This Part is effective when it becomes law. Section 3.3 of this Part
2 applies to agency rule reports submitted to the Office of Administrative Hearings pursuant to
3 G.S. 150B-21.3A(c)(1) on or after January 1, 2020.

4
5 **PART IV. EXPANSION OF MASSAGE AND BODYWORK THERAPY BOARD**

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

7 "**§ 90-625. North Carolina Board of Massage and Bodywork Therapy.**

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

10 (1) ~~Five members shall be~~ massage and bodywork therapists who have been
11 licensed under this Article and have been in the practice of massage and
12 bodywork therapy for at least five of the last seven years prior to their serving
13 on the Board. Consideration shall be given to geographical distribution,
14 practice setting, clinical specialty, involvement in massage and bodywork
15 therapy education, and other factors that will promote diversity of the
16 profession on the Board. Two of the five members shall be appointed by the
17 General Assembly, upon the recommendation of the Speaker of the House of
18 Representatives, two shall be appointed by the General Assembly, upon the
19 recommendation of the President Pro Tempore of the Senate, and one shall be
20 appointed by the Governor.

21 (1a) Two persons holding a license to operate a massage and bodywork therapy
22 establishment under this Article. One of the two members shall be appointed
23 by the General Assembly upon the recommendation of the Speaker of the
24 House of Representatives and one shall be appointed by the General Assembly
25 upon the recommendation of the President Pro Tempore of the Senate.

26 (2) ~~One member shall be a~~A physician licensed pursuant to Article 1 of Chapter
27 90 of the General Statutes or a person once licensed as a physician whose
28 license lapsed while the person was in good standing with the profession and
29 eligible for licensure. The appointment shall be made by the Governor and
30 may be made from a list provided by the North Carolina Medical Society.

31 (3) ~~One member shall be a~~A member of the general public who shall not be
32 licensed under Chapter 90 of the General Statutes or the spouse of a person
33 who is so licensed, or have any financial interest, directly or indirectly, in the
34 profession regulated under this Article. The appointment shall be made by the
35 Governor.

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

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

41 "

42 **SECTION 4.2.** The initial appointments required by G.S. 90-625(1a), as enacted by
43 Section 4.1 of this act, shall be made on or before October 1, 2019, and the initial terms of the
44 appointees shall begin on that date. The initial term of the member appointed by the General
45 Assembly on the recommendation of the Speaker of the House of Representatives shall end on
46 June 30, 2020, and a replacement appointed in accordance with G.S. 90-625(1a). The initial term
47 of the member appointed by the General Assembly on the recommendation of the President Pro
48 Tempore of the Senate shall end on June 30, 2021, and a replacement appointed in accordance
49 with G.S. 90-625(1a).

50 **SECTION 4.3.** This Part becomes effective July 1, 2019.
51

1 **PART V. EFFECTIVE DATE**

2 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes
3 law.