

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 1033
SENATE BILL 1624

AN ACT TO REQUIRE PEOPLE TO BE LICENSED TO PRACTICE
ELECTROLOGY.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 88A.
"Electrolysis Practice Act.

"§ 88A-1. Short title.

This act may be cited as the 'Electrolysis Practice Act.'

"§ 88A-2. Purpose.

The purpose of this Chapter is 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.

"§ 88A-3. Definitions.

As used in this Chapter, unless the context requires otherwise:

- (1) 'Board' means the North Carolina Board of Electrolysis Examiners.
- (2) 'Electrolysis' means the permanent removal of hair by the application of an electrical current to the dermal papilla by a filament to cause decomposition, coagulation, or dehydration within the hair follicle as approved by the Food and Drug Administration of the United States Government.
- (3) 'Electrologist' or 'electrolocist' means a person who engages in the practice of electrolysis for permanent hair removal.
- (4) 'Electrology' means the art and practice relating to the removal of hair from the normal skin of the human body by application of an electric current to the hair papilla by means of a needle or needles so as to cause growth inactivity of the hair papilla and thus permanently remove the hair.

"§ 88A-4. Unlawful practice.

(a) Effective January 1, 1992, it shall be unlawful to engage in the practice of electrolysis in this State without a license.

(b) Any violation of this Chapter shall be a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00), or imprisonment for not more than 60 days, or both.

"§ 88A-5. Creation and membership of Board.

(a) The North Carolina Board of Electrolysis Examiners is created. The Board shall consist of five members as follows:

- (1) Three electrologists who have engaged in the practice of electrolysis for at least five years, one of whom shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one of whom shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and one of whom shall be appointed by the Governor.
- (2) A physician licensed under Chapter 90 of the General Statutes, who shall be nominated by the North Carolina Board of Medical Examiners and appointed by the Governor.
- (3) A public member, appointed by the Governor, who has not practiced electrolysis, who is not in training to become an electrologist, and who is not related to anyone who would be prohibited by this subdivision from serving on the Board as a public member.

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

(c) Each member shall be appointed for a term of three years and shall serve until a successor is appointed. Of the members initially appointed, one of the electrologist members shall serve a term of one year. The public member and the second electrologist member shall serve a term of two years. The physician member and the third electrologist member shall serve a term of three years. The terms of all initial appointments shall commence within 30 days of the effective date of this act. No member may serve more than two consecutive full terms.

(d) Vacancies shall be filled by the appropriate appointing authority within 30 days after the position is vacated. Appointees shall serve the remainder of the unexpired term and until their successors have been appointed and qualified.

(e) The Board may remove any of its members for gross neglect of duty, incompetence, or unprofessional conduct. A member subject to disciplinary proceedings shall be disqualified from all Board business until the charges are resolved. The Governor may also remove any member of the Board which he appoints.

(f) Each member of the Board shall receive per diem compensation and reimbursement for travel and subsistence in the amounts the Board votes upon and records in its minutes, provided the amounts do not exceed the amounts specified in G.S. 93B-5.

(g) The Board shall elect a Chairman, a Vice-Chairman, a Treasurer, and such other officers as are deemed necessary by the Board. All officers shall be elected annually by the Board for one-year terms and shall serve until their successors are elected and qualified.

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

"§ 88A-6. Powers and duties of the Board.

The Board shall have the following general powers and duties:

- (1) To administer and interpret this Chapter;
- (2) To adopt rules in the manner prescribed by Chapter 150B of the General Statutes as may be necessary to carry out the provisions of this Chapter;
- (3) To determine the qualifications of persons who are licensed or certified pursuant to this Chapter;
- (4) To issue, renew, deny, restrict, suspend, or revoke licenses and to carry out any of the other actions authorized by this Chapter;
- (5) To establish, publish, and enforce rules of professional conduct, and to regulate advertising by licensees;
- (6) To maintain a record of all proceedings and make available to persons licensed under this Chapter, and to other concerned parties, an annual report of all Board action;
- (7) To collect fees for licensure, licensure renewal, and other services deemed necessary to carry out the purpose of this Chapter;
- (8) To employ and fix the compensation of personnel, including an executive director, that the Board determines are necessary to carry out the provisions of this Chapter and to incur other expenses necessary to effectuate this Chapter;
- (9) To conduct investigations for the purpose of determining whether violations of this Chapter or grounds for disciplining persons licensed or certified under this Chapter exist; and,
- (10) To adopt a seal containing the name of the Board for use on all certificates, licenses, and official reports issued by it.

"§ 88A-7. Custody and use of funds.

The Treasurer or 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 Board is subject to the oversight of the State Auditor under Article 5A of Chapter 147 of the General Statutes.

"§ 88A-8. The Board may accept contributions, etc.

The Board may accept grants, contributions, devises, bequests, and gifts that shall be kept in the same account as the funds deposited in accordance with G.S. 88A-7 and shall be used to carry out the provisions of this Chapter.

"§ 88A-9. Expenses and fees.

(a) All salaries, compensation, and expenses incurred or allowed for the purpose of carrying out the purposes of this Chapter shall be paid by the Board exclusively out of the fees received by the Board as authorized by this Chapter, or funds received pursuant to G.S. 88A-7. 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 officers or employees may incur any expense, debt, or other financial obligation binding upon the State.

(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)	<u>Application for licensure as an electrologist</u>	<u>\$150.00</u>
(2)	<u>Licensure of electrology renewal</u>	<u>100.00</u>
(3)	<u>Application for certification as an electrology instructor</u>	<u>150.00</u>
(4)	<u>Certificate of electrology instructor renewal</u>	<u>40.00</u>
(5)	<u>Application for certification as a Board approved school of electrology</u>	<u>500.00</u>
(6)	<u>Certificate of Board approved school of electrology renewal</u>	<u>250.00</u>
(7)	<u>Late renewal charge</u>	<u>25.00</u>
(8)	<u>Reinstatement of expired license</u>	<u>150.00.</u>

"§ 88A-10. Requirements for licensure as an electrologist.

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

- (1) Submit an application on a form approved by the Board;
- (2) Be a resident of North Carolina;
- (3) Be 18 years of age or older;
- (4) Provide proof of graduation from a school certified by the Board pursuant to G.S. 88A-18; and,
- (5) Pass a written examination given by the Board.

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

(c) When the Board determines that an applicant has met all the qualifications for licensure, and has submitted the required fee, the Board shall issue a license to the applicant.

"§ 88A-11. Licensure without examination.

The Board may issue a license to practice electrology, without examination, to an applicant:

- (1) Who has been engaged in the practice of electrolysis prior to January 1, 1992, and who submits an application for licensure to the Board before December 31, 1991.
- (2) Who is certified or licensed in good standing to practice electrolysis in another state or other jurisdiction if the other state or jurisdiction grants a similar exclusion to an applicant from North Carolina who applies to practice electrology in that state or jurisdiction.

"§ 88A-12. License renewal.

(a) Every license issued pursuant to this Chapter must be renewed annually. On or before the date the current license expires, a person who desires to continue to practice electrology shall apply for license renewal to the Board on forms approved by the Board, provide evidence of the successful completion of a continuing educational program approved by the Board, meet the criteria for renewal established by the Board, and pay the required fee. The Board may provide for the late renewal of licensure upon payment of a late fee as set by the Board, but late renewal may not be granted more than 90 days after expiration of the license.

(b) Any person who has failed to renew his license for more than 90 days after expiration may have it reinstated by applying to the Board for reinstatement on a form approved by the Board, furnishing a statement of the reason for failure to apply for renewal prior to the deadline, and paying the required fee. The Board may require evidence of competency to resume practice before reinstating the applicant's license.

"§ 88A-13. Continuing education.

(a) The Board shall determine the number of hours and subject matter of continuing education required as a condition of license renewal. The Board may offer continuing education to the licensees under this act.

(b) Upon request, the Board may grant approval to a continuing education program or course upon finding that the program or course offers an educational experience designed to enhance the practice of electrology.

(c) The Board shall maintain and distribute, as appropriate, records of the educational course work successfully completed by each licensee, including the subject matter and the number of hours of each course.

"§ 88A-14. Inactive list.

Upon request by a licensee for inactive status, the Board shall place the licensee's name on the inactive list. While on the inactive list, the person shall not be subjected to renewal requirements and shall not practice electrology in North Carolina. When that person desires to be removed from the inactive list and returned to an active list, an application shall be submitted to the Board on a form furnished by the Board and the fee shall be paid for license renewal. The Board may require evidence of competency to resume practice before returning the applicant to the active status. Any person whose license has lapsed or expired for a period of five years or more shall be required to take and pass the examination for licensure before the license can be renewed.

"§ 88A-15. Exemptions from licensure.

The following individuals shall be permitted to practice electrology without a license:

- (1) Any physician licensed in accordance with Article 1 and Article 11 of Chapter 90 of the General Statutes.
- (2) A student at an approved school of electrology when electrolysis is performed in the course of study.
- (3) A person demonstrating on behalf of a manufacturer or distributor any electrolysis equipment or supplies, if such demonstration is performed without charge.

"§ 88A-16. Permanent establishment required.

(a) Electrolysis shall be practiced by a licensed person only in a permanent establishment, hereafter referred to as an office. The Board may adopt reasonable rules and regulations concerning the sanitation standards, equipment, and supplies to be used and observed in offices. Offices shall be subject to periodic inspection at any time during business hours by members of the Board or its agents or assistants.

(b) Every electrologist shall notify the Board in writing 30 business days prior to, but no later than 10 business days after, any change of address or opening of a new office.

(c) Every electrologist shall display his license in a conspicuous place in the office.

(d) Every electrologist may make calls outside the office. The Board shall adopt rules and regulations concerning the equipment and instruments to be used by an electrologist when treating patients outside the office.

"§ 88A-17. Requirements for certification as an electrology instructor.

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

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

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

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

"§ 88A-18. Renewal of instructor's certificate.

An instructor's certificate shall be renewed annually. On or before the date the current certificate expires, the applicant must submit an application for renewal of certification on a form approved by the Board, meet criteria for renewal established by the Board, and pay the required fee. Any person whose instructor's certificate has expired for a period of five years or more shall be required to take and pass the instructor's examination before the certificate can be renewed.

"§ 88A-19. Requirements for certification as a Board approved school of electrology.

(a) Any school that desires to be certified as a Board approved school of electrology shall:

- (1) Submit an application on a form approved by the Board;
- (2) Submit a detailed projected floor plan of the institutional area demonstrating adequate school facilities to accommodate students for

purposes of lectures, classroom instruction, and practical demonstration;

- (3) Submit a detailed list of the equipment to be used by the students in the practical course of their studies;
- (4) Submit a copy of the planned electrology curriculum consisting of the number of hours and subject matter determined by the Board, provided that the number of hours required shall not be less than 120 hours and not more than 600 hours;
- (5) Submit a certified copy of the school manual of instruction;
- (6) Submit the names and qualifications of the instructors certified in accordance with G.S. 88A-16; and,
- (7) Any additional information the Board may require.

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

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

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

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

(f) All epilators used in the school must be approved by the Food and Drug Administration of the United States Government.

"§ 88A-20. Certification renewal.

Every certificate issued pursuant to G.S. 88A-19 shall be renewed annually. On or before the date the current certificate expires, the applicant must submit an application for renewal of certification on a form approved by the Board, meet criteria for renewal established by the Board, and pay the required fee. Failure to renew the certificate within 90 days after the expiration date shall result in automatic forfeiture of any certification issued pursuant to this Chapter.

"§ 88A-21. Disciplinary authority of the Board.

(a) Grounds for disciplinary action shall include:

- (1) Conviction of, or finding of guilt with respect to, a crime in this State or any other jurisdiction, regardless of adjudication, if any element of the crime directly relates to the practice of electrolysis;
- (2) Obtaining, or attempting to obtain, a license to practice electrolysis by bribery or by fraudulent misrepresentation;
- (3) Malpractice or the inability to practice electrolysis with reasonable skill and safety;
- (4) Disseminating false, deceptive, or misleading advertising;
- (5) Judicial determination of mental incompetency;

- (6) The revocation, suspension, or denial of the person's license or certification to practice electrolysis in any other state or territory of the United States;
- (7) A finding, upon investigation by the Board, that the applicant or licensee is guilty of unprofessional conduct. 'Unprofessional conduct' includes any act which departs from, or fails to conform to, the minimum standards of acceptable and prevailing electrolysis practice;
- (8) Assisting, aiding, abetting, or procuring the practice of a person who is not licensed under this Chapter; and,
- (9) Violation of any provision of this Chapter, or any rule or regulation of the Board.

(b) In accordance with Chapter 150B of the General Statutes, the Board may require remedial education, issue a letter of reprimand, restrict, revoke, or suspend any license or certification issued pursuant to this Chapter or deny any application for licensure or certification if the Board determines that the applicant or licensee has committed any of the acts listed in subsection (a).

(c) The Board may reinstate a revoked license or remove licensure restrictions when it finds that the reasons for revocation or restriction no longer exist and that the person can reasonably be expected to practice electrology safely and properly.

"§ 88A-22. Enjoining illegal practices.

(a) If the Board finds that any person is violating any of the provisions of this Chapter, it may apply in its own name to the superior court for an injunction or restraining order to prevent that person from further violation. The court is empowered to grant an injunction regardless of whether any other enforcement action has been or may be instituted. All actions by the Board shall be governed by the North Carolina Rules of Civil Procedure.

(b) The venue for actions brought under this Chapter shall be the superior court in the county where the illegal or unlawful acts are alleged to have been committed, in the county where the defendant resides, or in the county where the Board maintains its offices and records.

"§ 88A-23. Reports and immunity from suit.

Any person who has reasonable cause to suspect misconduct or incapacity of a licensee, or who has reasonable cause to suspect that any person is in violation of this Chapter, shall report the relevant facts to the Board. Upon the receipt of such charge, or upon its own initiative, the Board may give notice of an administrative hearing or may, after diligent investigation, dismiss unfounded charges. Any person making a report pursuant to this section shall be immune from any criminal prosecution or civil liability resulting therefrom unless such person knew the report was false or acted in reckless disregard of whether the report was false."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 27th day of July, 1990.