

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 375
SENATE BILL 631

AN ACT TO AMEND THE NORTH CAROLINA PRACTICING PSYCHOLOGIST
LICENSING ACT.

The General Assembly of North Carolina enacts:

Section 1. Article 18A of Chapter 90 of the General Statutes reads as rewritten:

"ARTICLE 18A.
"Psychology Practice Act.

"§ 90-270.1. Title; purpose.

(a) This Article shall be known and may be cited as the 'Practicing Psychologist Licensing Psychology Practice Act.'

(b) The practice of psychology in North Carolina is hereby declared to affect the public health, safety, and welfare, and to be subject to regulation to protect the public from the practice of psychology by unqualified persons and from unprofessional conduct by persons licensed to practice psychology.

"§ 90-270.2. Definitions.

~~"(a) "Accredited education institution" means a college or university chartered by the State and accredited by the appropriate regional association of colleges and secondary schools.~~

~~(b) "Board" means the North Carolina State Board of Examiners of Practicing Psychologists.~~

~~(c) "Licensed practicing psychologist" means an individual to whom a license has been issued pursuant to the provisions of this Article, and whose license is in force and not suspended or revoked.~~

~~(d) "Practice of psychology" within the meaning of this Article is defined as rendering, or offering to render, professional psychological services to individuals, singly or in groups, whether in the general public or in organizations, either public or private, for a fee, monetary or otherwise.~~

~~(e) "Professional psychological services" means the application of psychological principles and procedures for the purposes of understanding, predicting, or influencing the behavior of individuals in order to assist in their attainment of maximum personal growth; optimal work, family, school and interpersonal relationships; and healthy personal adjustment. The application of psychological principles and procedures includes some of all or [some or all of] the following, but is not restricted to: interviewing, counseling, and psychotherapy; administering and interpreting instruments for the assessment and evaluation of mental abilities, aptitudes, interests,~~

attitudes, personality characteristics, emotions, and motivation; diagnosis, prevention, and amelioration of adjustment problems; hypnosis; the resolution of interpersonal and social conflict; educational and vocational counseling; personnel selection; and the evaluation and planning for effective work and learning situations. Teaching, writing, the giving of public speeches or lectures, and research concerned with psychological principles, or the application of psychological principles, are not included in professional psychological services within the meaning of this Article.

(f) "Psychological associate" is an individual, licensed within the meaning of this Article, who offers to render, or renders professional psychological services such as interviewing or administering and interpreting tests of mental abilities, interests, aptitudes, and personality characteristics for such purposes as psychological evaluation, or for educational, vocational or personnel selection, guidance or placement. The psychological associate does not engage in overall personality appraisal or classification, personality counseling or personality readjustment techniques except under qualified supervision in accordance with the duly adopted rules and regulations of the Board.

(g) "Psychotherapy" within the meaning of this Article means the use of learning or other psychological behavioral modification methods in a professional relationship to assist a person or persons to modify feelings, attitudes, and behavior which are intellectually, socially, or emotionally maladjustive or ineffectual.

The following definitions apply in this Article:

- (1) Board. – The North Carolina Psychology Board.
- (2) Examination. – Any and all examinations that are adopted by the Board and administered to applicants and licensees, including, but not limited to, the national examination, Board-developed examinations, and other examinations that assess the competency and ethics of psychologists and applicants.
- (3) Jurisdiction. – Any governmental authority, including, but not limited to, a state, a territory, a commonwealth, a district of the United States, and a country or a local governmental authority thereof, that licenses, certifies, or registers psychologists.
- (4) Health services. – Those activities of the practice of psychology that include the delivery of preventive, assessment, or therapeutic intervention services directly to individuals whose growth, adjustment, or functioning is actually impaired or may be at substantial risk of impairment.
- (5) Institution of higher education. – A university, a college, a professional school, or another institution of higher learning that:
 - a. In the United States, is regionally accredited by bodies approved by the Council on Postsecondary Accreditation.
 - b. In Canada, holds a membership in the Association of Universities and Colleges of Canada.
 - c. In another country, is accredited by the comparable official organization having this authority.

- (6) Licensed psychologist. – An individual to whom a license has been issued pursuant to the provisions of this Article, whose license is in force and not suspended or revoked, and whose license permits him or her to engage in the practice of psychology as defined in this Article.
- (7) Licensed psychological associate. – An individual to whom a license has been issued pursuant to the provisions of this Article, whose license is in force and not suspended or revoked, and whose license permits him or her to engage in the practice of psychology as defined in this Article.
- (8) Practice of psychology. – The observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, and procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior or of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, or mental health. The practice of psychology includes, but is not limited to: psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct, as well as of the psychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. Psychological services may be rendered to individuals, families, groups, and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered.
- (9) Psychologist. – A person represents himself or herself to be a psychologist if that person uses any title or description of services incorporating the words 'psychology', 'psychological', 'psychologic', or 'psychologist', states that he or she possesses expert qualification in any area of psychology, or provides or offers to provide services defined as the practice of psychology in this Article. All persons licensed under this Article may present themselves as psychologists, as may those persons who are exempt by G.S. 90-270.4 and those who are qualified applicants under G.S. 90-270.5.

"§ 90-270.3. Practice of medicine and optometry not permitted.

Nothing in this Article shall be construed as permitting licensed ~~practicing~~ psychologists or licensed psychological associates to engage in any manner in all or any of the parts of the practice of medicine or optometry licensed under Articles 1 and 6 of Chapter 90 of the General Statutes, including, among others, the diagnosis and correction of visual and muscular anomalies of the human eyes and visual apparatus,

eye exercises, orthoptics, vision training, visual training and developmental vision. A licensed ~~practicing~~ psychologist or licensed psychological associate shall assist his or her client or patient in obtaining professional help for all aspects of his ~~the client's or patient's~~ problems that fall outside the boundaries of his ~~the~~ psychologist's own competence, including provision for the diagnosis and treatment of relevant medical or optometric problems.

"§ 90-270.4. Exemptions to this Article.

(a) Nothing in this Article shall be construed as ~~limiting the activities, services, and use of official title on the part of any person in the regular employ of a federal, county or municipal government, or other political subdivision or agency thereof, or of the State Department of Public Instruction, or of a duly accredited or chartered educational institution, insofar as such activities and services are a part of the duties and responsibilities of his position. Such duties and responsibilities may include, but are not restricted to, teaching, writing, conducting research, the giving of public speeches or lectures, the giving of legal testimony, consulting with publishers, serving on boards, commissions, and review committees of public and nonprofit private agencies, with or without remuneration so long as such activities do not involve the practice of psychology as defined in this Article.~~ to prevent the teaching of psychology, the conduct of psychological research, or the provision of psychological services or consultation to organizations or institutions, provided that such teaching, research, service, or consultation does not involve the delivery or supervision of direct psychological services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services, without regard to the source or extent of payment for services rendered. Nothing in this Article shall prevent the provision of expert testimony by psychologists who are otherwise exempted by this act. Persons holding an earned master's, specialist, or doctoral degree in psychology from an institution of higher education may use the title 'psychologist' in activities permitted by this subsection.

(b) Nothing in this Article shall be construed as limiting the activities, services, and use of official titles on the part of any person in the regular employ of the State of North Carolina or whose employment is included under the State Personnel Act who has served in a position of employment involving the practice of psychology as defined in this Article, provided that the person was serving in this capacity on December 31, 1979. ~~In addition to the requirements for licensing contained in Article 18A, an employee of a State agency or department or an employee whose employment is included under the State Personnel Act who has served in a position involving the practice of psychology for five consecutive years by December 31, 1984, and who has graduate training in psychology and experience as the Board finds to be the equivalent of a master's degree in psychology, shall be permitted to take the examination for licensing as a psychological associate. Provided, however, that any agency or department of the State of North Carolina which employs psychologists may petition the State Personnel Commission for exemption from the requirements of this act, which exemption shall be granted upon a showing that there is an insufficient number of~~

~~licensed psychologists available to fill all authorized psychologists' positions in such agency or department.~~

~~(a1) Nothing in this Article shall be construed as limiting State or local governmental programs from hiring nonlicensed applicants qualified for psychology positions, providing that the person hired has not previously been denied licensure on grounds applicable at the time of his employment by the governmental program and providing that the person hired makes application for a license in North Carolina within six months of being employed by the governmental program. After making application for a license, employees hired under this provision must take the first examination for a license to which they are admitted by the Board, and if the employee fails the examination, the employee must pass the examination the next time it is given to remain employed in a psychology position. An employee hired under this provision who fails the examination or leaves the governmental program after six months without making application for a license may not subsequently be hired by another governmental program without first becoming licensed.~~

~~(a2)(c) Persons certified by the State Board of Education as school psychologists and employed by serving as regular salaried employees of the Department of Public Instruction or local boards of education are not required to be licensed under this Article in order to perform the duties for which they are employed by serve the Department of Public Instruction or local boards of education, and nothing in this Article shall be construed as limiting their activities, services services, or titles while performing those duties for which they are employed by serve the Department of Public Instruction or local boards of education. If a person certified by the State Board of Education as a school psychologist and employed by serving as a regular salaried employee of the Department of Public Instruction or a local board of education is or becomes a licensed as a practicing psychologist under this Article, he or she shall be required to comply with all conditions, requirements requirements, and obligations imposed by statute or by Board rules and regulations upon all other practicing licensed psychologists licensed under this Article as a condition to retaining that license. Other provisions of this Article notwithstanding, if a person certified by the State Board of Education as a school psychologist and employed by serving as a regular salaried employee of the Department of Public Instruction or a local board of education is or becomes licensed as a licensed psychological associate under this Article, he or she shall not be required to comply with the supervision requirements otherwise applicable to licensed psychological associates by Board rules and regulations or by this Article in the course of his or her regular salaried employment with the Department of Public Instruction or a local board of education, but he or she shall be required to comply with all other conditions, requirements requirements, and obligations imposed by statute or a local board of education or by Board rules and regulations upon all other licensed psychological associates licensed under this Article as a condition to retaining that license.~~

~~(b)(d) Nothing in this Article shall be construed as limiting the activities, services services, and use of title designating training status of a student, intern, or fellow fellow, or other trainee preparing for the practice of psychology under qualified the supervision~~

and responsibility of a qualified psychologist in an accredited educational institution of higher education or service facility, provided that such activities and services constitute a part of his or her course of study. study as a matriculated graduate student in psychology. For individuals pursuing postdoctoral training or experience in psychology, nothing shall limit the use of a title designating training status, but the Board may develop rules defining qualified supervision, disclosure of supervisory relationships, frequency of supervision, settings to which trainees may be assigned, activities in which trainees may engage, qualifications for trainee status, nature of responsibility assumed by the supervisor, and the structure, content, and organization of postdoctoral experience.

~~(e) Nothing in this Article shall be construed as limiting the activities and services of any persons who are salaried employees of federal, State, county, municipal or other political subdivisions, or any agencies thereof, or a duly chartered or accredited educational institution, or private business, provided such employees are performing those duties for which they are employed by such organizations, and within the confines of such organization, and provided that they or their organization are not engaged in the practice of psychology as defined in this Article. In case the organization is a private business engaged in the practice of psychology as defined in this Article, such salaried employees shall be supervised by a licensed psychologist or a psychological associate.~~

~~(d) Nothing in this Article shall be construed as restricting the use of the term "social psychologist" by any person who has been graduated with a doctoral degree in sociology or social psychology from an institution whose credits in sociology or social psychology are acceptable by an accredited educational institution, and who has passed comprehensive examinations in the field of social psychology as part of the requirement for the doctoral degree or has had equivalent specialized training in social psychology, and who has filed with the Board a statement of the facts demonstrating his compliance with the aforesaid conditions of this subsection.~~

~~(e) Nothing in this Article shall be construed to limit or restrict physicians and surgeons or optometrists authorized to practice under the laws of North Carolina or to restrict prevent qualified members of other professional groups who render counseling and other helping services including counselors, clergymen, social workers, and other similar professions, or to restrict qualified members of any other professional groups in the practice of their respective professions, from rendering services consistent with their professional training and code of ethics, provided they do not hold themselves out to the public by any title or description stating or implying that they are practicing psychologists or psychological associates, or are licensed licensed, certified, or registered to practice psychology.~~

~~(f) Nothing in this Article is to be construed as prohibiting a psychologist who is not a resident of North Carolina who holds an earned doctoral, master's, or specialist degree in psychology from an institution of higher education, and who is licensed or certified only in another jurisdiction, from rendering professional psychological services engaging in the practice of psychology, including the provision of health services, in this State for not more than up to five days in any calendar year. All such psychologists shall comply with supervision requirements established by the Board, and shall notify~~

the Board in writing of their intent to practice in North Carolina, prior to the provision of any services in this State. The Board shall adopt rules implementing and defining this provision.

(g) Except as otherwise provided in this Article, if a person exempt from the provisions of this Article and not required to be licensed under this Article is or becomes licensed under this Article, he or she shall be required to comply with all conditions, ~~requirements~~ requirements, and obligations imposed by Board rules ~~and regulations~~ or by statute upon all other psychologists licensed under this Article.

(h) A licensee whose license is suspended or revoked pursuant to the provisions of G.S. 90-270.15, or an applicant who is notified that he or she has failed an examination for the second time, as specified in G.S. 90-270.5(b), or an applicant who is notified that licensure is denied pursuant to G.S. 90-270.11 or G.S. 90-270.15, or an applicant who discontinues the application process at any point must terminate the practice of psychology, in accordance with the duly adopted rules of the Board.

"§ 90-270.5. Application; examination; supervision; provisional and Temporary temporary licenses.

(a) Except as otherwise exempted by G.S. 90-270.4, persons who are qualified by education to practice psychology in this State must make application for licensure to the Board within 30 days of offering to practice or undertaking the practice of psychology in North Carolina. Applications must then be completed for review by the Board within the time period stipulated in the duly adopted rules of the Board. Persons who practice or offer to practice psychology for more than 30 days without making application for licensure, who fail to complete the application process within the time period specified by the Board, or who are denied licensure pursuant to G.S. 90-270.11 or G.S. 90-270.15, may not subsequently practice or offer to practice psychology without first becoming licensed.

(b) After making application for licensure, applicants must take the first examination to which they are admitted by the Board. If applicants fail the examination, they may continue to practice psychology until they take the next examination to which they are admitted by the Board. If applicants fail the second examination, they shall cease the practice of psychology per G.S. 90-270.4(h), and may not subsequently practice or offer to practice psychology without first reapplying for and receiving a license from the Board. An applicant who does not take an examination on the date prescribed by the Board shall be deemed to have failed that examination.

(c) All individuals who have yet to apply and who are practicing or offering to practice psychology in North Carolina, and all applicants who are practicing or offering to practice psychology in North Carolina, shall at all times comply with supervision requirements established by the Board. The Board shall specify in its rules the format, setting, content, time frame, amounts of supervision, qualifications of supervisors, disclosure of supervisory relationships, the organization of the supervised experience, and the nature of the responsibility assumed by the supervisor. Individuals shall be supervised for all activities comprising the practice of psychology until they have met the following conditions:

- (1) For licensed psychologist applicants, until they have passed the examination to which they have been admitted by the Board, have been notified of the results, have completed supervision requirements specified in subsection (d) of this section, and have been informed by the Board of permanent licensure as a licensed psychologist; or
- (2) For licensed psychological associate applicants, until they have passed the examination to which they have been admitted by the Board, have been notified of the results, and have been informed by the Board of permanent licensure as a licensed psychological associate, after which time supervision is required only for those activities specified in subsection (e) of this section.

(d) For permanent licensure as a licensed psychologist, an otherwise qualified psychologist must secure two years of acceptable and appropriate supervised experience germane to his or her training and intended area of practice as a psychologist. The Board shall permit such supervised experience to be acquired on a less than full-time basis, and shall additionally specify in its rules the format, setting, content, time frame, amounts of supervision, qualifications of supervisors, disclosure of supervisory relationships, the organization of the supervised experience, and the nature of the responsibility assumed by the supervisor. Supervision of health services must be received from qualified licensed psychologists holding health services provider certificates, or from other psychologists recognized by the Board in accordance with Board rules.

- (1) One of these years of experience shall be postdoctoral, and for this year, the Board may require, as specified in its rules, that the supervised experience be comparable to the knowledge and skills acquired during formal doctoral or postdoctoral education, in accordance with established professional standards.
- (2) One of these years may be predoctoral and the Board shall establish rules governing appropriate supervised predoctoral experience.
- (d) (3) A psychologist who meets all other requirements of G.S. 90-270.11(a) ~~for licensing as a licensed psychologist, except the two years of acceptable and appropriate supervised experience, may be issued a temporary provisional license by the Board for the practice of psychology for a period not exceeding two years, provided he practices under the supervision of a licensed practicing psychologist or a psychologist acceptable to the Board as an eligible supervisor. psychology. If the psychologist ceases to practice at any time before completion of the two years of acceptable and appropriate supervised experience, terminates the supervised experience before the completion of two years, the Board may place the psychologist on inactive status, during which time supervision will not be required. required, and the practice of psychology or the offer to practice psychology is prohibited. In the event a practicing licensed psychologist issued a temporary provisional license under this~~

~~subsection is placed on inactive status or practices is completing the supervised experience on a part-time basis, the Board may renew the temporary-provisional license as necessary until such time as the psychologist has completed the equivalent of two years' full-time practice under acceptable and appropriate supervision as defined by the Board. supervised experience.~~

(e) A licensed psychological associate shall be supervised by a qualified licensed psychologist, or other qualified professionals, in accordance with Board rules specifying the format, setting, content, time frame, amounts of supervision, qualifications of supervisors, disclosure of supervisory relationships, the organization of the supervised experience, and the nature of the responsibility assumed by the supervisor. A licensed psychological associate who provides health services shall be supervised, for those activities requiring supervision, by a qualified licensed psychologist holding health services provider certification or by other qualified professionals under the overall direction of a qualified licensed psychologist holding health services provider certification, in accordance with Board rules. Except as provided below, supervision, including the supervision of health services, is required only when a licensed psychological associate engages in: assessment of personality functioning; neuropsychological evaluation; psychotherapy, counseling, and other interventions with clinical populations for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior; and, the use of intrusive, punitive, or experimental procedures, techniques, or measures. The Board shall adopt rules implementing and defining this provision, and as the practice of psychology evolves, may identify additional activities requiring supervision in order to maintain acceptable standards of practice.

~~(a)(f) A nonresident psychologist who is either licensed or certified by a similar Board of another state, or territory of the United States, or of a foreign country or province in another jurisdiction whose standards, in the opinion of the Board, are, at the date of his or her certification or licensure, substantially equivalent to or higher than the requirement-requirements of this Article, may be issued a temporary license by the Board for the practice of psychology in this State for a period not to exceed 30 consecutive business days, or 45 business days in any 90-day period; provided that such a psychologist submits to the Board on a minimum of 10 days' written notice evidence of certification or licensing, along with a report of the nature of his intended practice. the aggregate of 30 days in any calendar year. The Board may issue temporary health services provider certification simultaneously if the nonresident psychologist can demonstrate two years of acceptable supervised health services experience. All temporarily licensed psychologists shall comply with supervision requirements established by the Board.~~

~~(b) A nonresident psychologist who meets all other requirements of G.S. 90-270.11(a) or 90-270.11(b) for licensing, and is not licensed or certified in his place of residence, may be issued a temporary license by the Board for the practice of psychology in this State for the same period and under the same conditions as in G.S.~~

90-270.5(a) above, except that summary of his qualifications in lieu of evidence of certification or licensing must be submitted to the Board for its appraisal.

(e) A psychologist who comes to reside in North Carolina, and who is otherwise qualified for licensing may be issued a temporary license by the Board at the appropriate level for the practice of psychology until such time as the Board conducts its regular licensing examinations.

(e) Fees for temporary licenses shall be as prescribed by the Board.

(f) An applicant for licensure as a practicing psychologist or as a psychological associate, who meets all requirements for licensure except having passed the examination, may be issued a temporary license after receiving the degree required by G.S. 90-270.11 until he or she can take the next regularly scheduled examination and can be notified of the results.

(g) An applicant for reinstatement of licensure, whose license was suspended under G.S. 90-270.15(f), may be issued a temporary license and temporary health services provider certification in accordance with the duly adopted rules of the Board.

"§ 90-270.6. Board of Examiners in Psychology; Psychology Board; appointment; term of office; composition.

For the purpose of carrying out the provisions of this Article, there is created a North Carolina State Board of Examiners of Practicing Psychologists, Psychology Board, which shall consist of seven members appointed by the Governor. At all times three members shall be licensed practicing psychologists, two members shall be licensed psychological associates, and two members shall be members of the public who are not licensed under this Article. Each member of the Board must reside in a different congressional district at the time of the appointment. ~~In the event that the composition of the Board on the effective date of this act does not conform to that prescribed in the preceding sentence, such composition shall be corrected thereafter by appropriate appointments as terms expire and as vacancies occur on the Board.~~ Due consideration shall also be given to the adequate representation of the various fields and areas of practice of psychology. Terms of office shall be three years. All terms of service on the Board expire June 30 in appropriate years. As the term of a psychologist member expires, or as a vacancy of a psychologist member occurs for any other reason, the North Carolina Psychological Association, or its successor, shall, ~~with having sought~~ the advice of the ~~chairmen~~ chairs of the graduate departments of psychology in the State, for each vacancy, submit to the Governor a list of the names of three eligible ~~persons, and from persons.~~ From this list the Governor shall make the appointment for a full term, or for the remainder of the unexpired term, if any. Each Board member shall serve until his or her successor has been appointed. ~~The Governor shall appoint the two public members on July 1, 1983. One member shall serve an initial term of two years and one member shall serve an initial term of three years. Thereafter all terms shall be for three years.~~ As the term of a public member expires, or if one should become vacant for any reason, the Governor shall appoint a new public member within 60 days of the vacancy's occurring. No member, either public or licensed under this Article, shall serve more than ~~two~~ three complete consecutive terms.

"§ 90-270.7. Qualifications of Board ~~members.~~ members; removal of Board members.

(a) Each licensed psychologist and licensed psychological associate member of the Board shall have the following qualifications:

- (1) Be ~~Shall be~~ a resident of this State and a citizen of the United States;
- (2) ~~Except for public members, hold either a license as a practicing psychologist or a license as a psychological associate issued under this Article;~~
- (3) (2) Except for public members, Shall be at the time of his appointment, appointment and shall have been for at least five years prior thereto, actively engaged as a psychologist in one or more branches of psychology or in the education and training of master's, specialist, doctoral-doctoral, or postdoctoral students of psychology or in psychological research, and such activity during the two years preceding appointment shall have occurred primarily in this State.
- (3) Shall be free of conflict of interest in performing the duties of the Board.

(b) Each public member of the Board shall have the following qualifications:

- (1) Shall be a resident of this State and a citizen of the United States;
- (2) Shall be free of conflict of interest or the appearance of such conflict in performing the duties of the Board;
- (3) Shall not be a psychologist, an applicant or former applicant for licensure as a psychologist, or a member of a household that includes a psychologist.

(c) A Board member shall be automatically removed from the Board if he or she:

- (1) Ceases to meet the qualifications specified in this subsection;
- (2) Fails to attend three successive Board meetings without just cause as determined by the remainder of the Board;
- (3) Is found by the remainder of the Board to be in violation of the provisions of this Article or to have engaged in immoral, dishonorable, unprofessional, or unethical conduct, and such conduct is deemed to compromise the integrity of the Board;
- (4) Is found to be guilty of a felony or an unlawful act involving moral turpitude by a court of competent jurisdiction or is found to have entered a plea of **nolo contendere** to a felony or an unlawful act involving moral turpitude;
- (5) Is found guilty of malfeasance, misfeasance, or nonfeasance in relation to his or her Board duties by a court of competent jurisdiction; or
- (6) Is incapacitated and without reasonable likelihood of resuming Board duties, as determined by the Board.

"§ 90-270.8. Compensation of members; expenses; employees.

Members of the Board shall receive no compensation for their services, but shall receive their necessary expenses incurred in the performance of duties required by this Article, as prescribed for State boards generally. The Board may employ necessary

personnel for the performance of its functions, and fix the compensation therefor, within the limits of funds available to the Board; however, the Board shall not employ any of its own members to perform inspectional or similar ministerial tasks for the Board. In no event shall the State of North Carolina be liable for expenses incurred by the Board in excess of the income derived from this Article.

"§ 90-270.9. Election of officers; meetings; adoption of seal and appropriate rules; powers of the Board.

The Board shall annually elect the ~~chairman~~chair and ~~vice-chairman~~vice-chair from among its membership. The Board shall meet annually, at a time set by the Board, in the City of Raleigh, and it may hold additional meetings and conduct business at any place in the State. Four members of the Board shall constitute a quorum. The Board may empower any member to conduct any proceeding or investigation necessary to its purposes and may empower its agent or counsel to conduct any investigation necessary to its purposes, but any final action requires a quorum of the Board. The Board may order that any records concerning the ~~provision of psychological services~~practice of psychology relevant to a complaint received by the Board or an inquiry or investigation conducted by or on behalf of the Board be produced before the Board or for inspection and copying by representatives of or counsel to the Board by the custodian of such records. The Board shall adopt an official seal, which shall be affixed to all licenses issued by it. The Board shall make such rules and regulations not inconsistent with law, as may be necessary to regulate its proceedings and otherwise to implement the provisions of this Article.

"§ 90-270.10. Annual report.

On June 30 of each year, ~~beginning with the year 1968,~~ the Board shall submit a report to the Governor of the Board's activities since the preceding July 1, including the names of all ~~practicing licensed~~ psychologists and licensed psychological associates to whom licenses have been granted under this Article, any cases heard and decisions rendered in matters before the Board, the recommendations of the Board as to future actions and policies, and a financial report. Each member of the Board shall review and sign the report before its submission to the Governor. Any Board member shall have the right to record a dissenting view.

"§ 90-270.11. ~~Licensing and examination.~~ Licensure; examination; foreign graduates.

(a) ~~Practicing Licensed~~ Psychologist. –

(1) The Board shall issue a permanent license to practice psychology to any applicant who pays an application fee of ~~fifty dollars (\$50.00)~~ and ~~an additional any applicable examination fee of not more than two hundred dollars (\$200.00)~~ as specified in G.S. 90-270.18(b), who passes a satisfactory an examination in psychology as prescribed by the Board, and who submits evidence verified by oath and satisfactory to the Board that he or she:

a.(1) Is at least 18 years of age;

b.(2) Is of good moral character;

- e.~~(3)~~ Has received a doctoral degree based on a planned and directed program of studies in psychology from an ~~accredited educational institution;~~ institution of higher education. The degree program, wherever administratively housed, must be publicly identified and clearly labeled as a psychology program. The Board shall adopt rules implementing and defining these provisions, including, but not limited to, such factors as residence in the educational program, internship and related field experiences, number of course credits, course content, numbers and qualifications of faculty, and program identification and identity. and subsequent to receiving a doctoral degree
- (4) ~~has~~ Has had at least two years of acceptable and appropriate supervised experience germane to ~~his/~~ his or her ~~training and intended area of practice as a psychologist.~~ psychologist as specified in G.S. 90-270.5(d). ~~The Board shall adopt rules and regulations implementing and defining these provisions, including but not limited to such factors as residence in the program, internship and related field experiences, numbers of course credits, course content, numbers and qualifications of faculty, and program identification and identity.~~
- d. ~~Has not within the preceding six months failed an examination given by the Board.~~
- (2) ~~In order for a psychological associate to be upgraded to a practicing psychologist, the applicant must comply with the requirements set forth in subdivision (1) hereof and shall pay an examination fee of not more than two hundred dollars (\$200.00).~~
- (b) Licensed Psychological Associate. –
 - (1) The Board shall issue a permanent license to practice psychology to any applicant who pays an application fee of ~~fifty dollars (\$50.00) and an additional any applicable examination fee of not more than two hundred dollars (\$200.00),~~ as specified in G.S. 90-270.18(b), who passes ~~a satisfactory examination in psychology,~~ an examination in psychology as prescribed by the Board, and who submits evidence verified by oath and satisfactory to the Board that he or she:
 - a. Is at least 18 years of age;
 - b. Is of good moral character;
 - c. Has received a master's degree in psychology or a specialist degree in psychology from an ~~accredited educational institution;~~ institution of higher education. The degree program, wherever administratively housed, must be publicly identified and clearly labeled as a psychology program. The Board shall adopt rules implementing and defining these provisions, including, but not limited to, such factors as residence in the program, internship

and related field experiences, number of course credits, course content, numbers and qualifications of faculty, and program identification and identity.

- d. ~~Has not within the preceding six months failed an examination given by the Board.~~
- (2) ~~The Board shall not prescribe any educational requirements other than a master's degree in psychology for the initial license issued under this section, but may impose continuing education requirements for renewals of the license.~~
- (3)(2) ~~Notwithstanding the provisions of this subsection, an~~ a licensed psychologist applicant for licensure as a practicing psychologist, who has met all requirements for licensure as a practicing psychologist except passing the examination at the practicing-licensed psychologist level, may be issued a license as a licensed psychological associate without having a master's degree or specialist degree in psychology if the applicant passes the examination at the licensed psychological associate level.

(e) ~~Examinations.—The examinations required by subsections (a) and (b) of this section shall be of a form and content prescribed by the Board, and may be oral, written, or both. The examinations shall be administered annually, or more frequently as the Board may prescribe, at a time and place to be determined by the Board.~~

(d)(c) ~~Foreign Graduates. — Applicants trained in institutions outside the United States, applying for licensure at either the practicing-licensed psychologist or licensed psychological associate level, must show satisfactory evidence of training and degrees substantially equivalent to those required of applicants trained within the United States, pursuant to Board rules and regulations.~~

(d) Prior Licensure. — A person who is licensed in good standing as a licensed practicing psychologist or psychological associate under the provisions of the Practicing Psychologist Licensing Act in effect immediately prior to the ratification of this Psychology Practice Act shall be deemed, as of the effective date of this act, to have met all requirements for licensure under this act and shall be eligible for renewal of licensure in accordance with the provisions of this act.

"§ 90-270.13. ~~Licensing—Licensure of psychologist—psychologists licensed or certified in other states; licensing jurisdictions; licensure of diplomates of the American Board of Examiners in Professional Psychology. Psychology; Reciprocity.~~

(a) ~~The Board may grant a license without examination to any person meeting the other requirements of either G.S. 90-270.11(a) or 90-270.11(b) and who at the time of application is licensed or certified as a psychologist by a similar board of another state, territory or district whose standards, in the opinion of the Board, are not lower than those required by this Article. The provisions of this section shall apply only when such states, territories, or districts grant similar privilege to residents of this State.~~

(a) Upon application and payment of the requisite fee, the Board shall grant permanent licensure at the appropriate level to any person who, at the time of

application, is licensed or certified as a psychologist by a similar board in another jurisdiction, whose license or certification is in good standing, who is a graduate of an institution of higher education, who passes any examination prescribed by the Board, and who meets the definition of a senior psychologist as that term is defined by the rules of the Board.

(b) The Board may establish formal written agreements of reciprocity with the psychology boards of other jurisdictions if the Board determines that the standards of the boards of the other jurisdictions are substantially equivalent to or greater than those required by this Article.

(c) The Board shall grant health services provider certification to any person licensed under the provisions of subsections (a) and (b) above when it determines that the applicant's training and experience are substantially equivalent to or greater than that specified in G.S. 90-270.20.

~~(b)~~(d) Upon application and payment of the requisite fee, ~~The the~~ Board ~~may shall~~ waive the requirement of ~~grant a license without the~~ national written examination to any person who ~~is a diplomate in good standing of has been granted a diploma by the~~ American Board of ~~Examiners in~~ Professional Psychology.

(e) The Board shall adopt rules implementing and defining these provisions, and, with respect to the senior psychologist, shall adopt rules including, but not limited to, such factors as educational background, professional experience, length and status of licensure, ethical conduct, and examination required.

(f) The Board may deny licensure to any person otherwise eligible for permanent licensure under this subsection upon documentation of illegal, immoral, dishonorable, unprofessional, or unethical conduct as specified in G.S. 90-270.15.

"§ 90-270.14. Renewal of licenses; duplicate or replacement licenses.

(a) A license in effect on October 1, 1993, must be renewed on or before January 1, 1994. Thereafter, a license issued under this Article must be renewed ~~annually~~ biennially on or before the first day of ~~January~~ October in each even-numbered year, the requirements for such renewal being:

- (1) Each application for renewal must be ~~accompanied by a renewal fee of not more than one hundred twenty five dollars (\$125.00).~~ ~~made on a form prescribed by the Board and accompanied by a fee as specified in G.S. 90-270.18(b).~~ If a license is not renewed on or before the ~~first day of January of each year,~~ renewal date, an additional fee of ~~not more than fifteen dollars (\$15.00)~~ shall be charged for late ~~renewal;~~ and renewal as specified in G.S. 90-270.18(b).
- (2) The Board may establish continuing education requirements ~~for continuing education for psychologists licensed and registered in this State~~ as a condition for license renewal.

(b) A licensee may request the Board to issue a duplicate or replacement license for a fee as specified in G.S. 90-270.18(b). Upon receipt of the request and a showing of good cause for the issuance of a duplicate or replacement license, and the payment of the fee, the Board shall issue a duplicate or replacement license.

"§ 90-270.15. Denial, suspension, or revocation of licenses and health services provider certification, and other disciplinary and remedial actions unprofessional conduct; for violations of the Code of Conduct; relinquishing of license.

(a) Any applicant for licensure or health services provider certification and any person licensed or certified under this Article shall have behaved in conformity with the ethical and professional standards specified in this ~~section~~ Code of Conduct and in the rules ~~and regulations~~ of the Board. The Board may deny, suspend, ~~revoke, or revoke~~ licensure and certification, and may discipline, place on probation, limit, or limit practice, and require examination, remediation or remediation, and rehabilitation, or any combination thereof, all as provided for in subsection ~~(f) below,~~ (b) below. The Board shall act upon proof that the applicant or the person to whom the license was issued: licensee engaged in illegal, immoral, dishonorable, unprofessional, or unethical conduct by violating any of the provisions of the Code of Conduct as follows:

- (1) Has been convicted of a felony or entered a plea of guilty or **nolo contendere** to any felony charge;
- (2) Has been convicted of or entered a plea of guilty or **nolo contendere** to any misdemeanor involving moral turpitude, misrepresentation or fraud in dealing with the public, or conduct otherwise relevant to fitness to practice psychology, or a misdemeanor charge reflecting the inability to practice psychology with due regard to the health and safety of clients or patients;
- (3) Has engaged in fraud or deceit in securing or attempting to secure or renew a license or in securing or attempting to secure health services provider certification under this Article ~~or the renewal thereof~~ or has willfully concealed from the Board material information in connection with application for a license or health services provider certification, or for renewal of a license under this Article;
- (4a) ~~Has demonstrated an inability to practice psychology with reasonable skill and safety by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance affecting mental or physical functioning, or as a result of any mental or physical condition;~~
- (5) ~~Has practiced any fraud, deceit, or misrepresentation upon the public, the Board, or upon any individual in connection with the practice of psychology, the offer of psychological services, the filing of Medicare, Medicaid, or other claims to any third party payor, or in any manner otherwise relevant to fitness for the practice of psychology;~~
- (6) ~~Has made fraudulent, misleading, or intentionally or materially false statements pertaining to education, licensure, professional credentials, or related to qualifications or fitness for the practice of psychology to the public, any individual, the Board, or any other organization;~~
- (7) ~~Has had a license or certification for the practice of psychology in any other state, or territory of the United States, or any other country;~~

~~suspended or revoked, or has been disciplined by any other state or territorial licensing or certification board for conduct which would subject him to discipline under this Article;~~

- ~~(8) Has been guilty of immoral, dishonorable, unprofessional, or unethical conduct as defined in this subsection, in subsection (a1) below, or in the then-current code of ethics of the American Psychological Association, except as the provisions of such code of ethics may be inconsistent and in conflict with the provisions of this Article, in which case, the provisions of this Article control;~~
- ~~(9) Has violated any provision of this Article or of the duly adopted rules and regulations of the Board; or~~
- ~~(10) Repealed by Session Laws 1991, c. 239.~~
- ~~(10a) Has aided or abetted the unlawful practice of psychology by any person not licensed by the Board.~~

~~(a1) The Board may deny licensure, and discipline or require remediation and rehabilitation, or any combination thereof, as specified in subsections (a) above and (e) below, upon proof of immoral, dishonorable, unprofessional, or unethical conduct. Immoral, dishonorable, unprofessional, or unethical conduct has occurred whenever any person who has applied for or has been issued a license under this Article has engaged in any of the following acts or offenses:~~

- ~~(1) Practiced psychology in such a manner as to endanger the welfare of clients or patients;~~
- ~~(2) Harassed or abused, sexually or otherwise, a client, patient, student, supervisee, or trainee;~~
- ~~(3) Exercised undue influence in such a manner as to exploit the client, patient, student, supervisee, or trainee for the financial or other personal advantage or gratification of the psychologist or a third party;~~
- ~~(4) Refused to appear before the Board after having been ordered to do so in writing by the Chair;~~
- ~~(5) Failed to cooperate with or to respond promptly, completely, and honestly to the Board, to credentials committees, or to ethics committees of professional psychological associations, hospitals, or other health care organizations or educational institutions when those organizations or entities have jurisdiction; or failed to cooperate with institutional review boards or professional standards review organizations, when those organizations or entities have jurisdiction;~~
- ~~(6) Failed to maintain a clear and accurate case record which documents the following for each patient or client:
 - ~~a. Presenting problems, diagnosis, or purpose of the evaluation, counseling, treatment, or other services provided;~~
 - ~~b. Fees, dates of services, and itemized charges;~~
 - ~~c. Summary content of each session of evaluation, counseling, treatment, or other services, except that summary content need~~~~

- ~~not include specific information that may cause significant harm to any person if the information were released;~~
- ~~d. Test results or other findings, including basic test data; and~~
 - ~~e. Copies of all reports prepared;~~
- ~~(7) Failed to competently use, administer, score, or interpret psychological assessment techniques, including interviewing and observation, or provided findings or recommendations which do not accurately reflect the assessment data, or exceed what can reasonably be inferred, predicted, or determined from test, interview, or observational data;~~
 - ~~(8) Failed to provide competent diagnosis, counseling, treatment, consultation, or supervision, in keeping with standards of usual and customary practice in this State;~~
 - ~~(9) In the absence of established standards, failed to take all reasonable steps to ensure the competence of services;~~
 - ~~(10) Failed to cooperate with other psychologists or other professionals to the potential or actual detriment of clients, patients, or other recipients of service, or behaved in ways which substantially impede or impair other psychologists' or other professionals' abilities to perform professional duties; or~~
 - ~~(11) Practiced psychology or conducted research outside the boundaries of demonstrated competence or the limitations of education, training, or supervised experience.~~

~~(b) A license issued under this Article is automatically suspended by operation of law after failure to renew a license for a period of more than three months after the annual renewal date. The Board may reinstate a license suspended under this subsection upon payment of a special fee of fifteen dollars (\$15.00), and may require that the applicant file a new application, furnish new supervisory reports or references or otherwise update his credentials, or submit to reexamination for reinstatement. Notwithstanding any provision to the contrary, the Board retains full jurisdiction to investigate alleged violations of this Article by any person whose license is suspended under this subsection and, upon proof of any violation of this Article by any such person, the Board may take disciplinary action as authorized by this section.~~

~~(c) Except as provided otherwise in this Article, the procedure for revocation, suspension, denial, limitations of the license, or other disciplinary, remedial, or rehabilitative actions, shall be in accordance with the provisions of Chapter 150B of the General Statutes. The Board is required to provide the opportunity for a hearing under Chapter 150B to any applicant whose license is denied or to whom licensure is offered subject to any restrictions, probation, disciplinary action, remediation, or other conditions or limitations, or to any licensee before revoking, suspending, or restricting a license or imposing any other disciplinary action or remediation. If the applicant or licensee waives the opportunity for a hearing, the Board's denial, revocation, suspension, or other proposed action becomes final without a hearing having been conducted. Notwithstanding the foregoing, no applicant or licensee is entitled to a hearing for failure to pass an examination. In any proceeding before the Board, in any~~

~~record of any hearing before the Board, in any complaint or notice of charges against any licensee or applicant for licensure, and in any decision rendered by the Board, the Board may withhold from public disclosure the identity of any clients or patients who have not consented to the public disclosure of treatment by the licensee or applicant. The Board may close a hearing to the public and receive in executive session evidence involving or concerning the treatment or delivery of psychological services to a client or a patient who has not consented to the public disclosure of such treatment or services as may be necessary for the protection and rights of such patient or client of the accused applicant or licensee and the full presentation of relevant evidence. All records, papers and other documents containing information collected and compiled by or on behalf of the Board, as a result of investigations, inquiries or interviews conducted in connection with licensing or disciplinary matters will not be considered public records within the meaning of Chapter 132 of the General Statutes; provided, however, that any notice or statement of charges against any licensee or applicant, or any notice to any licensee or applicant of a hearing in any proceeding, or any decision rendered in connection with a hearing in any proceeding, shall be a public record within the meaning of Chapter 132 of the General Statutes, notwithstanding that it may contain information collected and compiled as a result of such investigation, inquiry, or hearing except that identifying information concerning the treatment or delivery of services to a patient or client who has not consented to the public disclosure of such treatment or services may be deleted; and provided, further, that if any such record, paper or other document containing information theretofore collected and compiled by or on behalf of the Board, as hereinbefore provided, is received and admitted in evidence in any hearing before the Board, it shall thereupon be a public record within the meaning of Chapter 132 of the General Statutes, subject to any deletions of identifying information concerning the treatment or delivery of psychological services to a patient or client who has not consented to the public disclosure of such treatment or services.~~

~~(d) A person whose license has been denied or revoked, under the terms of this section may reapply to the Board for licensure after the passage of one calendar year from the date of such revocation.~~

~~(e) Upon proof that an applicant or licensee under this Article has engaged in any of the prohibited actions specified in subsections (a) and (a1) above, the Board may, in lieu of denial, suspension, or revocation, issue a formal reprimand or formally censure the applicant or licensee, may place the applicant or licensee upon probation with such appropriate conditions upon the continued practice as the Board may deem advisable, may require remediation or rehabilitation for the applicant or licensee, including care, counseling, or treatment by a professional or professionals designated or approved by the Board, the expense to be borne by the applicant or licensee, may require supervision for the services provided by the applicant or licensee by a licensee designated or approved by the Board, the expense to be borne by the applicant or licensee, may limit or circumscribe the professional psychological services provided by the applicant or licensee with respect to the extent, nature, or location of his practice as the Board deems advisable, or may discipline and impose any appropriate combination of the foregoing. In addition, the Board may impose such conditions of probation or restrictions upon~~

~~continued practice at the conclusion of a period of suspension or as requirements for the restoration of a revoked or suspended license. In lieu of or in connection with any disciplinary proceedings or investigation, the Board may enter into a consent order relative to the discipline, supervision, probation, remediation or rehabilitation, or limitation of a licensee or applicant for a license.~~

~~(f) The Board may assess costs of disciplinary action against an applicant or licensee found to be in violation of this Article.~~

~~(g) When considering the issue of whether or not an applicant or licensee is physically or mentally capable of practicing psychology with reasonable skill and safety to patients or clients, then, upon a showing of probable cause to the Board that the applicant or licensee is not capable of practicing psychology with reasonable skill and safety to patients or clients, the Board may petition a court of competent jurisdiction to order the applicant or licensee in question to submit to a psychological examination by a psychologist to determine psychological status or a physical examination by a physician to determine physical condition, or both. Such psychologist or physician, shall be designated by the court. The expenses of such examinations shall be borne by the Board. Where the applicant or licensee raises the issue of mental or physical competence or appeals a decision regarding mental or physical competence, the applicant or licensee shall be permitted to obtain an evaluation at the applicant's or licensee's expenses. If the Board suspects the objectivity or adequacy of the examination, the Board may compel an examination by its designated practitioners at its own expense.~~

~~(h) A licensee may, with the consent of the Board, voluntarily relinquish his license at any time. The Board may delay or refuse the granting of its consent as it may deem necessary in order to investigate any pending complaint, allegation, or issue regarding violation of any provision of this Article by the licensee.~~

- ~~(4) Has practiced any fraud, deceit, or misrepresentation upon the public, the Board, or any individual in connection with the practice of psychology, the offer of psychological services, the filing of Medicare, Medicaid, or other claims to any third party payor, or in any manner otherwise relevant to fitness for the practice of psychology;~~
- ~~(5) Has made fraudulent, misleading, or intentionally or materially false statements pertaining to education, licensure, license renewal, certification as a health services provider, supervision, continuing education, any disciplinary actions or sanctions pending or occurring in any other jurisdiction, professional credentials, or qualifications or fitness for the practice of psychology to the public, any individual, the Board, or any other organization;~~
- ~~(6) Has had a license or certification for the practice of psychology in any other jurisdiction suspended or revoked, or has been disciplined by the licensing or certification board in any other jurisdiction for conduct which would subject him or her to discipline under this Article;~~
- ~~(7) Has violated any provision of this Article or of the duly adopted rules of the Board;~~

- (8) Has aided or abetted the unlawful practice of psychology by any person not licensed by the Board;
- (9) For a licensed psychologist, has provided health services without health services provider certification;
- (10) Has been guilty of immoral, dishonorable, unprofessional, or unethical conduct as defined in this subsection, or in the then-current code of ethics of the American Psychological Association, except as the provisions of such code of ethics may be inconsistent and in conflict with the provisions of this Article, in which case, the provisions of this Article control;
- (11) Has practiced psychology in such a manner as to endanger the welfare of clients or patients;
- (12) Has demonstrated an inability to practice psychology with reasonable skill and safety by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance affecting mental or physical functioning, or as a result of any mental or physical condition;
- (13) Has practiced psychology or conducted research outside the boundaries of demonstrated competence or the limitations of education, training, or supervised experience;
- (14) Has failed to use, administer, score, or interpret psychological assessment techniques, including interviewing and observation, in a competent manner, or has provided findings or recommendations which do not accurately reflect the assessment data, or exceed what can reasonably be inferred, predicted, or determined from test, interview, or observational data;
- (15) Has failed to provide competent diagnosis, counseling, treatment, consultation, or supervision, in keeping with standards of usual and customary practice in this State;
- (16) In the absence of established standards, has failed to take all reasonable steps to ensure the competence of services;
- (17) Has failed to maintain a clear and accurate case record which documents the following for each patient or client:
 - a. Presenting problems, diagnosis, or purpose of the evaluation, counseling, treatment, or other services provided;
 - b. Fees, dates of services, and itemized charges;
 - c. Summary content of each session of evaluation, counseling, treatment, or other services, except that summary content need not include specific information that may cause significant harm to any person if the information were released;
 - d. Test results or other findings, including basic test data; and
 - e. Copies of all reports prepared;
- (18) Except when prevented from doing so by circumstances beyond the psychologist's control, has failed to retain securely and confidentially

the complete case record for at least seven years from the date of the last provision of psychological services; or, except when prevented from doing so by circumstances beyond the psychologist's control, has failed to retain securely and confidentially the complete case record for three years from the date of the attainment of majority age by the patient or client or for at least seven years from the date of the last provision of psychological services, whichever is longer; or, except when prevented from doing so by circumstances beyond the psychologist's control, has failed to retain securely and confidentially the complete case record indefinitely if there are pending legal or ethical matters or if there is any other compelling circumstance;

- (19) Has failed to cooperate with other psychologists or other professionals to the potential or actual detriment of clients, patients, or other recipients of service, or has behaved in ways which substantially impede or impair other psychologists' or other professionals' abilities to perform professional duties;
- (20) Has exercised undue influence in such a manner as to exploit the client, patient, student, supervisee, or trainee for the financial or other personal advantage or gratification of the psychologist or a third party;
- (21) Has harassed or abused, sexually or otherwise, a client, patient, student, supervisee, or trainee;
- (22) Has failed to cooperate with or to respond promptly, completely, and honestly to the Board, to credentials committees, or to ethics committees of professional psychological associations, hospitals, or other health care organizations or educational institutions, when those organizations or entities have jurisdiction; or has failed to cooperate with institutional review boards or professional standards review organizations, when those organizations or entities have jurisdiction;
or
- (23) Has refused to appear before the Board after having been ordered to do so in writing by the Chair;

(b) Upon proof that an applicant or licensee under this Article has engaged in any of the prohibited actions specified in subsection (a) of this section, the Board may, in lieu of denial, suspension, or revocation, issue a formal reprimand or formally censure the applicant or licensee, may place the applicant or licensee upon probation with such appropriate conditions upon the continued practice as the Board may deem advisable, may require examination, remediation, or rehabilitation for the applicant or licensee, including care, counseling, or treatment by a professional or professionals designated or approved by the Board, the expense to be borne by the applicant or licensee, may require supervision for the services provided by the applicant or licensee by a licensee designated or approved by the Board, the expense to be borne by the applicant or licensee, may limit or circumscribe the practice of psychology provided by the applicant or licensee with respect to the extent, nature, or location of the services provided, as the Board deems advisable, or may discipline and impose any appropriate combination of

the foregoing. In addition, the Board may impose such conditions of probation or restrictions upon continued practice at the conclusion of a period of suspension or as requirements for the restoration of a revoked or suspended license. In lieu of or in connection with any disciplinary proceedings or investigation, the Board may enter into a consent order relative to discipline, supervision, probation, remediation, rehabilitation, or practice limitation of a licensee or applicant for a license.

(c) The Board may assess costs of disciplinary action against an applicant or licensee found to be in violation of this Article.

(d) When considering the issue of whether or not an applicant or licensee is physically or mentally capable of practicing psychology with reasonable skill and safety with patients or clients, then, upon a showing of probable cause to the Board that the applicant or licensee is not capable of practicing psychology with reasonable skill and safety with patients or clients, the Board may petition a court of competent jurisdiction to order the applicant or licensee in question to submit to a psychological evaluation by a psychologist to determine psychological status or a physical evaluation by a physician to determine physical condition, or both. Such psychologist or physician shall be designated by the court. The expenses of such evaluations shall be borne by the Board. Where the applicant or licensee raises the issue of mental or physical competence or appeals a decision regarding mental or physical competence, the applicant or licensee shall be permitted to obtain an evaluation at the applicant's or licensee's expense. If the Board suspects the objectivity or adequacy of the evaluation, the Board may compel an evaluation by its designated practitioners at its own expense.

(e) Except as provided otherwise in this Article, the procedure for revocation, suspension, denial, limitations of the license or health services provider certification, or other disciplinary, remedial, or rehabilitative actions, shall be in accordance with the provisions of Chapter 150B of the General Statutes. The Board is required to provide the opportunity for a hearing under Chapter 150B to any applicant whose license or health services provider certification is denied or to whom licensure or health services provider certification is offered subject to any restrictions, probation, disciplinary action, remediation, or other conditions or limitations, or to any licensee before revoking, suspending, or restricting a license or health services provider certificate or imposing any other disciplinary action or remediation. If the applicant or licensee waives the opportunity for a hearing, the Board's denial, revocation, suspension, or other proposed action becomes final without a hearing's having been conducted. Notwithstanding the foregoing, no applicant or licensee is entitled to a hearing for failure to pass an examination. In any proceeding before the Board, in any record of any hearing before the Board, in any complaint or notice of charges against any licensee or applicant for licensure, and in any decision rendered by the Board, the Board may withhold from public disclosure the identity of any clients or patients who have not consented to the public disclosure of psychological services' having been provided by the licensee or applicant. The Board may close a hearing to the public and receive in executive session evidence involving or concerning the treatment of or delivery of psychological services to a client or a patient who has not consented to the public disclosure of such treatment or services as may be necessary for the protection and

rights of such patient or client of the accused applicant or licensee and the full presentation of relevant evidence. All records, papers, and other documents containing information collected and compiled by or on behalf of the Board, as a result of investigations, inquiries, or interviews conducted in connection with licensing or disciplinary matters will not be considered public records within the meaning of Chapter 132 of the General Statutes; provided, however, that any notice or statement of charges against any licensee or applicant, or any notice to any licensee or applicant of a hearing in any proceeding, or any decision rendered in connection with a hearing in any proceeding, shall be a public record within the meaning of Chapter 132 of the General Statutes, notwithstanding that it may contain information collected and compiled as a result of such investigation, inquiry, or hearing except that identifying information concerning the treatment of or delivery of services to a patient or client who has not consented to the public disclosure of such treatment or services may be deleted; and provided, further, that if any such record, paper, or other document containing information theretofore collected and compiled by or on behalf of the Board, as hereinbefore provided, is received and admitted in evidence in any hearing before the Board, it shall thereupon be a public record within the meaning of Chapter 132 of the General Statutes, subject to any deletions of identifying information concerning the treatment of or delivery of psychological services to a patient or client who has not consented to the public disclosure of such treatment or services.

(f) A license and a health services provider certificate issued under this Article are suspended automatically by operation of law after failure to renew a license for a period of more than sixty days after the renewal date. The Board may reinstate a license and a health services provider certificate suspended under this subsection upon payment of a fee as specified in G.S. 90-270.18(b), and may require that the applicant file a new application, furnish new supervisory reports or references or otherwise update his or her credentials, or submit to examination for reinstatement. Notwithstanding any provision to the contrary, the Board retains full jurisdiction to investigate alleged violations of this Article by any person whose license is suspended under this subsection and, upon proof of any violation of this Article by any such person, the Board may take disciplinary action as authorized by this section.

(g) A person whose license or health services provider certification has been denied or revoked may reapply to the Board for licensure or certification after the passage of one calendar year from the date of such denial or revocation.

(h) A licensee may, with the consent of the Board, voluntarily relinquish his or her license or health services provider certificate at any time. The Board may delay or refuse the granting of its consent as it may deem necessary in order to investigate any pending complaint, allegation, or issue regarding violation of any provision of this Article by the licensee. Notwithstanding any provision to the contrary, the Board retains full jurisdiction to investigate alleged violations of this Article by any person whose license is relinquished under this subsection and, upon proof of any violation of this Article by any such person, the Board may take disciplinary action as authorized by this section.

(i) The Board may adopt such rules as it deems reasonable and appropriate to interpret and implement the provisions of this section.

"§ 90-270.16. Prohibited acts.

~~(a) After June 30, 1968, no person shall represent himself to be a practicing psychologist, or psychological associate, or engage in, or offer to engage in, the practice of psychology without a valid license issued under this Article.~~

~~(b) After June 30, 1968, no person who is not licensed under this Article shall represent himself to be a licensed practicing psychologist or psychological associate; nor shall he use a title or description, including the term "psychology," any of its derivatives, such as "psychologic," "psychological," or "psychologist," or modifiers such as "practicing" or "certified," in such a manner which would imply that he is licensed under this Article; nor shall he practice, or offer to practice, psychology as defined in this Article, except as otherwise permitted herein. The use by a person who is not licensed under this Article of such terms, whether in titles or descriptions or otherwise, is not prohibited by this Article except when used in connection with the practice of psychology as defined in this Article; such use of these terms by a person not licensed under this Article shall not be construed as implying that a person is licensed under this Article or as practicing or offering to practice psychology.~~

~~(c) No practicing psychologist or psychological examiner [associate] shall employ any psychologist who does not possess a valid license issued under this Article or who has not been temporarily licensed under the provisions of G.S. 90-270.5.~~

(a) Except as permitted in G.S. 90-270.4 and G.S. 90-270.5, it shall be a violation of this Article for any person not licensed in accordance with the provisions of this Article to represent himself or herself as a psychologist, licensed psychologist, licensed psychological associate, or health services provider in psychology.

(b) Except as provided in G.S. 90-270.4 and G.S. 90-270.5, it shall be a violation of this Article for any person not licensed in accordance with the provisions of this Article to practice or offer to practice psychology as defined in this Article whether as an individual, firm, partnership, corporation, agency, or other entity.

(c) Except as provided in G.S. 90-270.4 and G.S. 90-270.5, it shall be a violation of this Article for any person not licensed in accordance with the provisions of this Article to use a title or description of services including the term 'psychology,' or any of its derivatives such as 'psychologic', 'psychological', or 'psychologist', singly or in conjunction with modifiers such as 'licensed', 'practicing', 'certified', or 'registered'.

"§ 90-270.17. Violations and penalties.

Any person who violates G.S. 90-270.16 is guilty of a misdemeanor and upon conviction shall be punishable by a fine of not more than five hundred dollars (\$500.00), or imprisonment for not more than six months, or both fine and imprisonment. Each violation shall constitute a separate offense.

"§ 90-270.18. Disposition and schedule of fees.

(a) All fees derived from the operation of this Article shall be deposited with the State Treasurer to the credit of a revolving fund for the use of the Board in carrying out its functions. The financial records of the Board shall be subjected to an annual audit,

supervised by the State Auditor, and paid for out of the funds of the Board. All fees derived from the operation of this Article shall be nonrefundable.

(b) Fees for activities specified by this Article are as follows:

- (1) Application fees for licensed psychologists and licensed psychological associates per G.S. 90-270.11(a) and (b)(1), or G.S. 90-270.13, shall not exceed one hundred dollars (\$100.00).
- (2) Fees for the national written examination shall be the cost of the examination to the Board plus an additional fee not to exceed fifty dollars (\$50.00).
- (3) Fees for additional examinations shall be as prescribed by the Board.
- (4) Fees for the renewal of licenses, per G.S. 90-270.14(a)(1), shall not exceed two hundred fifty dollars (\$250.00) per biennium. This fee may not be prorated.
- (5) Late fees for license renewal, per G.S. 90-270.14(a)(1), shall be twenty-five dollars (\$25.00).
- (6) Fees for the reinstatement of a license, per G.S. 90-270.15(f), shall not exceed one hundred dollars (\$100.00).
- (7) Fees for a duplicate license, per G.S. 90-270.14(b), shall be twenty-five dollars (\$25.00).
- (8) Fees for a temporary license, per G.S. 90-270.5(f) and 90-270.5(g), shall be twenty-five dollars (\$25.00)
- (9) Application fees for a health services provider certificate, per G.S. 90-270.20, shall be fifty dollars (\$50.00).

(c) The Board may specify reasonable charges for duplication services, materials, and returned bank items in its rules.

"§ 90-270.19. Injunctive authority.

The Board may apply to the superior court for an injunction to prevent violations of this Article or of any rules enacted pursuant thereto. The court is empowered to grant such injunctions regardless of whether criminal prosecution or other action has been or may be instituted as a result of such violation.

"§ 90-270.20. ~~Duplicate and replacement licenses.~~ Provision of health services; certification as health services provider.

~~A licensee may request the Board to issue a duplicate or replacement license for a fee set by the Board not to exceed twenty dollars (\$20.00). Upon receipt of the request and a showing of good cause for the issuance of a duplicate replacement license, and payment of the fee, the Board shall issue a duplicate or replacement license.~~

(a) Health services, as defined in G.S. 90-270.2(e) and G.S. 90-270.2(h), may be provided by qualified licensed psychological associates, qualified licensed psychologists holding provisional, temporary, or permanent licenses, or qualified applicants. Qualified licensed psychological associates, qualified licensed psychologists holding provisional or temporary licenses, or qualified applicants may provide health services only under supervision as specified in the duly adopted rules of the Board.

(b) After January 1, 1995, any licensed psychologist who is qualified by education, who holds permanent licensure and a doctoral degree, and who provides or

offers to provide health services to the public must be certified as a health services provider psychologist (HSP-P) by the Board. The Board shall certify as health services provider psychologists those applicants who shall demonstrate at least two years of acceptable supervised health services experience, of which at least one year is postdoctoral. The Board shall specify the format, setting, content, and organization of the supervised health services experience or program. The Board may, upon verification of supervised experience and the meeting of all requirements as a licensed psychologist, issue the license and certificate simultaneously. An application fee, as specified in G.S. 90-270.18(b)(9), must be paid.

(c) After January 1, 1995, any licensed psychological associate who is qualified by education may be granted certification as a health services provider psychological associate (HSP-PA). The Board may, upon verification of qualifications and the meeting of all requirements as a licensed psychological associate, issue the license and certificate simultaneously. An application fee, as specified in G.S. 90-270.18(b)(9), must be paid.

(d) After January 1, 1995, any licensed psychologist holding a provisional license who is qualified by education may be granted certification as a health services provider psychologist (provisional) (HSP-PP) by the Board. The Board may, upon verification of qualifications and the meeting of all requirements for a provisional license, issue the license and certificate simultaneously. An application fee, as specified in G.S. 90-270.18(b)(9), must be paid.

(e) Notwithstanding the provisions of subsection (b) of this section, if application is made to the Board before June 30, 1994, by a licensed psychologist who is listed in the National Register of Health Services Providers in Psychology, or who holds permanent licensure and who can demonstrate that he or she has been engaged acceptably in the provision of health services for two years or its equivalent, that licensed psychologist shall be certified as a health services provider psychologist. The applicant, in order to demonstrate two years of acceptable experience or its equivalent, must meet one of the following conditions:

- (1) The applicant is a diplomate in good standing of the American Board of Professional Psychology in any of the areas of professional practice deemed appropriate by the Board;
- (2) The applicant has the equivalent of two years of acceptable full-time experience, one of which was postdoctoral, at sites where health services are provided;
- (3) The applicant submits evidence satisfactory to the Board demonstrating that he or she has been engaged acceptably for the equivalent of at least two years full-time in the provision of health services; or
- (4) Any other conditions that the Board may deem acceptable.

(f) Notwithstanding the provisions of subsection (c) of this section, if application is made to the Board before June 30, 1994, by a licensed psychological associate who can demonstrate that he or she has been engaged acceptably in the provision of health

services under supervision for two years or its equivalent, that licensed psychological associate shall be certified as a health services provider psychological associate.

(g) The Board shall have the authority to deny, revoke, or suspend the health services provider certificate issued pursuant to these subsections upon a finding that the psychologist has not behaved in conformity with the ethical and professional standards prescribed in G.S. 90-270.15.

"§ 90-270.21. Ancillary services.

A psychologist licensed under this Article may employ or supervise unlicensed individuals who assist in the provision of psychological services to clients, patients, and their families. The Board may adopt rules specifying the titles used by such individuals, the numbers employed or supervised by any particular psychologist, the activities in which they may engage, the nature and extent of supervision which must be provided, the qualifications of such individuals, and the nature of the responsibility assumed by the employing or supervising psychologist."

Sec. 2. G.S. 8-53.3 reads as rewritten:

"§ 8-53.3. Communications between psychologist and client or patient.

No person, duly authorized as a ~~practicing~~ licensed psychologist or licensed psychological ~~examiner~~associate, nor any of his or her employees or associates, shall be required to disclose any information which he or she may have acquired in ~~rendering professional psychological~~ the practice of psychology services, and which information was necessary to enable him or her to ~~render professional psychological services~~ practice psychology. Any resident or presiding judge in the district in which the action is pending may, subject to G.S. 8-53.6, compel disclosure, either at the trial or prior thereto, if in his or her opinion disclosure is necessary to a proper administration of justice. If the case is in district court the judge shall be a district court judge, and if the case is in superior court the judge shall be a superior court judge.

Notwithstanding the provisions of this section, the psychologist-client or patient privilege shall not be grounds for failure to report suspected child abuse or neglect to the appropriate county department of social services, or for failure to report a disabled adult suspected to be in need of protective services to the appropriate county department of social services. Notwithstanding the provisions of this section, the psychologist-client or patient privilege shall not be grounds for excluding evidence regarding the abuse or neglect of a child, or an illness of or injuries to a child, or the cause thereof, or for excluding evidence regarding the abuse, neglect, or exploitation of a disabled adult, or an illness of or injuries to a disabled adult, or the cause thereof, in any judicial proceeding related to a report pursuant to the Child Abuse Reporting Law, Article 44 of Chapter 7A, or to the Protection of the Abused, Neglected, or Exploited Disabled Adult Act, Article 6 of Chapter 108A of the General Statutes."

Sec. 3. G.S. 58-50-30 reads as rewritten:

"§ 58-50-30. Discrimination forbidden; right to choose services of optometrist, podiatrist, dentist ~~dentist~~, or chiropractor ~~chiropractor~~, or psychologist.

Discrimination between individuals of the same class in the amount of premiums or rates charged for any policy of insurance covered by Articles 50 through 55 of this

Chapter, or in the benefits payable thereon, or in any of the terms or conditions of such policy, or in any other manner whatsoever, is prohibited.

Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for payment of or reimbursement for any service which is within the scope of practice of a duly licensed optometrist, or duly licensed podiatrist, or a duly licensed dentist, or duly licensed chiropractor, or duly licensed ~~practicing~~ psychologist, the insured or other persons entitled to benefits under such policy shall be entitled to payment of or reimbursement for such services, whether such services be performed by a duly licensed physician or a duly licensed optometrist, or a duly licensed podiatrist, or a duly licensed dentist or a duly licensed chiropractor, or a duly licensed ~~practicing~~ psychologist, notwithstanding any provision contained in such policy. Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter provides for certification of disability which is within the scope of practice of a duly licensed physician, or a duly licensed optometrist, or a duly licensed podiatrist, or a duly licensed dentist, or a duly licensed chiropractor, or a duly licensed ~~practicing~~ psychologist, the insured or other persons entitled to benefits under such policy shall be entitled to payment of or reimbursement for such disability whether such disability be certified by a duly licensed physician, or a duly licensed optometrist, or a duly licensed podiatrist, or a duly licensed dentist, or a duly licensed chiropractor, or a duly licensed ~~practicing~~ psychologist, notwithstanding any provisions contained in such policy. The policyholder, insured, or beneficiary shall have the right to choose the provider of such services notwithstanding any provision to the contrary in any other statute.

For the purposes of this section, a 'duly licensed ~~practicing~~ psychologist' shall be defined ~~to only to~~ include a psychologist who is duly licensed ~~or certified~~ in the State of North Carolina and has a doctorate degree in psychology and at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Service Providers in Psychology. After January 1, 1995, a duly licensed psychologist shall be defined as a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board."

Sec. 4. G.S. 58-65-1 reads as rewritten:

"§ 58-65-1. Regulation and definitions; application of other laws; profit and foreign corporations prohibited.

Any corporation heretofore or hereafter organized under the general corporation laws of the State of North Carolina for the purpose of maintaining and operating a nonprofit hospital and/or medical and/or dental service plan whereby hospital care and/or medical and/or dental service may be provided in whole or in part by said corporation or by hospitals and/or physicians and/or dentists participating in such plan, or plans, shall be governed by this Article and Article 66 of this Chapter and shall be exempt from all other provisions of the insurance laws of this State, heretofore enacted, unless specifically designated herein, and no laws hereafter enacted shall apply to them unless they be expressly designated therein.

The term 'hospital service plan' as used in this Article and Article 66 of this Chapter includes the contracting for certain fees for, or furnishing of, hospital care, laboratory

facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and obstetrical equipment, accommodations and/or any and all other services authorized or permitted to be furnished by a hospital under the laws of the State of North Carolina and approved by the North Carolina Hospital Association and/or the American Medical Association.

The term 'medical service plan' as used in this Article and Article 66 of this Chapter includes the contracting for the payment of fees toward, or furnishing of, medical, obstetrical, surgical and/or any other professional services authorized or permitted to be furnished by a duly licensed physician, except that in any plan in any policy of insurance governed by this Article and Article 66 of this Chapter that includes services which are within the scope of practice of a duly licensed optometrist, a duly licensed chiropractor, a duly licensed ~~practicing~~ psychologist, and a duly licensed physician, then the insured or beneficiary shall have the right to choose the provider of the care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed optometrist, a duly licensed chiropractor, a duly licensed ~~practicing~~ psychologist, or a duly licensed physician notwithstanding any provision to the contrary contained in such policy. The term 'medical services plan' also includes the contracting for the payment of fees toward, or furnishing of, professional medical services authorized or permitted to be furnished by a duly licensed provider of health services licensed under Chapter 90 of the General Statutes.

For the purposes of this section, a 'duly licensed ~~practicing~~ psychologist' shall be defined ~~to only~~ include a psychologist who is duly licensed or certified in the State of North Carolina and has a doctorate degree in psychology and at least two years clinical experience in a recognized health setting, or has met the standards of the National Register of Health Providers in Psychology. After January 1, 1995, a duly licensed psychologist shall be defined as a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.

The term 'dental service plan' as used in this Article and Article 66 of this Chapter includes contracting for the payment of fees toward, or furnishing of dental and/or any other professional services authorized or permitted to be furnished by a duly licensed dentist.

The insured or beneficiary of every 'medical service plan' and of every 'dental service plan,' as those terms are used in this Article and Article 66 of this Chapter, or of any policy of insurance issued thereunder, that includes services which are within the scope of practice of both a duly licensed physician and a duly licensed dentist shall have the right to choose the provider of such care or service, and shall be entitled to payment of or reimbursement for such care or service, whether the provider be a duly licensed physician or a duly licensed dentist notwithstanding any provision to the contrary contained in any such plan or policy.

The term 'hospital service corporation' as used in this Article and Article 66 of this Chapter is intended to mean any nonprofit corporation operating a hospital and/or medical and/or dental service plan, as herein defined. Any corporation heretofore or hereafter organized and coming within the provisions of this Article and Article 66 of

this Chapter, the certificate of incorporation of which authorizes the operation of either a hospital or medical and/or dental service plan, or any or all of them, may, with the approval of the Commissioner of Insurance, issue subscribers' contracts or certificates approved by the Commissioner of Insurance, for the payment of either hospital or medical and/or dental fees, or the furnishing of such services, or any or all of them, and may enter into contracts with hospitals for physicians and/or dentists, or any or all of them, for the furnishing of fees or services respectively under a hospital or medical and/or dental service plan, or any or all of them.

The term 'preferred provider' as used in this Article and Article 66 of this Chapter with respect to contracts, organizations, policies or otherwise means a health care service provider who has agreed to accept, from a corporation organized for the purposes authorized by this Article and Article 66 of this Chapter or other applicable law, special reimbursement terms in exchange for providing services to beneficiaries of a plan administered pursuant to this Article and Article 66 of this Chapter. Except to the extent prohibited either by G.S. 58-65-140 or by regulations promulgated by the Department of Insurance not inconsistent with this Article and Article 66 of this Chapter, the contractual terms and conditions for special reimbursement shall be those which the corporation and preferred provider find to be mutually agreeable.

No foreign or alien hospital or medical and/or dental service corporation as herein defined shall be authorized to do business in this State."

Sec. 5. G.S. 58-65-75 reads as rewritten:

"§ 58-65-75. Coverage for chemical dependency treatment.

- (3) Duly licensed physicians and duly licensed ~~practicing~~ psychologists and certified professionals working under the direct supervision of such physicians or psychologists in facilities described in (1) and (2) above and in day/night programs or outpatient treatment facilities licensed after July 1, 1984, under Article 2 of General Statutes Chapter 122C. After January 1, 1995, 'duly licensed psychologists' shall be defined as licensed psychologists who hold permanent licensure and certification as health services provider psychologist issued by the North Carolina Psychology Board."

Sec. 6. G.S. 122C-3 reads as rewritten:

"§ 122C-3. Definitions.

As used in this Chapter, unless another meaning is specified or the context clearly requires otherwise, the following terms have the meanings specified:

- (1) 'Area authority' means the area mental health, developmental disabilities, and substance abuse authority.
- (2) 'Area board' means the area mental health, developmental disabilities, and substance abuse board.
- (3) 'Camp Butner reservation' means the original Camp Butner reservation as may be designated by the Secretary as having been acquired by the State and includes not only areas which are owned and occupied by the State but also those which may have been leased or otherwise disposed of by the State.

- (4) 'City' has the same meaning as in G.S. 153A-1(1).
- (5) 'Catchment area' means the geographic part of the State served by a specific area authority.
- (6) 'Client' means an individual who is admitted to and receiving service from, or who in the past had been admitted to and received services from, a facility.
- (7) 'Client advocate' means a person whose role is to monitor the protection of client rights or to act as an individual advocate on behalf of a particular client in a facility.
- (8) 'Commission' means the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, established under Part 4 of Article 3 of Chapter 143B of the General Statutes.
- (9) 'Confidential information' means any information, whether recorded or not, relating to an individual served by a facility that was received in connection with the performance of any function of the facility. 'Confidential information' does not include statistical information from reports and records or information regarding treatment or services which is shared for training, treatment, habilitation, or monitoring purposes that does not identify clients either directly or by reference to publicly known or available information.
- (10) 'County of residence' of a client means the county of his domicile at the time of his admission or commitment to a facility. A county of residence is not changed because an individual is temporarily out of his county in a facility or otherwise.
- (11) 'Dangerous to himself or others' means:
 - a. 'Dangerous to himself' means that within the relevant past:
 - 1. The individual has acted in such a way as to show:
 - I. That he would be unable, without care, supervision, and the continued assistance of others not otherwise available, to exercise self-control, judgment, and discretion in the conduct of his daily responsibilities and social relations, or to satisfy his need for nourishment, personal or medical care, shelter, or self-protection and safety; and
 - II. That there is a reasonable probability of his suffering serious physical debilitation within the near future unless adequate treatment is given pursuant to this Chapter. A showing of behavior that is grossly irrational, of actions that the individual is unable to control, of behavior that is grossly inappropriate to the situation, or of other evidence of severely impaired insight and

judgment shall create a **prima facie** inference that the individual is unable to care for himself; or

2. The individual has attempted suicide or threatened suicide and that there is a reasonable probability of suicide unless adequate treatment is given pursuant to this Chapter; or
3. The individual has mutilated himself or attempted to mutilate himself and that there is a reasonable probability of serious self-mutilation unless adequate treatment is given pursuant to this Chapter.

Previous episodes of dangerousness to self, when applicable, may be considered when determining reasonable probability of physical debilitation, suicide, or self-mutilation.

b. 'Dangerous to others' means that within the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Clear, cogent, and convincing evidence that an individual has committed a homicide in the relevant past is **prima facie** evidence of dangerousness to others.

(12) 'Department' means the North Carolina Department of Human Resources.

(12a) 'Developmental disability' means a severe, chronic disability of a person which:

- a. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- b. Is manifested before the person attains age 22, unless the disability is caused by a traumatic head injury and is manifested after age 22;
- c. Is likely to continue indefinitely;
- d. Results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, capacity for independent living, learning, mobility, self-direction and economic self-sufficiency; and
- e. Reflects the person's need for a combination and sequence of special interdisciplinary, or generic care, treatment, or other services which are of a lifelong or extended duration and are individually planned and coordinated; or

- f. When applied to children from birth through four years of age, may be evidenced as a developmental delay.
- (13) 'Division' means the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department.
- (13a) 'Eligible infants and toddlers' means children with or at risk for developmental delays or atypical development until:
 - a. They have reached their third birthday;
 - b. Their parents have requested to have them receive services in the preschool program for handicapped children established pursuant to Part 14 of Article IX of Chapter 115C of the General Statutes; and
 - c. They have been placed in the program by the local educational agency.

In no event shall a child be considered an eligible toddler after the beginning of the school year immediately following the child's third birthday.

The early intervention services that may be provided for these children and their families include early identification and screening, multidisciplinary evaluations, case management services, family training, counseling and home visits, psychological services, speech pathology and audiology, and occupational and physical therapy. All evaluations performed as part of early intervention services shall be appropriate to the individual child's age and development.

- (13b) 'Eligible psychologist' means a licensed ~~practicing~~ psychologist who has at least two years' clinical experience. After January 1, 1995, 'eligible psychologist' means a licensed psychologist who holds permanent licensure and certification as a health services provider psychologist issued by the North Carolina Psychology Board.
- (14) 'Facility' means any person at one location whose primary purpose is to provide services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers, and includes:
 - a. An 'area facility', which is a facility that is operated by or under contract with the area authority. A facility that is providing services under contract with the area authority is an area facility for purposes of the contracted services only. Area facilities may also be licensable facilities in accordance with Article 2 of this Chapter. A State facility is not an area facility;
 - b. A 'licensable facility', which is a facility that provides services for one or more minors or for two or more adults. When the services offered are provided to individuals who are mentally ill or developmentally disabled, these services shall be day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential services

- provided for 24 consecutive hours or more. When the services offered are provided to individuals who are substance abusers, these services shall include all outpatient services, day services offered to the same individual for a period of three hours or more during a 24-hour period, or residential services provided for 24 consecutive hours or more. Facilities for individuals who are substance abusers include chemical dependency facilities;
- c. A 'private facility', which is a facility that is either a licensable facility or a special unit of a general hospital or a part of either in which the specific service provided is not covered under the terms of a contract with an area authority;
 - d. The psychiatric service of the University of North Carolina Hospitals at Chapel Hill;
 - e. A 'residential facility', which is a 24-hour facility that is not a hospital, including a group home;
 - f. A 'State facility', which is a facility that is operated by the Secretary;
 - g. A '24-hour facility', which is a facility that provides a structured living environment and services for a period of 24 consecutive hours or more and includes hospitals that are facilities under this Chapter; and
 - h. A Veterans Administration facility or part thereof that provides services for the care, treatment, habilitation, or rehabilitation of the mentally ill, the developmentally disabled, or substance abusers.
- (15) 'Guardian' means a person appointed as a guardian of the person or general guardian by the court under Chapters 7A or 35A or former Chapters 33 or 35 of the General Statutes.
 - (16) 'Habilitation' means training, care, and specialized therapies undertaken to assist a client in maintaining his current level of functioning or in achieving progress in developmental skills areas.
 - (17) 'Incompetent adult' means an adult individual adjudicated incompetent.
 - (18) 'Intoxicated' means the condition of an individual whose mental or physical functioning is presently substantially impaired as a result of the use of alcohol or other substance.
 - (19) 'Law-enforcement officer' means sheriff, deputy sheriff, police officer, State highway patrolman, or an officer employed by a city or county under G.S. 122C-302.
 - (20) 'Legally responsible person' means: (i) when applied to an adult, who has been adjudicated incompetent, a guardian; or (ii) when applied to a minor, a parent, guardian, a person standing **in loco parentis**, or a legal custodian other than a parent who has been granted specific authority by law or in a custody order to consent for medical care, including psychiatric treatment.

- (21) 'Mental illness' means: (i) when applied to an adult, an illness which so lessens the capacity of the individual to use self-control, judgment, and discretion in the conduct of his affairs and social relations as to make it necessary or advisable for him to be under treatment, care, supervision, guidance, or control; and (ii) when applied to a minor, a mental condition, other than mental retardation alone, that so impairs the youth's capacity to exercise age adequate self-control or judgment in the conduct of his activities and social relationships so that he is in need of treatment.
- (22) 'Mental retardation' means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before age 22.
- (23) 'Mentally retarded with accompanying behavior disorder' means an individual who is mentally retarded and who has a pattern of maladaptive behavior that is recognizable no later than adolescence and is characterized by gross outbursts of rage or physical aggression against other individuals or property.
- (24) 'Next of kin' means the individual designated in writing by the client or his legally responsible person upon the client's acceptance at a facility; provided that if no such designation has been made, 'next of kin' means the client's spouse or nearest blood relation in accordance with G.S. 104A-1.
- (25) 'Operating costs' means expenditures made by an area authority in the delivery of services for mental health, developmental disabilities, and substance abuse as provided in this Chapter and includes the employment of legal counsel on a temporary basis to represent the interests of the area authority.
- (26) Repealed by Session Laws 1987, c. 345, s. 1.
- (27) 'Outpatient treatment' as used in Part 7 of Article 5 means treatment in an outpatient setting and may include medication, individual or group therapy, day or partial day programming activities, services and training including educational and vocational activities, supervision of living arrangements, and any other services prescribed either to alleviate the individual's illness or disability, to maintain semi-independent functioning, or to prevent further deterioration that may reasonably be predicted to result in the need for inpatient commitment to a 24-hour facility.
- (28) 'Person' means any individual, firm, partnership, corporation, company, association, joint stock association, agency, or area authority.
- (29) 'Physician' means an individual licensed to practice medicine in North Carolina under Chapter 90 of the General Statutes or a licensed medical doctor employed by the Veterans Administration.

- (30) 'Provider of support services' means a person that provides to a facility support services such as data processing, dosage preparation, laboratory analyses, or legal, medical, accounting, or other professional services, including human services.
- (30a) 'Psychologist' means an individual licensed to practice psychology under Chapter 90. The term 'eligible psychologist' is defined in subdivision (13a).
- (31) 'Qualified professional' means any individual with appropriate training or experience as specified by the General Statutes or by rule of the Commission in the fields of mental health or developmental disabilities or substance abuse treatment or habilitation, including physicians, psychologists, educators, social workers, registered nurses, and certified counselors.
- (32) 'Responsible professional' means an individual within a facility who is designated by the facility director to be responsible for the care, treatment, habilitation, or rehabilitation of a specific client and who is eligible to provide care, treatment, habilitation, or rehabilitation relative to the client's disability.
- (33) 'Secretary' means the Secretary of the Department of Human Resources.
- (33a) 'Severe and persistent mental illness' means a mental disorder suffered by persons of 18 years of age or older that leads these persons to exhibit emotional or behavioral functioning that is so impaired as to interfere substantially with their capacity to remain in the community without supportive treatment or services of a long term or indefinite duration. This disorder is a severe and persistent mental disability, resulting in a long-term limitation of functional capacities for the primary activities of daily living, such as interpersonal relations, homemaking, self-care, employment, and recreation.
- (34) 'Single portal of entry and exit policy' means an admission and discharge policy for State and area facilities that may be adopted by an area authority and shall be approved by the Secretary before it is in force. The policy and its provisions shall be designed to promote quality client care in and among State and area facilities. Furthermore, the policy shall be designed to integrate otherwise independent facilities into a unified and coordinated system, in which system the area authority shall be responsible for assuring that the individual client can receive services from the facility that is best able to meet his needs. However, the policy may not be inconsistent with any other provisions of the General Statutes, nor may the policy include the complete exclusion of clients from admission to any specific State or area facility.

- (35) 'Single portal area' means the county or counties that comprise the catchment area of an area authority that has adopted a single portal of entry and exit policy.
- (36) 'Substance abuse' means the pathological use or abuse of alcohol or other drugs in a way or to a degree that produces an impairment in personal, social, or occupational functioning. 'Substance abuse' may include a pattern of tolerance and withdrawal.
- (37) 'Substance abuser' means an individual who engages in substance abuse."

Sec. 7. This act becomes effective October 1, 1993. The Governor shall implement the requirement that Board members reside in different congressional districts by taking this factor into account when vacancies occur in the current terms or the current terms expire.

In the General Assembly read three times and ratified this the 17th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives