

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 937
Finance Committee Substitute Adopted 6/28/90

Short Title: Electrolysis Practice Act.

(Public)

Sponsors:

Referred to:

April 19, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE PEOPLE TO BE LICENSED TO PRACTICE
3 ELECTROLOGY.

4 The General Assembly of North Carolina enacts:

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

7 **“CHAPTER 88A.**

8 **“ELECTROLYSIS PRACTICE ACT.**

9 **“§ 88A-1. Short title.**

10 This act may be cited as the ‘Electrolysis Practice Act.’

11 **“§ 88A-2. Purpose.**

12 The purpose of this Chapter is to ensure minimum standards of competency, to
13 protect the public from misrepresentation of status by persons who hold themselves out
14 to be ‘certified electrologists’, and to provide the public with safe care by the mandatory
15 licensing of electrologists.

16 **“§ 88A-3. Definitions.**

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

18 (1) ‘Board’ means the North Carolina Board of Electrolysis Examiners.

19 (2) ‘Electrolysis’ means the permanent removal of hair by the application
20 of an electrical current to the dermal papilla by a filament to cause
21 decomposition, coagulation, or dehydration within the hair follicle as
22 approved by the Food and Drug Administration of the United States
23 Government.

1 (3) 'Electrologist' or 'electrolocist' means a person who engages in the
2 practice of electrolysis for permanent hair removal.

3 (4) 'Electrology' means the art and practice relating to the removal of hair
4 from the normal skin of the human body by application of an electric
5 current to the hair papilla by means of a needle or needles so as to
6 cause growth inactivity of the hair papilla and thus permanently
7 remove the hair.

8 **"§ 88A-4. Unlawful practice.**

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

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

14 **"§ 88A-5. Creation and membership of Board.**

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

17 (1) Three electrologists who have engaged in the practice of electrolysis
18 for at least five years.

19 (2) A physician licensed under Chapter 90 of the General Statutes.

20 (3) A public member, who has not practiced electrolysis, who is not in
21 training to become an electrologist, and who is not related to anyone
22 who would be prohibited by this subdivision from serving on the
23 Board as a public member.

24 (b) The licensed physician shall be appointed by the North Carolina Board of
25 Medical Examiners. The electrologist members and the public member shall be
26 appointed by the Governor.

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

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

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

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

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

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

8 **"§ 88A-6. Powers and duties of the Board.**

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

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

34 **"§ 88A-7. Custody and use of funds.**

35 The Treasurer or the Executive Director shall deposit all fees payable to the Board in
36 financial institutions designated by the Board as official depositories. The funds shall
37 be deposited in the name of the Board and shall be used to pay all expenses incurred by
38 the Board in carrying out the purposes of this Chapter. The Board shall be audited
39 annually by the State Auditor.

40 **"§ 88A-8. The Board may accept contributions, etc.**

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

44 **"§ 88A-9. Expenses and fees.**

1 (a) All salaries, compensation, and expenses incurred or allowed for the purpose
2 of carrying out the purposes of this Chapter shall be paid by the Board exclusively out
3 of the fees received by the Board as authorized by this Chapter, or funds received
4 pursuant to G.S. 88A-7. No salary, expense, or other obligations of the Board may be
5 charged against the General Fund of the State. Neither the Board nor any of its officers
6 or employees may incur any expense, debt, or other financial obligation binding upon
7 the State.

8 (b) All fees may be calculated by the Board in amounts sufficient to pay the costs
9 of administration of this act, but in no event may they exceed the following:

- 10 (1) Application for licensure as an
11 electrologist \$150.00
12 (2) Licensure of electrology renewal 100.00
13 (3) Application for certification as
14 an electrology instructor 150.00
15 (4) Certificate of electrology
16 instructor renewal 40.00
17 (5) Application for certification
18 as a Board approved school of
19 electrology 500.00
20 (6) Certificate of Board approved
21 school of electrology renewal 250.00
22 (7) Late renewal charge 25.00
23 (8) Reinstatement of expired
24 license 150.00.

25 **"§ 88A-10. Requirements for licensure as an electrologist.**

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

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

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

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

41 **"§ 88A-11. Licensure without examination.**

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

1 (1) Who has been engaged in the practice of electrolysis prior to January
2 1, 1992, and who submits an application for licensure to the Board
3 before December 31, 1991.

4 (2) Who is certified or licensed in good standing to practice electrolysis in
5 another state or other jurisdiction if the other state or jurisdiction
6 grants a similar exclusion to an applicant from North Carolina who
7 applies to practice electrology in that state or jurisdiction.

8 **"§ 88A-12. License renewal.**

9 (a) Every license issued pursuant to this Chapter must be renewed annually. On
10 or before the date the current license expires, a person who desires to continue to
11 practice electrology shall apply for license renewal to the Board on forms approved by
12 the Board, provide evidence of the successful completion of a continuing educational
13 program approved by the Board, meet the criteria for renewal established by the Board,
14 and pay the required fee. The Board may provide for the late renewal of licensure upon
15 payment of a late fee as set by the Board, but late renewal may not be granted more than
16 90 days after expiration of the license.

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

22 **"§ 88A-13. Continuing education.**

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

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

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

32 **"§ 88A-14. Inactive list.**

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

42 **"§ 88A-15. Exemptions from licensure.**

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

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

8 **"§ 88A-16. Permanent establishment required.**

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

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

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

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

22 **"§ 88A-17. Requirements for certification as an electrology instructor.**

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

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

26 (2) Be a licensed electrologist;

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

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

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

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

38 **"§ 88A-18. Renewal of instructor's certificate.**

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

1 **"§ 88A-19. Requirements for certification as a Board approved school of**
2 **electrology.**

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

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

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

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

12 (4) Submit a copy of the planned electrology curriculum consisting of the
13 number of hours and subject matter determined by the Board, provided
14 that the number of hours required shall not be less than 120 hours and
15 not more than 600 hours;

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

17 (6) Submit the names and qualifications of the instructors certified in
18 accordance with G.S. 88A-16; and,

19 (7) Any additional information the Board may require.

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

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

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

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

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

32 **"§ 88A-20. Certification renewal.**

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

39 **"§ 88A-21. Disciplinary authority of the Board.**

40 (a) Grounds for disciplinary action shall include:

41 (1) Conviction of, or finding of guilt with respect to, a crime in this State
42 or any other jurisdiction, regardless of adjudication, if any element of
43 the crime directly relates to the practice of electrolysis;

- 1 (2) Obtaining, or attempting to obtain, a license to practice electrolysis by
2 bribery or by fraudulent misrepresentation;
3 (3) Malpractice or the inability to practice electrolysis with reasonable
4 skill and safety;
5 (4) Disseminating false, deceptive, or misleading advertising;
6 (5) Judicial determination of mental incompetency;
7 (6) The revocation, suspension, or denial of the person's license or
8 certification to practice electrolysis in any other state or territory of the
9 United States;
10 (7) A finding, upon investigation by the Board, that the applicant or
11 licensee is guilty of unprofessional conduct. 'Unprofessional conduct'
12 includes any act which departs from, or fails to conform to, the
13 minimum standards of acceptable and prevailing electrolysis practice;
14 (8) Assisting, aiding, abetting, or procuring the practice of a person who is
15 not licensed under this Chapter; and,
16 (9) Violation of any provision of this Chapter, or any rule or regulation of
17 the Board.

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

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

26 **"§ 88A-22. Enjoining illegal practices.**

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

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

37 **"§ 88A-23. Reports and immunity from suit.**

38 Any person who has reasonable cause to suspect misconduct or incapacity of a
39 licensee, or who has reasonable cause to suspect that any person is in violation of this
40 Chapter, shall report the relevant facts to the Board. Upon the receipt of such charge, or
41 upon its on initiative, the Board may give notice of an administrative hearing or may,
42 after diligent investigation, dismiss unfounded charges. Any person making a report
43 pursuant to this section shall be immune from any criminal prosecution or civil liability

1 resulting therefrom unless such person knew the report was false or acted in reckless
2 disregard of whether the report was false."

3 Sec. 2. This act is effective upon ratification.