

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 631
Second Edition Engrossed 4/28/93
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Short Title: Psychology Practice Act.

(Public)

Sponsors: Senators Cooper; and Gunter.

Referred to: Finance.

March 30, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE NORTH CAROLINA PRACTICING PSYCHOLOGIST
3 LICENSING ACT.

4 The General Assembly of North Carolina enacts:

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

7 "ARTICLE 18A.
8 "PSYCHOLOGY PRACTICE ACT.

9 "§ 90-270.1. Title; purpose.

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

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

16 "§ 90-270.2. Definitions.

17 (a) '~~Accredited education institution~~ Institution of higher education' means a
18 ~~college or university chartered by the State and accredited by the appropriate regional~~
19 ~~association of colleges and secondary schools.~~ a university, college, professional school,
20 or other institution of higher learning that:

21 (1) In the United States, is regionally accredited by bodies approved by
22 the Council on Postsecondary Accreditation; or,

1 (2) In Canada, holds a membership in the Association of Universities and
2 Colleges of Canada; or

3 (3) When applicable in other countries, is accredited by the comparable
4 official organization having such authority.

5 (b) ~~'Board' means the North Carolina State Psychology Board of Examiners of~~
6 ~~Practicing Psychologists.~~

7 (c) ~~'Licensed practicing psychologist' means an individual to whom a license has~~
8 ~~been issued pursuant to the provisions of this Article, and whose license is in force and~~
9 ~~not suspended or revoked revoked, and whose license permits him or her to engage in the~~
10 ~~practice of psychology as defined in this Article.~~

11 (d) 'Licensed psychological associate' means an individual to whom a license has
12 been issued pursuant to the provisions of this Article, whose license is in force and not
13 suspended or revoked, and whose license permits him or her to engage in the practice of
14 psychology as defined in this Article.

15 ~~(d)~~ (e) ~~'Practice of psychology' within the meaning of this Article is defined as~~
16 ~~rendering, or offering to render, professional psychological services to individuals,~~
17 ~~singly or in groups, whether in the general public or in organizations, either public or~~
18 ~~private, for a fee, monetary or otherwise. means the observation, description, evaluation,~~
19 ~~interpretation, or modification of human behavior by the application of psychological~~
20 ~~principles, methods, and procedures, for the purpose of preventing or eliminating~~
21 ~~symptomatic, maladaptive, or undesired behavior or of enhancing interpersonal~~
22 ~~relationships, work and life adjustment, personal effectiveness, behavioral health, or~~
23 ~~mental health. The practice of psychology includes, but is not limited to: psychological~~
24 ~~testing and the evaluation or assessment of personal characteristics such as intelligence,~~
25 ~~personality, abilities, interests, aptitudes, and neuropsychological functioning;~~
26 ~~counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior~~
27 ~~analysis and therapy; diagnosis and treatment of mental and emotional disorder or~~
28 ~~disability, alcoholism and substance abuse, disorders of habit or conduct, as well as of~~
29 ~~the psychological aspects of physical illness, accident, injury, or disability; and~~
30 ~~psychoeducational evaluation, therapy, remediation, and consultation. Psychological~~
31 ~~services may be rendered to individuals, families, groups, and the public. The practice~~
32 ~~of psychology shall be construed within the meaning of this definition without regard to~~
33 ~~whether payment is received for services rendered.~~

34 ~~(e)~~ " ~~Professional psychological services" means the application of~~
35 ~~psychological principles and procedures for the purposes of understanding, predicting,~~
36 ~~or influencing the behavior of individuals in order to assist in their attainment of~~
37 ~~maximum personal growth; optimal work, family, school and interpersonal~~
38 ~~relationships; and healthy personal adjustment. The application of psychological~~
39 ~~principles and procedures includes some of all or [some or all of] the following, but is~~
40 ~~not restricted to: interviewing, counseling, and psychotherapy; administering and~~
41 ~~interpreting instruments for the assessment and evaluation of mental abilities, aptitudes,~~
42 ~~interests, attitudes, personality characteristics, emotions, and motivation; diagnosis,~~
43 ~~prevention, and amelioration of adjustment problems; hypnosis; the resolution of~~
44 ~~interpersonal and social conflict; educational and vocational counseling; personnel~~

1 selection; and the evaluation and planning for effective work and learning situations.
2 Teaching, writing, the giving of public speeches or lectures, and research concerned
3 with psychological principles, or the application of psychological principles, are not
4 included in professional psychological services within the meaning of this Article.

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

14 (f) 'Psychologist': A person represents himself or herself to be a psychologist if
15 that person uses any title or description of services incorporating the words
16 'psychology,' 'psychological,' 'psychologic,' or 'psychologist,' or states that he or she
17 possesses expert qualification in any area of psychology, or provides or offers to
18 provide services defined as the practice of psychology in this Article. All persons
19 licensed under this Article may present themselves as psychologists, as may those
20 persons who are exempt per G.S. 90-270.4 and those who are qualified applicants per
21 G.S. 90-270.5.

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

26 (g) 'Jurisdiction' means any governmental authority, including but not limited to
27 states, territories, commonwealths, or districts of the United States, or any country or
28 local governmental authority thereof, which licenses, certifies, or registers
29 psychologists.

30 (h) 'Health services' means those activities of the practice of psychology which
31 include the delivery of preventive, assessment, or therapeutic intervention services
32 directly to individuals whose growth, adjustment, or functioning is actually impaired or
33 may be at substantial risk of impairment.

34 (i) 'Examination' means any and all examination which are adopted by the Board
35 and administered to applicants and licensees, including but not limited to the national
36 examination, Board-developed examinations, and other examinations which assess the
37 competency and ethics of psychologists and applicants.

38 **"§ 90-270.3. Practice of medicine and optometry not permitted.**

39 Nothing in this Article shall be construed as permitting licensed ~~practicing~~
40 psychologists or licensed psychological associates to engage in any manner in all or any
41 of the parts of the practice of medicine or optometry licensed under Articles 1 and 6 of
42 Chapter 90 of the General Statutes, including, among others, the diagnosis and
43 correction of visual and muscular anomalies of the human eyes and visual apparatus,
44 eye exercises, orthoptics, vision training, visual training and developmental vision. A

1 licensed ~~practicing~~ psychologist or licensed psychological associate shall assist his or her
2 client or patient in obtaining professional help for all aspects of his ~~the client's or~~
3 ~~patient's~~ problems that fall outside the boundaries of his ~~the psychologist's~~ own
4 competence, including provision for the diagnosis and treatment of relevant medical or
5 optometric problems.

6 **"§ 90-270.4. Exemptions to this Article.**

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

28 (b) Nothing in this Article shall be construed as limiting the activities, services,
29 and use of official titles on the part of any person in the regular employ of the State of
30 North Carolina or whose employment is included under the State Personnel Act who
31 has served in a position of employment involving the practice of psychology as defined
32 in this Article, provided that the person was serving in this capacity on December 31,
33 1979. ~~In addition to the requirements for licensing contained in Article 18A, an employee of a~~
34 ~~State agency or department or an employee whose employment is included under the State~~
35 ~~Personnel Act who has served in a position involving the practice of psychology for five~~
36 ~~consecutive years by December 31, 1984, and who has graduate training in psychology and~~
37 ~~experience as the Board finds to be the equivalent of a master's degree in psychology, shall be~~
38 ~~permitted to take the examination for licensing as a psychological associate. Provided,~~
39 ~~however, that any agency or department of the State of North Carolina which employs~~
40 ~~psychologists may petition the State Personnel Commission for exemption from the~~
41 ~~requirements of this act, which exemption shall be granted upon a showing that there is an~~
42 ~~insufficient number of licensed psychologists available to fill all authorized psychologists'~~
43 ~~positions in such agency or department.~~

44 (a1) ~~Nothing in this Article shall be construed as limiting State or local governmental~~
45 ~~programs from hiring nonlicensed applicants qualified for psychology positions,~~

1 providing that the person hired has not previously been denied licensure on grounds
2 applicable at the time of his employment by the governmental program and providing
3 that the person hired makes application for a license in North Carolina within six
4 months of being employed by the governmental program. After making application for
5 a license, employees hired under this provision must take the first examination for a
6 license to which they are admitted by the Board, and if the employee fails the
7 examination, the employee must pass the examination the next time it is given to
8 remain employed in a psychology position. An employee hired under this provision who
9 fails the examination or leaves the governmental program after six months without
10 making application for a license may not subsequently be hired by another
11 governmental program without first becoming licensed.

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

37 (b) (d) Nothing in this Article shall be construed as limiting the activities, ~~services~~
38 services, and use of title designating training status of a student, intern, ~~or fellow~~ fellow,
39 or other trainee preparing for the practice of psychology under ~~qualified the~~ supervision
40 and responsibility of a qualified psychologist in an accredited educational institution of
41 higher education or service facility, provided that such activities and services constitute
42 a part of his or her course of study. ~~study as a matriculated graduate student in~~
43 psychology. For individuals pursuing postdoctoral training or experience in
44 psychology, nothing shall limit the use of a title designating training status, but the

1 Board may develop rules and regulations defining qualified supervision, disclosure of
2 supervisory relationships, frequency of supervision, settings to which trainees may be
3 assigned, activities in which trainees may engage, qualifications for trainee status,
4 nature of responsibility assumed by the supervisor, and the structure, content, and
5 organization of postdoctoral experience.

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

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

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

33 ~~(f) Nothing in this Article is to be construed as prohibiting a psychologist who is~~
34 ~~not a resident of North Carolina who holds an earned doctoral, master's, or specialist~~
35 ~~degree in psychology from an institution of higher education, and who is licensed or~~
36 ~~certified only in another jurisdiction, from rendering professional psychological services~~
37 ~~engaging in the practice of psychology, including the provision of health services, in~~
38 ~~this State for not more than up to five days in any calendar year. All such psychologists~~
39 ~~shall comply with supervision requirements established by the Board, and shall notify~~
40 ~~the Board in writing of their intent to practice in North Carolina, prior to the provision~~
41 ~~of any services in this State. The Board shall adopt rules and regulations implementing~~
42 ~~and defining this provision.~~

43 ~~(g) Except as otherwise provided in this Article, if a person exempt from the~~
44 ~~provisions of this Article and not required to be licensed under this Article is or~~

1 becomes licensed under this Article, he or she shall be required to comply with all
2 conditions, ~~requirements~~ requirements, and obligations imposed by Board rules and
3 regulations or by statute upon all other psychologists licensed under this Article.

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

11 **"§ 90-270.5. Application; examination; supervision; provisional and Temporary**
12 **temporary licenses.**

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

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

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

- 40 (1) For licensed psychologist applicants, until they have passed the
41 examination to which they have been admitted by the Board, have
42 been notified of the results, have completed supervision requirements
43 specified in G.S. 90-270.5(d) below, and have been informed by the
44 Board of permanent licensure as a licensed psychologist; or

1 (2) For licensed psychological associate applicants, until they have passed
2 the examination to which they have been admitted by the Board, have
3 been notified of the results, and have been informed by the Board of
4 permanent licensure as a licensed psychological associate, after which
5 time supervision is required only for those activities specified in G.S.
6 90-270.5(e) below.

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

18 (1) One of these years of experience shall be postdoctoral, and for this
19 year, the Board may require, as specified in its rules and regulations,
20 that the supervised experience be comparable to the knowledge and
21 skills acquired during formal doctoral or postdoctoral education, in
22 accordance with established professional standards.

23 (2) One of these years may be predoctoral and the Board shall establish
24 rules and regulations governing appropriate supervised predoctoral
25 experience.

26 (4) (3) A psychologist who meets all other requirements of G.S. 90-
27 270.11(a) ~~for licensing as a licensed psychologist, except the two~~
28 ~~years of acceptable and appropriate supervised experience, may be~~
29 ~~issued a temporary-provisional license by the Board for the practice~~
30 ~~of psychology for a period not exceeding two years, provided he practices~~
31 ~~under the supervision of a licensed practicing psychologist or a~~
32 ~~psychologist acceptable to the Board as an eligible supervisor.~~
33 psychology. If the psychologist ceases to practice at any time before
34 completion of the two years of acceptable and appropriate supervised
35 experience, terminates the supervised experience before the
36 completion of two years, the Board may place the psychologist on
37 inactive status, during which time supervision will not be required.
38 required, and the practice of psychology or the offer to practice
39 psychology is prohibited. In the event a practicing licensed
40 psychologist issued a temporary-provisional license under this
41 subsection is placed on inactive status or practices is completing the
42 supervised experience on a part-time basis, the Board may renew the
43 temporary-provisional license as necessary until such time as the
44 psychologist has completed the equivalent of two years' full-time

1 ~~practice under acceptable and appropriate supervision as defined by the~~
2 ~~Board supervised experience.~~

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

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

35 ~~(b) A nonresident psychologist who meets all other requirements of G.S. 90-~~
36 ~~270.11(a) or 90-270.11(b) for licensing, and is not licensed or certified in his place of~~
37 ~~residence, may be issued a temporary license by the Board for the practice of~~
38 ~~psychology in this State for the same period and under the same conditions as in G.S.~~
39 ~~90-270.5(a) above, except that summary of his qualifications in lieu of evidence of~~
40 ~~certification or licensing must be submitted to the Board for its appraisal.~~

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

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

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

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

11 "**§ 90-270.6. Board of Examiners in Psychology; Psychology Board; appointment;**
12 **term of office; composition.**

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

37 "**§ 90-270.7. Qualifications of Board ~~members.~~ members; removal of Board**
38 **members.**

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

- 41 (1) ~~Be~~ Shall be a resident of this State and a citizen of the United States;
42 (2) ~~Except for public members, hold either a license as a practicing~~
43 ~~psychologist or a license as a psychological associate issued under this~~
44 ~~Article;~~ 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 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.

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

16 **"§ 90-270.10. Annual report.**

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

25 **"§ 90-270.11. ~~Licensing and examination.~~ Licensure; examination; foreign graduates.**

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

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

- 34 a.(1) Is at least 18 years of age;
35 b.(2) Is of good moral character;
36 e.(3) Has received a doctoral degree based on a planned and
37 directed program of studies in psychology from an
38 ~~accredited educational institution;~~ institution of higher
39 education. The degree program, wherever
40 administratively housed, must be publicly identified
41 and clearly labeled as a psychology program. The
42 Board shall adopt rules and regulations implementing
43 and defining these provisions, including but not
44 limited to such factors as residence in the educational

1 section, but may impose continuing education requirements for
2 renewals of the license.

3 (3) (2) Notwithstanding the provisions of this subsection, an
4 licensed psychologist applicant for licensure as a practicing
5 psychologist, who has met all requirements for licensure as a
6 practicing psychologist except passing the examination at the
7 practicing licensed psychologist level, may be issued a license as a
8 licensed psychological associate without having a master's degree or
9 specialist degree in psychology if the applicant passes the
10 examination at the licensed psychological associate level.

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

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

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

26 "**§ 90-270.13. Licensing Licensure of psychologist psychologists licensed or certified**
27 **in other states; licensing jurisdictions; licensure of diplomates of the**
28 **American Board of Examiners in Professional Psychology. Psychology;**
29 **Reciprocity.**

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

36 (a) Upon application and payment of the requisite fee, the Board shall grant
37 permanent licensure at the appropriate level to any person who, at the time of
38 application, is licensed or certified as a psychologist by a similar board in another
39 jurisdiction, whose license or certification is in good standing, who is a graduate of an
40 institution of higher education, who passes any examination prescribed by the Board,
41 and who meets the definition of a senior psychologist as that term is defined by the rules
42 and regulations of the Board.

43 (b) The Board may establish formal written agreements of reciprocity with the
44 psychology boards of other jurisdictions if the Board determines that the standards of

1 the boards of the other jurisdictions are substantially equivalent to or greater than those
2 required by this Article.

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

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

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

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

18 **"§ 90-270.14. Renewal of licenses; duplicate or replacement licenses.**

19 (a) Beginning with calendar year 1994, a license issued under this Article must
20 be renewed annually-biennially on or before the first day of January-October in each even
21 numbered year, the requirements for such renewal being:

22 (1) Each application for renewal must be of not more than one hundred
23 twenty-five dollars (\$125.00) made on a form prescribed by the Board
24 and accompanied by a fee as specified in G.S. 90-270.18(b). If a
25 license is not renewed on or before the first day of January of each
26 October of 1994 and in each subsequent even-numbered calendar year,
27 an additional fee of not more than fifteen dollars (\$15.00) shall be
28 charged for late renewal as specified in G.S. 90-270.18(b).

29 (2) The Board may establish continuing education requirements for
30 continuing education for psychologists licensed and registered in this State as
31 a condition for license renewal.

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

36 **"§ 90-270.15. Denial, suspension, or revocation of licenses and health services**
37 **provider certification, and other disciplinary and remedial actions**
38 **unprofessional conduct; for violations of the Code of Conduct;**
39 **relinquishing of license.**

40 (a) Any applicant for licensure or health services provider certification and any
41 person licensed or certified under this Article shall have behaved in conformity with the
42 ethical and professional standards specified in this section-Code of Conduct and in the
43 rules and regulations of the Board. The Board may deny, suspend, revoke, or revoke
44 licensure and certification, and may discipline, place on probation, limit, or limit

1 ~~practice, and require examination, remediation or, remediation, and rehabilitation, or any~~
2 ~~combination thereof, all as provided for in subsection (f) below, (b) below. The Board~~
3 ~~shall act upon proof that the applicant or the person to whom the license was issued:~~
4 ~~licensee engaged in illegal, immoral, dishonorable, unprofessional, or unethical conduct~~
5 ~~by violating any of the provisions of the Code of Conduct as follows:~~

- 6 (1) Has been convicted of a felony or entered a plea of guilty or **nolo**
7 **contendere** to any felony charge;
- 8 (2) Has been convicted of or entered a plea of guilty or **nolo contendere**
9 to any misdemeanor involving moral turpitude, misrepresentation or
10 fraud in dealing with the public, or conduct otherwise relevant to
11 fitness to practice psychology, or a misdemeanor charge reflecting the
12 inability to practice psychology with due regard to the health and
13 safety of clients or patients;
- 14 (3) Has engaged in fraud or deceit in securing or attempting to secure or
15 renew a license or in securing or attempting to secure health services
16 provider certification under this Article ~~or the renewal thereof~~ or has
17 willfully concealed from the Board material information in connection
18 with application for a license or health services provider certification,
19 or for renewal of a license under this Article;
- 20 (4a) ~~Has demonstrated an inability to practice psychology with reasonable~~
21 ~~skill and safety by reason of illness, inebriation, misuse of drugs,~~
22 ~~narcotics, alcohol, chemicals, or any other substance affecting mental~~
23 ~~or physical functioning, or as a result of any mental or physical~~
24 ~~condition;~~
- 25 (5) ~~Has practiced any fraud, deceit, or misrepresentation upon the public,~~
26 ~~the Board, or upon any individual in connection with the practice of~~
27 ~~psychology, the offer of psychological services, the filing of Medicare,~~
28 ~~Medicaid, or other claims to any third party payor, or in any manner~~
29 ~~otherwise relevant to fitness for the practice of psychology;~~
- 30 (6) ~~Has made fraudulent, misleading, or intentionally or materially false~~
31 ~~statements pertaining to education, licensure, professional credentials,~~
32 ~~or related to qualifications or fitness for the practice of psychology to~~
33 ~~the public, any individual, the Board, or any other organization;~~
- 34 (7) ~~Has had a license or certification for the practice of psychology in any~~
35 ~~other state, or territory of the United States, or any other country,~~
36 ~~suspended or revoked, or has been disciplined by any other state or~~
37 ~~territorial licensing or certification board for conduct which would~~
38 ~~subject him to discipline under this Article;~~
- 39 (8) ~~Has been guilty of immoral, dishonorable, unprofessional, or unethical~~
40 ~~conduct as defined in this subsection, in subsection (a1) below, or in~~
41 ~~the then-current code of ethics of the American Psychological~~
42 ~~Association, except as the provisions of such code of ethics may be~~
43 ~~inconsistent and in conflict with the provisions of this Article, in which~~
44 ~~case, the provisions of this Article control;~~

- 1 (9) Has violated any provision of this Article or of the duly adopted rules
2 and regulations of the Board; or
- 3 (10) Repealed by Session Laws 1991, c. 239.
- 4 (10a) Has aided or abetted the unlawful practice of psychology by any
5 person not licensed by the Board.
- 6 (a1) The Board may deny licensure, and discipline or require remediation and
7 rehabilitation, or any combination thereof, as specified in subsections (a) above and (e)
8 below, upon proof of immoral, dishonorable, unprofessional, or unethical conduct.
9 Immoral, dishonorable, unprofessional, or unethical conduct has occurred whenever any
10 person who has applied for or has been issued a license under this Article has engaged
11 in any of the following acts or offenses:
- 12 (1) Practiced psychology in such a manner as to endanger the welfare of
13 clients or patients;
- 14 (2) Harassed or abused, sexually or otherwise, a client, patient, student,
15 supervisee, or trainee;
- 16 (3) Exercised undue influence in such a manner as to exploit the client,
17 patient, student, supervisee, or trainee for the financial or other
18 personal advantage or gratification of the psychologist or a third party;
- 19 (4) Refused to appear before the Board after having been ordered to do so
20 in writing by the Chair;
- 21 (5) Failed to cooperate with or to respond promptly, completely, and
22 honestly to the Board, to credentials committees, or to ethics
23 committees of professional psychological associations, hospitals, or
24 other health care organizations or educational institutions when those
25 organizations or entities have jurisdiction; or failed to cooperate with
26 institutional review boards or professional standards review
27 organizations, when those organizations or entities have jurisdiction;
- 28 (6) Failed to maintain a clear and accurate case record which documents
29 the following for each patient or client:
- 30 a. Presenting problems, diagnosis, or purpose of the evaluation,
31 counseling, treatment, or other services provided;
- 32 b. Fees, dates of services, and itemized charges;
- 33 c. Summary content of each session of evaluation, counseling,
34 treatment, or other services, except that summary content need
35 not include specific information that may cause significant
36 harm to any person if the information were released;
- 37 d. Test results or other findings, including basic test data; and
- 38 e. Copies of all reports prepared;
- 39 (7) Failed to competently use, administer, score, or interpret psychological
40 assessment techniques, including interviewing and observation, or
41 provided findings or recommendations which do not accurately reflect
42 the assessment data, or exceed what can reasonably be inferred,
43 predicted, or determined from test, interview, or observational data;

- 1 ~~(8) Failed to provide competent diagnosis, counseling, treatment,~~
2 ~~consultation, or supervision, in keeping with standards of usual and~~
3 ~~eustomary practice in this State;~~
4 ~~(9) In the absence of established standards, failed to take all reasonable~~
5 ~~steps to ensure the competence of servicees;~~
6 ~~(10) Failed to cooperate with other psychologists or other professionals to~~
7 ~~the potential or actual detriment of clients, patients, or other recipients~~
8 ~~of service, or behaved in ways which substantially impede or impair~~
9 ~~other psychologists' or other professionals' abilities to perform~~
10 ~~professional duties; or~~
11 ~~(11) Practiced psychology or conducted research outside the boundaries of~~
12 ~~demonstrated competence or the limitations of education, training, or~~
13 ~~supervised experience.~~

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

24 ~~(c) Except as provided otherwise in this Article, the procedure for revocation,~~
25 ~~suspension, denial, limitations of the license, or other disciplinary, remedial, or~~
26 ~~rehabilitative actions, shall be in accordance with the provisions of Chapter 150B of the~~
27 ~~General Statutes. The Board is required to provide the opportunity for a hearing under~~
28 ~~Chapter 150B to any applicant whose license is denied or to whom licensure is offered~~
29 ~~subject to any restrictions, probation, disciplinary action, remediation, or other~~
30 ~~conditions or limitations, or to any licensee before revoking, suspending, or restricting a~~
31 ~~license or imposing any other disciplinary action or remediation. If the applicant or~~
32 ~~licensee waives the opportunity for a hearing, the Board's denial, revocation,~~
33 ~~suspension, or other proposed action becomes final without a hearing having been~~
34 ~~conducted. Notwithstanding the foregoing, no applicant or licensee is entitled to a~~
35 ~~hearing for failure to pass an examination. In any proceeding before the Board, in any~~
36 ~~record of any hearing before the Board, in any complaint or notice of charges against~~
37 ~~any licensee or applicant for licensure, and in any decision rendered by the Board, the~~
38 ~~Board may withhold from public disclosure the identity of any clients or patients who~~
39 ~~have not consented to the public disclosure of treatment by the licensee or applicant.~~
40 ~~The Board may close a hearing to the public and receive in executive session evidence~~
41 ~~involving or concerning the treatment or delivery of psychological services to a client or~~
42 ~~a patient who has not consented to the public disclosure of such treatment or services as~~
43 ~~may be necessary for the protection and rights of such patient or client of the accused~~
44 ~~applicant or licensee and the full presentation of relevant evidence. All records, papers~~

1 and other documents containing information collected and compiled by or on behalf of
2 the Board, as a result of investigations, inquiries or interviews conducted in connection
3 with licensing or disciplinary matters will not be considered public records within the
4 meaning of Chapter 132 of the General Statutes; provided, however, that any notice or
5 statement of charges against any licensee or applicant, or any notice to any licensee or
6 applicant of a hearing in any proceeding, or any decision rendered in connection with a
7 hearing in any proceeding, shall be a public record within the meaning of Chapter 132
8 of the General Statutes, notwithstanding that it may contain information collected and
9 compiled as a result of such investigation, inquiry, or hearing except that identifying
10 information concerning the treatment or delivery of services to a patient or client who
11 has not consented to the public disclosure of such treatment or services may be deleted;
12 and provided, further, that if any such record, paper or other document containing
13 information theretofore collected and compiled by or on behalf of the Board, as
14 hereinbefore provided, is received and admitted in evidence in any hearing before the
15 Board, it shall thereupon be a public record within the meaning of Chapter 132 of the
16 General Statutes, subject to any deletions of identifying information concerning the
17 treatment or delivery of psychological services to a patient or client who has not
18 consented to the public disclosure of such treatment or services.

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

22 (e) Upon proof that an applicant or licensee under this Article has engaged in any
23 of the prohibited actions specified in subsections (a) and (a1) above, the Board may, in
24 lieu of denial, suspension, or revocation, issue a formal reprimand or formally censure
25 the applicant or licensee, may place the applicant or licensee upon probation with such
26 appropriate conditions upon the continued practice as the Board may deem advisable,
27 may require remediation or rehabilitation for the applicant or licensee, including care,
28 counseling, or treatment by a professional or professionals designated or approved by
29 the Board, the expense to be borne by the applicant or licensee, may require supervision
30 for the services provided by the applicant or licensee by a licensee designated or
31 approved by the Board, the expense to be borne by the applicant or licensee, may limit
32 or circumscribe the professional psychological services provided by the applicant or
33 licensee with respect to the extent, nature, or location of his practice as the Board deems
34 advisable, or may discipline and impose any appropriate combination of the foregoing.
35 In addition, the Board may impose such conditions of probation or restrictions upon
36 continued practice at the conclusion of a period of suspension or as requirements for the
37 restoration of a revoked or suspended license. In lieu of or in connection with any
38 disciplinary proceedings or investigation, the Board may enter into a consent order
39 relative to the discipline, supervision, probation, remediation or rehabilitation, or
40 limitation of a licensee or applicant for a license.

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

43 (g) When considering the issue of whether or not an applicant or licensee is
44 physically or mentally capable of practicing psychology with reasonable skill and safety

1 to patients or clients, then, upon a showing of probable cause to the Board that the
2 applicant or licensee is not capable of practicing psychology with reasonable skill and
3 safety to patients or clients, the Board may petition a court of competent jurisdiction to
4 order the applicant or licensee in question to submit to a psychological examination by a
5 psychologist to determine psychological status or a physical examination by a physician
6 to determine physical condition, or both. Such psychologist or physician, shall be
7 designated by the court. The expenses of such examinations shall be borne by the
8 Board. Where the applicant or licensee raises the issue of mental or physical
9 competence or appeals a decision regarding mental or physical competence, the
10 applicant or licensee shall be permitted to obtain an evaluation at the applicant's or
11 licensee's expenses. If the Board suspects the objectivity or adequacy of the
12 examination, the Board may compel an examination by its designated practitioners at its
13 own expense.

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

18 (4) Has practiced any fraud, deceit, or misrepresentation upon the public,
19 the Board, or any individual in connection with the practice of
20 psychology, the offer of psychological services, the filing of Medicare,
21 Medicaid, or other claims to any third party payor, or in any manner
22 otherwise relevant to fitness for the practice of psychology;

23 (5) Has made fraudulent, misleading, or intentionally or materially false
24 statements pertaining to education, licensure, license renewal,
25 certification as a health services provider, supervision, continuing
26 education, any disciplinary actions or sanctions pending or occurring
27 in any other jurisdiction, professional credentials, or qualifications or
28 fitness for the practice of psychology to the public, any individual, the
29 Board, or any other organization;

30 (6) Has had a license or certification for the practice of psychology in any
31 other jurisdiction suspended or revoked, or has been disciplined by the
32 licensing or certification board in any other jurisdiction for conduct
33 which would subject him or her to discipline under this Article;

34 (7) Has violated any provision of this Article or of the duly adopted rules
35 and regulations of the Board;

36 (8) Has aided or abetted the unlawful practice of psychology by any
37 person not licensed by the Board;

38 (9) For a licensed psychologist, has provided health services without
39 health services provider certification;

40 (10) Has been guilty of immoral, dishonorable, unprofessional, or unethical
41 conduct as defined in this subsection, or in the then-current code of
42 ethics of the American Psychological Association, except as the
43 provisions of such code of ethics may be inconsistent and in conflict

- 1 with the provisions of this Article, in which case, the provisions of this
2 Article control;
- 3 (11) Has practiced psychology in such a manner as to endanger the welfare
4 of clients or patients;
- 5 (12) Has demonstrated an inability to practice psychology with reasonable
6 skill and safety by reason of illness, inebriation, misuse of drugs,
7 narcotics, alcohol, chemicals, or any other substance affecting mental
8 or physical functioning, or as a result of any mental or physical
9 condition;
- 10 (13) Has practiced psychology or conducted research outside the
11 boundaries of demonstrated competence or the limitations of
12 education, training, or supervised experience;
- 13 (14) Has failed to use, administer, score, or interpret psychological
14 assessment techniques, including interviewing and observation, in a
15 competent manner, or has provided findings or recommendations
16 which do not accurately reflect the assessment data, or exceed what
17 can reasonably be inferred, predicted, or determined from test,
18 interview, or observational data;
- 19 (15) Has failed to provide competent diagnosis, counseling, treatment,
20 consultation, or supervision, in keeping with standards of usual and
21 customary practice in this State;
- 22 (16) In the absence of established standards, has failed to take all
23 reasonable steps to ensure the competence of services;
- 24 (17) Has failed to maintain a clear and accurate case record which
25 documents the following for each patient or client:
- 26 a. Presenting problems, diagnosis, or purpose of the evaluation,
27 counseling, treatment, or other services provided;
- 28 b. Fees, dates of services, and itemized charges;
- 29 c. Summary content of each session of evaluation, counseling,
30 treatment, or other services, except that summary content need
31 not include specific information that may cause significant
32 harm to any person if the information were released;
- 33 d. Test results or other findings, including basic test data; and
- 34 e. Copies of all reports prepared;
- 35 (18) Except when prevented from doing so by circumstances beyond the
36 psychologist's control, has failed to retain securely and confidentially
37 the complete case record for at least seven years from the date of the
38 last provision of psychological services; or, except when prevented
39 from doing so by circumstances beyond the psychologist's control, has
40 failed to retain securely and confidentially the complete case record for
41 three years from the date of the attainment of majority age by the
42 patient or client or for at least seven years from the date of the last
43 provision of psychological services, whichever is longer; or, except
44 when prevented from doing so by circumstances beyond the

1 psychologist's control, has failed to retain securely and confidentially
2 the complete case record indefinitely if there are pending legal or
3 ethical matters or if there is any other compelling circumstance;

4 (19) Has failed to cooperate with other psychologists or other professionals
5 to the potential or actual detriment of clients, patients, or other
6 recipients of service, or has behaved in ways which substantially
7 impede or impair other psychologists' or other professionals' abilities
8 to perform professional duties;

9 (20) Has exercised undue influence in such a manner as to exploit the
10 client, patient, student, supervisee, or trainee for the financial or other
11 personal advantage or gratification of the psychologist or a third party;

12 (21) Has harassed or abused, sexually or otherwise, a client, patient,
13 student, supervisee, or trainee;

14 (22) Has failed to cooperate with or to respond promptly, completely, and
15 honestly to the Board, to credentials committees, or to ethics
16 committees of professional psychological associations, hospitals, or
17 other health care organizations or educational institutions, when those
18 organizations or entities have jurisdiction; or has failed to cooperate
19 with institutional review boards or professional standards review
20 organizations, when those organizations or entities have jurisdiction;
21 or

22 (23) Has refused to appear before the Board after having been ordered to do
23 so in writing by the Chair;

24 (b) Upon proof that an applicant or licensee under this Article has engaged in any
25 of the prohibited actions specified in subsection (a) of this section, the Board may, in
26 lieu of denial, suspension, or revocation, issue a formal reprimand or formally censure
27 the applicant or licensee, may place the applicant or licensee upon probation with such
28 appropriate conditions upon the continued practice as the Board may deem advisable,
29 may require examination, remediation, or rehabilitation for the applicant or licensee,
30 including care, counseling, or treatment by a professional or professionals designated or
31 approved by the Board, the expense to be borne by the applicant or licensee, may
32 require supervision for the services provided by the applicant or licensee by a licensee
33 designated or approved by the Board, the expense to be borne by the applicant or
34 licensee, may limit or circumscribe the practice of psychology provided by the applicant
35 or licensee with respect to the extent, nature, or location of the services provided, as the
36 Board deems advisable, or may discipline and impose any appropriate combination of
37 the foregoing. In addition, the Board may impose such conditions of probation or
38 restrictions upon continued practice at the conclusion of a period of suspension or as
39 requirements for the restoration of a revoked or suspended license. In lieu of or in
40 connection with any disciplinary proceedings or investigation, the Board may enter into
41 a consent order relative to discipline, supervision, probation, remediation, rehabilitation,
42 or practice limitation of a licensee or applicant for a license.

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

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

15 (e) Except as provided otherwise in this Article, the procedure for revocation,
16 suspension, denial, limitations of the license or health services provider certification, or
17 other disciplinary, remedial, or rehabilitative actions, shall be in accordance with the
18 provisions of Chapter 150B of the General Statutes. The Board is required to provide
19 the opportunity for a hearing under Chapter 150B to any applicant whose license or
20 health services provider certification is denied or to whom licensure or health services
21 provider certification is offered subject to any restrictions, probation, disciplinary
22 action, remediation, or other conditions or limitations, or to any licensee before
23 revoking, suspending, or restricting a license or health services provider certificate or
24 imposing any other disciplinary action or remediation. If the applicant or licensee
25 waives the opportunity for a hearing, the Board's denial, revocation, suspension, or
26 other proposed action becomes final without a hearing's having been conducted.
27 Notwithstanding the foregoing, no applicant or licensee is entitled to a hearing for
28 failure to pass an examination. In any proceeding before the Board, in any record of any
29 hearing before the Board, in any complaint or notice of charges against any licensee or
30 applicant for licensure, and in any decision rendered by the Board, the Board may
31 withhold from public disclosure the identity of any clients or patients who have not
32 consented to the public disclosure of psychological services' having been provided by
33 the licensee or applicant. The Board may close a hearing to the public and receive in
34 executive session evidence involving or concerning the treatment of or delivery of
35 psychological services to a client or a patient who has not consented to the public
36 disclosure of such treatment or services as may be necessary for the protection and
37 rights of such patient or client of the accused applicant or licensee and the full
38 presentation of relevant evidence. All records, papers, and other documents containing
39 information collected and compiled by or on behalf of the Board, as a result of
40 investigations, inquiries, or interviews conducted in connection with licensing or
41 disciplinary matters will not be considered public records within the meaning of Chapter
42 132 of the General Statutes; provided, however, that any notice or statement of charges
43 against any licensee or applicant, or any notice to any licensee or applicant of a hearing
44 in any proceeding, or any decision rendered in connection with a hearing in any

1 proceeding, shall be a public record within the meaning of Chapter 132 of the General
2 Statutes, notwithstanding that it may contain information collected and compiled as a
3 result of such investigation, inquiry, or hearing except that identifying information
4 concerning the treatment of or delivery of services to a patient or client who has not
5 consented to the public disclosure of such treatment or services may be deleted; and
6 provided, further, that if any such record, paper, or other document containing
7 information theretofore collected and compiled by or on behalf of the Board, as
8 hereinbefore provided, is received and admitted in evidence in any hearing before the
9 Board, it shall thereupon be a public record within the meaning of Chapter 132 of the
10 General Statutes, subject to any deletions of identifying information concerning the
11 treatment of or delivery of psychological services to a patient or client who has not
12 consented to the public disclosure of such treatment or services.

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

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

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

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

38 **"§ 90-270.16. Prohibited acts.**

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

42 ~~(b) After June 30, 1968, no person who is not licensed under this Article shall~~
43 ~~represent himself to be a licensed practicing psychologist or psychological associate;~~
44 ~~nor shall he use a title or description, including the term "psychology," any of its~~

1 derivatives, such as "psychologic," "psychological," or "psychologist," or modifiers
2 such as "practicing" or "certified," in such a manner which would imply that he is
3 licensed under this Article; nor shall he practice, or offer to practice, psychology as
4 defined in this Article, except as otherwise permitted herein. The use by a person who is
5 not licensed under this Article of such terms, whether in titles or descriptions or
6 otherwise, is not prohibited by this Article except when used in connection with the
7 practice of psychology as defined in this Article; such use of these terms by a person not
8 licensed under this Article shall not be construed as implying that a person is licensed
9 under this Article or as practicing or offering to practice psychology.

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

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

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

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

26 **"§ 90-270.17. Violations and penalties.**

27 Any person who violates G.S. 90-270.16 is guilty of a misdemeanor and upon
28 conviction shall be punishable by a fine of not more than five hundred dollars
29 (\$500.00), or imprisonment for not more than six months, or both fine and
30 imprisonment. Each violation shall constitute a separate offense.

31 **"§ 90-270.18. Disposition and schedule of fees.**

32 (a) All fees derived from the operation of this Article shall be deposited with the
33 State Treasurer to the credit of a revolving fund for the use of the Board in carrying out
34 its functions. The financial records of the Board shall be subjected to an annual audit,
35 supervised by the State Auditor, and paid for out of the funds of the Board. All fees
36 derived from the operation of this Article shall be non-refundable.

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

38 (1) Application fees for licensed psychologists and licensed psychological
39 associates per G.S. 90-270.11(a) and (b)(1), or G.S. 90-270.13, shall
40 not exceed one hundred dollars (\$100.00).

41 (2) Fees for the national written examination shall be the cost of the
42 examination to the Board plus an additional fee not to exceed fifty
43 dollars (\$50.00).

44 (3) Fees for additional examinations shall be as prescribed by the Board.

- 1 (4) Fees for the renewal of licenses, per G.S. 90-270.14(a)(1), shall not
2 exceed two hundred fifty dollars (\$250.00) per biennium. This fee
3 may not be prorated.
- 4 (5) Late fees for license renewal, per G.S. 90-270.14(a)(1), shall be
5 twenty-five dollars (\$25.00).
- 6 (6) Fees for the reinstatement of a license, per G.S. 90-270.15(f), shall not
7 exceed one hundred dollars (\$100.00).
- 8 (7) Fees for a duplicate license, per G.S. 90-270.14(b), shall be twenty-
9 five dollars (\$25.00).
- 10 (8) Fees for a temporary license, per G.S. 90-270.5(f) and 90-270.5(g),
11 shall be twenty-five dollars (\$25.00)
- 12 (9) Application fees for a health services provider certificate, per G.S. 90-
13 270.20, shall be fifty dollars (\$50.00).

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

16 **"§ 90-270.19. Injunctive authority.**

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

21 **"§ 90-270.20. ~~Duplicate and replacement licenses.~~ Provision of health services;**
22 **certification as health services provider.**

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

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

34 (b) After January 1, 1995, any licensed psychologist who is qualified by
35 education, who holds permanent licensure and a doctoral degree, and who provides or
36 offers to provide health services to the public must be certified as a health services
37 provider psychologist (HSP-P) by the Board. The Board shall certify as health services
38 provider psychologists those applicants who shall demonstrate at least two years of
39 acceptable supervised health services experience, of which at least one year is
40 postdoctoral. The Board shall specify the format, setting, content, and organization of
41 the supervised health services experience or program. The Board may, upon
42 verification of supervised experience and the meeting of all requirements as a licensed
43 psychologist, issue the license and certificate simultaneously. An application fee, as
44 specified in G.S. 90-270.18(b)(9), must be paid.

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

7 (d) After January 1, 1995, any licensed psychologist holding a provisional license
8 who is qualified by education may be granted certification as a health services provider
9 psychologist (provisional) (HSP-PP) by the Board. The Board may, upon verification
10 of qualifications and the meeting of all requirements for a provisional license, issue the
11 license and certificate simultaneously. An application fee, as specified in G.S. 90-
12 270.18(b)(9), must be paid.

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

21 (1) The applicant is a diplomate in good standing of the American Board
22 of Professional Psychology in any of the areas of professional practice
23 deemed appropriate by the Board;

24 (2) The applicant has the equivalent of two years of acceptable full-time
25 experience, one of which was postdoctoral, at sites where health
26 services are provided;

27 (3) The applicant submits evidence satisfactory to the Board
28 demonstrating that he or she has been engaged acceptably for the
29 equivalent of at least two years full-time in the provision of health
30 services; or

31 (4) Any other conditions that the Board may deem acceptable.

32 (f) Notwithstanding the provisions of subsection (c) of this section, if application
33 is made to the Board before June 30, 1994, by a licensed psychological associate who
34 can demonstrate that he or she has been engaged acceptably in the provision of health
35 services under supervision for two years or its equivalent, that licensed psychological
36 associate shall be certified as a health services provider psychological associate.

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

41 **"§ 90-270.21. Ancillary services.**

42 A psychologist licensed under this Article may employ or supervise unlicensed
43 individuals who assist in the provision of psychological services to clients, patients, and
44 their families. The Board may adopt rules and regulations specifying the titles used by

1 such individuals, the numbers employed or supervised by any particular psychologist,
2 the activities in which they may engage, the nature and extent of supervision which
3 must be provided, the qualifications of such individuals, and the nature of the
4 responsibility assumed by the employing or supervising psychologist."

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

6 **"§ 8-53.3. Communications between psychologist and client or patient.**

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

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

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

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

32 Discrimination between individuals of the same class in the amount of premiums or
33 rates charged for any policy of insurance covered by Articles 50 through 55 of this
34 Chapter, or in the benefits payable thereon, or in any of the terms or conditions of such
35 policy, or in any other manner whatsoever, is prohibited.

36 Whenever any policy of insurance governed by Articles 1 through 64 of this Chapter
37 provides for payment of or reimbursement for any service which is within the scope of
38 practice of a duly licensed optometrist, or duly licensed podiatrist, or a duly licensed
39 dentist, or duly licensed chiropractor, or duly licensed ~~practicing~~-psychologist, the
40 insured or other persons entitled to benefits under such policy shall be entitled to
41 payment of or reimbursement for such services, whether such services be performed by
42 a duly licensed physician or a duly licensed optometrist, or a duly licensed podiatrist, or
43 a duly licensed dentist or a duly licensed chiropractor, or a duly licensed ~~practicing~~
44 psychologist, notwithstanding any provision contained in such policy. Whenever any

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

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

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

21 **"§ 58-65-1. Regulation and definitions; application of other laws; profit and**
22 **foreign corporations prohibited.**

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

32 The term 'hospital service plan' as used in this Article and Article 66 of this Chapter
33 includes the contracting for certain fees for, or furnishing of, hospital care, laboratory
34 facilities, X-ray facilities, drugs, appliances, anesthesia, nursing care, operating and
35 obstetrical equipment, accommodations and/or any and all other services authorized or
36 permitted to be furnished by a hospital under the laws of the State of North Carolina and
37 approved by the North Carolina Hospital Association and/or the American Medical
38 Association.

39 The term 'medical service plan' as used in this Article and Article 66 of this Chapter
40 includes the contracting for the payment of fees toward, or furnishing of, medical,
41 obstetrical, surgical and/or any other professional services authorized or permitted to be
42 furnished by a duly licensed physician, except that in any plan in any policy of
43 insurance governed by this Article and Article 66 of this Chapter that includes services
44 which are within the scope of practice of a duly licensed optometrist, a duly licensed

1 chiropractor, a duly licensed ~~practicing~~ psychologist, and a duly licensed physician, then
2 the insured or beneficiary shall have the right to choose the provider of the care or
3 service, and shall be entitled to payment of or reimbursement for such care or service,
4 whether the provider be a duly licensed optometrist, a duly licensed chiropractor, a duly
5 licensed ~~practicing~~ psychologist, or a duly licensed physician notwithstanding any
6 provision to the contrary contained in such policy. The term 'medical services plan' also
7 includes the contracting for the payment of fees toward, or furnishing of, professional
8 medical services authorized or permitted to be furnished by a duly licensed provider of
9 health services licensed under Chapter 90 of the General Statutes.

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

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

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

30 The term 'hospital service corporation' as used in this Article and Article 66 of this
31 Chapter is intended to mean any nonprofit corporation operating a hospital and/or
32 medical and/or dental service plan, as herein defined. Any corporation heretofore or
33 hereafter organized and coming within the provisions of this Article and Article 66 of
34 this Chapter, the certificate of incorporation of which authorizes the operation of either
35 a hospital or medical and/or dental service plan, or any or all of them, may, with the
36 approval of the Commissioner of Insurance, issue subscribers' contracts or certificates
37 approved by the Commissioner of Insurance, for the payment of either hospital or
38 medical and/or dental fees, or the furnishing of such services, or any or all of them, and
39 may enter into contracts with hospitals for physicians and/or dentists, or any or all of
40 them, for the furnishing of fees or services respectively under a hospital or medical
41 and/or dental service plan, or any or all of them.

42 The term 'preferred provider' as used in this Article and Article 66 of this Chapter
43 with respect to contracts, organizations, policies or otherwise means a health care
44 service provider who has agreed to accept, from a corporation organized for the

1 purposes authorized by this Article and Article 66 of this Chapter or other applicable
2 law, special reimbursement terms in exchange for providing services to beneficiaries of
3 a plan administered pursuant to this Article and Article 66 of this Chapter. Except to
4 the extent prohibited either by G.S. 58-65-140 or by regulations promulgated by the
5 Department of Insurance not inconsistent with this Article and Article 66 of this
6 Chapter, the contractual terms and conditions for special reimbursement shall be those
7 which the corporation and preferred provider find to be mutually agreeable.

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

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

11 **"§ 58-65-75. Coverage for chemical dependency treatment.**

12 (3) Duly licensed physicians and duly licensed ~~practicing~~ psychologists
13 and certified professionals working under the direct supervision of
14 such physicians or psychologists in facilities described in (1) and (2)
15 above and in day/night programs or outpatient treatment facilities
16 licensed after July 1, 1984, under Article 2 of General Statutes Chapter
17 122C. After January 1, 1995, 'duly licensed psychologists' shall be
18 defined as licensed psychologists who hold permanent licensure and
19 certification as health services provider psychologist issued by the
20 North Carolina Psychology Board."

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

22 **"§ 122C-3. Definitions.**

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

- 25 (1) 'Area authority' means the area mental health, developmental
26 disabilities, and substance abuse authority.
- 27 (2) 'Area board' means the area mental health, developmental disabilities,
28 and substance abuse board.
- 29 (3) 'Camp Butner reservation' means the original Camp Butner reservation
30 as may be designated by the Secretary as having been acquired by the
31 State and includes not only areas which are owned and occupied by the
32 State but also those which may have been leased or otherwise disposed
33 of by the State.
- 34 (4) 'City' has the same meaning as in G.S. 153A-1(1).
- 35 (5) 'Catchment area' means the geographic part of the State served by a
36 specific area authority.
- 37 (6) 'Client' means an individual who is admitted to and receiving service
38 from, or who in the past had been admitted to and received services
39 from, a facility.
- 40 (7) 'Client advocate' means a person whose role is to monitor the
41 protection of client rights or to act as an individual advocate on behalf
42 of a particular client in a facility.
- 43 (8) 'Commission' means the Commission for Mental Health,
44 Developmental Disabilities, and Substance Abuse Services,

1 established under Part 4 of Article 3 of Chapter 143B of the General
2 Statutes.

3 (9) 'Confidential information' means any information, whether recorded or
4 not, relating to an individual served by a facility that was received in
5 connection with the performance of any function of the facility.
6 'Confidential information' does not include statistical information from
7 reports and records or information regarding treatment or services
8 which is shared for training, treatment, habilitation, or monitoring
9 purposes that does not identify clients either directly or by reference to
10 publicly known or available information.

11 (10) 'County of residence' of a client means the county of his domicile at
12 the time of his admission or commitment to a facility. A county of
13 residence is not changed because an individual is temporarily out of
14 his county in a facility or otherwise.

15 (11) 'Dangerous to himself or others' means:

16 a. 'Dangerous to himself' means that within the relevant past:

17 1. The individual has acted in such a way as to show:

18 I. That he would be unable, without care,
19 supervision, and the continued assistance of
20 others not otherwise available, to exercise self-
21 control, judgment, and discretion in the conduct
22 of his daily responsibilities and social relations, or
23 to satisfy his need for nourishment, personal or
24 medical care, shelter, or self-protection and
25 safety; and

26 II. That there is a reasonable probability of his
27 suffering serious physical debilitation within the
28 near future unless adequate treatment is given
29 pursuant to this Chapter. A showing of behavior
30 that is grossly irrational, of actions that the
31 individual is unable to control, of behavior that is
32 grossly inappropriate to the situation, or of other
33 evidence of severely impaired insight and
34 judgment shall create a **prima facie** inference that
35 the individual is unable to care for himself; or

36 2. The individual has attempted suicide or threatened
37 suicide and that there is a reasonable probability of
38 suicide unless adequate treatment is given pursuant to
39 this Chapter; or

40 3. The individual has mutilated himself or attempted to
41 mutilate himself and that there is a reasonable
42 probability of serious self-mutilation unless adequate
43 treatment is given pursuant to this Chapter.

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

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

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

18 (12a) 'Developmental disability' means a severe, chronic disability of a
19 person which:

- 20 a. Is attributable to a mental or physical impairment or
21 combination of mental and physical impairments;
22 b. Is manifested before the person attains age 22, unless the
23 disability is caused by a traumatic head injury and is manifested
24 after age 22;
25 c. Is likely to continue indefinitely;
26 d. Results in substantial functional limitations in three or more of
27 the following areas of major life activity: self-care, receptive
28 and expressive language, capacity for independent living,
29 learning, mobility, self-direction and economic self-sufficiency;
30 and
31 e. Reflects the person's need for a combination and sequence of
32 special interdisciplinary, or generic care, treatment, or other
33 services which are of a lifelong or extended duration and are
34 individually planned and coordinated; or
35 f. When applied to children from birth through four years of age,
36 may be evidenced as a developmental delay.

37 (13) 'Division' means the Division of Mental Health, Developmental
38 Disabilities, and Substance Abuse Services of the Department.

39 (13a) 'Eligible infants and toddlers' means children with or at risk for
40 developmental delays or atypical development until:

- 41 a. They have reached their third birthday;
42 b. Their parents have requested to have them receive services in
43 the preschool program for handicapped children established

1 pursuant to Part 14 of Article IX of Chapter 115C of the
2 General Statutes; and

- 3 c. They have been placed in the program by the local educational
4 agency.

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

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

- 15 (13b) 'Eligible psychologist' means a licensed ~~practicing~~-psychologist who
16 has at least two years' clinical experience. After January 1, 1995,
17 'eligible psychologist' means a licensed psychologist who holds
18 permanent licensure and certification as a health services provider
19 psychologist issued by the North Carolina Psychology Board.

- 20 (14) 'Facility' means any person at one location whose primary purpose is
21 to provide services for the care, treatment, habilitation, or
22 rehabilitation of the mentally ill, the developmentally disabled, or
23 substance abusers, and includes:

- 24 a. An 'area facility', which is a facility that is operated by or under
25 contract with the area authority. A facility that is providing
26 services under contract with the area authority is an area facility
27 for purposes of the contracted services only. Area facilities may
28 also be licensable facilities in accordance with Article 2 of this
29 Chapter. A State facility is not an area facility;

- 30 b. A 'licensable facility', which is a facility that provides services
31 for one or more minors or for two or more adults. When the
32 services offered are provided to individuals who are mentally ill
33 or developmentally disabled, these services shall be day
34 services offered to the same individual for a period of three
35 hours or more during a 24-hour period, or residential services
36 provided for 24 consecutive hours or more. When the services
37 offered are provided to individuals who are substance abusers,
38 these services shall include all outpatient services, day services
39 offered to the same individual for a period of three hours or
40 more during a 24-hour period, or residential services provided
41 for 24 consecutive hours or more. Facilities for individuals who
42 are substance abusers include chemical dependency facilities;

- 43 c. A 'private facility', which is a facility that is either a licensable
44 facility or a special unit of a general hospital or a part of either

- 1 in which the specific service provided is not covered under the
2 terms of a contract with an area authority;
- 3 d. The psychiatric service of the University of North Carolina
4 Hospitals at Chapel Hill;
- 5 e. A 'residential facility', which is a 24-hour facility that is not a
6 hospital, including a group home;
- 7 f. A 'State facility', which is a facility that is operated by the
8 Secretary;
- 9 g. A '24-hour facility', which is a facility that provides a structured
10 living environment and services for a period of 24 consecutive
11 hours or more and includes hospitals that are facilities under
12 this Chapter; and
- 13 h. A Veterans Administration facility or part thereof that provides
14 services for the care, treatment, habilitation, or rehabilitation of
15 the mentally ill, the developmentally disabled, or substance
16 abusers.
- 17 (15) 'Guardian' means a person appointed as a guardian of the person or
18 general guardian by the court under Chapters 7A or 35A or former
19 Chapters 33 or 35 of the General Statutes.
- 20 (16) 'Habilitation' means training, care, and specialized therapies
21 undertaken to assist a client in maintaining his current level of
22 functioning or in achieving progress in developmental skills areas.
- 23 (17) 'Incompetent adult' means an adult individual adjudicated incompetent.
- 24 (18) 'Intoxicated' means the condition of an individual whose mental or
25 physical functioning is presently substantially impaired as a result of
26 the use of alcohol or other substance.
- 27 (19) 'Law-enforcement officer' means sheriff, deputy sheriff, police officer,
28 State highway patrolman, or an officer employed by a city or county
29 under G.S. 122C-302.
- 30 (20) 'Legally responsible person' means: (i) when applied to an adult, who
31 has been adjudicated incompetent, a guardian; or (ii) when applied to a
32 minor, a parent, guardian, a person standing **in loco parentis**, or a
33 legal custodian other than a parent who has been granted specific
34 authority by law or in a custody order to consent for medical care,
35 including psychiatric treatment.
- 36 (21) 'Mental illness' means: (i) when applied to an adult, an illness which so
37 lessens the capacity of the individual to use self-control, judgment, and
38 discretion in the conduct of his affairs and social relations as to make it
39 necessary or advisable for him to be under treatment, care, supervision,
40 guidance, or control; and (ii) when applied to a minor, a mental
41 condition, other than mental retardation alone, that so impairs the
42 youth's capacity to exercise age adequate self-control or judgment in
43 the conduct of his activities and social relationships so that he is in
44 need of treatment.

- 1 (22) 'Mental retardation' means significantly subaverage general intellectual
2 functioning existing concurrently with deficits in adaptive behavior
3 and manifested before age 22.
- 4 (23) 'Mentally retarded with accompanying behavior disorder' means an
5 individual who is mentally retarded and who has a pattern of
6 maladaptive behavior that is recognizable no later than adolescence
7 and is characterized by gross outbursts of rage or physical aggression
8 against other individuals or property.
- 9 (24) 'Next of kin' means the individual designated in writing by the client or
10 his legally responsible person upon the client's acceptance at a facility;
11 provided that if no such designation has been made, 'next of kin' means
12 the client's spouse or nearest blood relation in accordance with G.S.
13 104A-1.
- 14 (25) 'Operating costs' means expenditures made by an area authority in the
15 delivery of services for mental health, developmental disabilities, and
16 substance abuse as provided in this Chapter and includes the
17 employment of legal counsel on a temporary basis to represent the
18 interests of the area authority.
- 19 (26) Repealed by Session Laws 1987, c. 345, s. 1.
- 20 (27) 'Outpatient treatment' as used in Part 7 of Article 5 means treatment in
21 an outpatient setting and may include medication, individual or group
22 therapy, day or partial day programming activities, services and
23 training including educational and vocational activities, supervision of
24 living arrangements, and any other services prescribed either to
25 alleviate the individual's illness or disability, to maintain semi-
26 independent functioning, or to prevent further deterioration that may
27 reasonably be predicted to result in the need for inpatient commitment
28 to a 24-hour facility.
- 29 (28) 'Person' means any individual, firm, partnership, corporation,
30 company, association, joint stock association, agency, or area
31 authority.
- 32 (29) 'Physician' means an individual licensed to practice medicine in North
33 Carolina under Chapter 90 of the General Statutes or a licensed
34 medical doctor employed by the Veterans Administration.
- 35 (30) 'Provider of support services' means a person that provides to a facility
36 support services such as data processing, dosage preparation,
37 laboratory analyses, or legal, medical, accounting, or other
38 professional services, including human services.
- 39 (30a) 'Psychologist' means an individual licensed to practice psychology
40 under Chapter 90. The term 'eligible psychologist' is defined in
41 subdivision (13a).
- 42 (31) 'Qualified professional' means any individual with appropriate training
43 or experience as specified by the General Statutes or by rule of the
44 Commission in the fields of mental health or developmental

1 disabilities or substance abuse treatment or habilitation, including
2 physicians, psychologists, educators, social workers, registered nurses,
3 and certified counselors.

4 (32) 'Responsible professional' means an individual within a facility who is
5 designated by the facility director to be responsible for the care,
6 treatment, habilitation, or rehabilitation of a specific client and who is
7 eligible to provide care, treatment, habilitation, or rehabilitation
8 relative to the client's disability.

9 (33) 'Secretary' means the Secretary of the Department of Human
10 Resources.

11 (33a) 'Severe and persistent mental illness' means a mental disorder suffered
12 by persons of 18 years of age or older that leads these persons to
13 exhibit emotional or behavioral functioning that is so impaired as to
14 interfere substantially with their capacity to remain in the community
15 without supportive treatment or services of a long term or indefinite
16 duration. This disorder is a severe and persistent mental disability,
17 resulting in a long-term limitation of functional capacities for the
18 primary activities of daily living, such as interpersonal relations,
19 homemaking, self-care, employment, and recreation.

20 (34) 'Single portal of entry and exit policy' means an admission and
21 discharge policy for State and area facilities that may be adopted by an
22 area authority and shall be approved by the Secretary before it is in
23 force. The policy and its provisions shall be designed to promote
24 quality client care in and among State and area facilities. Furthermore,
25 the policy shall be designed to integrate otherwise independent
26 facilities into a unified and coordinated system, in which system the
27 area authority shall be responsible for assuring that the individual
28 client can receive services from the facility that is best able to meet his
29 needs. However, the policy may not be inconsistent with any other
30 provisions of the General Statutes, nor may the policy include the
31 complete exclusion of clients from admission to any specific State or
32 area facility.

33 (35) 'Single portal area' means the county or counties that comprise the
34 catchment area of an area authority that has adopted a single portal of
35 entry and exit policy.

36 (36) 'Substance abuse' means the pathological use or abuse of alcohol or
37 other drugs in a way or to a degree that produces an impairment in
38 personal, social, or occupational functioning. 'Substance abuse' may
39 include a pattern of tolerance and withdrawal.

40 (37) 'Substance abuser' means an individual who engages in substance
41 abuse."

42 Sec. 7 This act becomes effective October 1, 1993.