

NORTH CAROLINA PSYCHOLOGY PRACTICE ACT (Recodified)

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90-270.135. Title; purpose.

(a) This Article shall be known and may be cited as the "Psychology Practice Act."

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

90-270.136. Definitions.

The following definitions apply in this Article:

- (1) Board. -- The North Carolina Psychology Board.
- (2) Examination. -- Any and all examinations that are adopted by the Board and administered to applicants and licensees, including, but not limited to, the national examination, Board-developed examinations, and other examinations that assess the competency and ethics of psychologists and applicants.
- (3) Jurisdiction. -- Any governmental authority, including, but not limited to, a state, a territory, a commonwealth, a district of the United States, and a country or a local governmental authority thereof, that licenses, certifies, or registers psychologists.
- (4) Health Services. -- Those activities of the practice of psychology that include the delivery of preventive, assessment, or therapeutic intervention services directly to individuals whose growth, adjustment, or functioning is actually impaired or may be at substantial risk of impairment.
- (5) Institution of higher education. -- A university, a college, a professional school, or another institution of higher learning that:

- a. In the United States, is regionally accredited by bodies approved by the Commission on Recognition of Postsecondary Accreditation or its successor.
 - b. In Canada, holds a membership in the Association of Universities and Colleges of Canada.
 - c. In another country, is accredited by the comparable official organization having this authority.
- (6) Licensed psychologist. -- An individual to whom a license has been issued pursuant to the provisions of this Article, whose license is in force and not suspended or revoked, and whose license permits him or her to engage in the practice of psychology as defined in this Article.
 - (7) Licensed psychological associate. -- An individual to whom a license has been issued pursuant to the provisions of this Article, whose license is in force and not suspended or revoked, and whose license permits him or her to engage in the practice of psychology as defined in this Article.
 - (7a) Neuropsychological. -- Pertaining to the study of brain-behavior relationships, including the diagnosis, including etiology and prognosis, and treatment of the emotional, behavioral, and cognitive effects of cerebral dysfunction through psychological and behavioral techniques and methods.
 - (8) Practice of psychology. -- The observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, and procedures for the purpose of preventing or eliminating symptomatic, maladaptive, or undesired behavior or of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, or mental health. The practice of psychology includes, but is not limited to: psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis, including etiology and prognosis, and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct, as well as of the psychological and neuropsychological aspects of physical illness, accident, injury, or disability; and psychoeducational evaluation, therapy, remediation, and consultation. Psychological services may be rendered to individuals, families, groups, and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered.
 - (9) Psychologist. -- A person represents himself or herself to be a psychologist if that person uses any title or description of services incorporating the words "psychology", "psychological", "psychologic", or "psychologist", states that he or she possesses expert qualification in any area of psychology, or provides or offers to provide services defined as the practice of psychology in this Article. All persons licensed under this Article may present themselves as psychologists, as may those persons who are exempt by G.S. 90-270.138 and those who are qualified applicants under G.S. 90-270.139.

90-270.137. Practice of medicine and optometry not permitted.

Nothing in this Article shall be construed as permitting licensed psychologists or licensed psychological associates to engage in any manner in all or any of the parts of the practice of medicine or optometry licensed under Articles 1 and 6 of Chapter 90 of the General Statutes, including, among others, the diagnosis and correction of visual and muscular anomalies of the human eyes and visual apparatus, eye exercises, orthoptics, vision training, visual training and developmental vision. A licensed psychologist or licensed psychological associate shall assist his or her client or patient in obtaining professional help for all aspects of the client's or patient's problems that fall outside the boundaries of the

psychologist's own competence, including provision for the diagnosis and treatment of relevant medical or optometric problems.

90-270.138. Exemptions to this Article.

(a) Nothing in this Article shall be construed to prevent the teaching of psychology, the conduct of psychological research, or the provision of psychological services or consultation to organizations or institutions, provided that such teaching, research, service, or consultation does not involve the delivery or supervision of direct psychological services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services, without regard to the source or extent of payment for services rendered. Nothing in this Article shall prevent the provision of expert testimony by psychologists who are otherwise exempted by this act. Persons holding an earned master's, specialist, or doctoral degree in psychology from an institution of higher education may use the title "psychologist" in activities permitted by this subsection.

(b) Nothing in this Article shall be construed as limiting the activities, services, and use of official titles on the part of any person in the regular employ of the State of North Carolina or whose employment is included under the North Carolina Human Resources Act who has served in a position of employment involving the practice of psychology as defined in this Article, provided that the person was serving in this capacity on December 31, 1979.

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

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

(e) Subject to subsection (g) of this section, nothing in this Article shall be construed to prevent a qualified member of other professional groups licensed or certified under the laws of this State from rendering services within the scope of practice, as defined in the statutes G.S. 90-270.138 Page 2 regulating those professional practices, provided the person does not hold himself or herself out to the public by any title or description stating or implying that the person is a psychologist or licensed, certified, or registered to practice psychology.

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

(g) Except as provided in subsection (c) of this section, if a person who is otherwise exempt from the provisions of this Article and not required to be licensed under this Article is or becomes licensed under this Article, he or she shall comply with all Board rules and statutes applicable to all other psychologists licensed under this Article. These requirements apply regardless of whether the person holds himself or herself out to the public by any title or description stating or implying that the person is a psychologist, a licensed psychological associate, or licensed to practice psychology. (h) A licensee whose license is suspended or revoked pursuant to the provisions of G.S. 90-270.148, or an applicant who is notified that he or she has failed an examination for the second time, as specified in G.S. 90-270.139(b), or an applicant who is notified that licensure is denied pursuant to G.S. 90-270.145 or G.S. 90-270.148, or an applicant who discontinues the application process at any point must terminate the practice of psychology, in accordance with the duly adopted rules of the Board.

90-270.139. Application; examination; supervision; provisional and temporary licenses.

(a) Except as otherwise exempted by G.S. 90-270.138, persons who are qualified by education to practice psychology in this State must make application for licensure to the Board within 30 days of offering to practice or undertaking the practice of psychology in North Carolina. Applications must then be completed for review by the Board within the time period stipulated in the duly adopted rules of the Board. Persons who practice or offer to practice psychology for more than 30 days without making application for licensure, who fail to complete the application process within the time period specified by the Board, or who are denied licensure pursuant to G.S. 90-270.145 or G.S. 90-270.148, may not subsequently practice or offer to practice psychology without first becoming licensed.

(b) After making application for licensure, applicants must take the first examination to which they are admitted by the Board. If applicants fail the examination, they may continue to practice psychology until they take the next examination to which they are admitted by the Board. If applicants fail the second examination, they shall cease the practice of psychology per G.S. 90-270.138(h), and may not subsequently practice or offer to practice psychology without first reapplying for and receiving a license from the Board. An applicant who does not take an examination on the date prescribed by the Board shall be deemed to have failed that examination.

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

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

(d) For permanent licensure as a licensed psychologist, an otherwise qualified psychologist must secure two years of acceptable and appropriate supervised experience germane to his or her training and intended area of

practice as a psychologist. The Board shall permit such supervised experience to be acquired on a less than full-time basis, and shall additionally specify in its rules the format, setting, content, time frame, amounts of supervision, qualifications of supervisors, disclosure of supervisory relationships, the organization of the supervised experience, and the nature of the responsibility assumed by the supervisor. Supervision of health services must be received from qualified licensed psychologists holding health services provider certificates, or from other psychologists recognized by the Board in accordance with Board rules.

- (1) One of these years of experience shall be postdoctoral, and for this year, the Board may require, as specified in its rules, that the supervised experience be comparable to the knowledge and skills acquired during formal doctoral or postdoctoral education, in accordance with established professional standards.
- (2) One of these years may be predoctoral and the Board shall establish rules governing appropriate supervised predoctoral experience.
- (3) A psychologist who meets all other requirements of G.S. 90-270.145(a) as a licensed psychologist, except the two years of supervised experience, may be issued a provisional license as a psychologist or a license as a psychological associate, without having received a master's or specialist degree in psychology, by the Board for the practice of psychology.

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

(f) A nonresident psychologist who is either licensed or certified by a similar Board in another jurisdiction whose standards, in the opinion of the Board, are, at the date of his or her certification or licensure, substantially equivalent to or higher than the requirements of this Article, may be issued a temporary license by the Board for the practice of psychology in this State for a period not to exceed the aggregate of 30 days in any calendar year. The Board may issue temporary health services provider certification simultaneously if the nonresident psychologist can demonstrate two years of acceptable supervised health services experience. All temporarily licensed psychologists shall comply with supervision requirements established by the Board.

(g) An applicant for reinstatement of licensure, whose license was suspended under G.S. 90-270.148(f), may be issued a temporary license and temporary health services provider certification in accordance with the duly adopted rules of the Board.

90-270.140. Psychology Board; appointment; term of office; composition.

For the purpose of carrying out the provisions of this Article, there is created a North Carolina Psychology Board, which shall consist of seven members appointed by the Governor. At all times three members shall be licensed psychologists, two members shall be licensed psychological associates, and two members shall be members of the public who are not licensed under this Article. The Governor shall give due consideration to the adequate representation of the various fields and areas of practice of psychology and to adequate representation from

various geographic regions in the State. Terms of office shall be three years. All terms of service on the Board expire June 30 in appropriate years. As the term of a psychologist member expires, or as a vacancy of a psychologist member occurs for any other reason, the North Carolina Psychological Association, or its successor, shall, having sought the advice of the chairs of the graduate departments of psychology in the State, for each vacancy, submit to the Governor a list of the names of three eligible persons. From this list the Governor shall make the appointment for a full term, or for the remainder of the unexpired term, if any. Each Board member shall serve until his or her successor has been appointed. As the term of a member expires, or if one should become vacant for any reason, the Governor shall appoint a new member within 60 days of the vacancy's occurring. No member, either public or licensed under this Article, shall serve more than three complete consecutive terms.

90-270.141. Qualifications of Board members; removal of Board members.

(a) Each licensed psychologist and licensed psychological associate 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 at the time of appointment and shall have been for at least five years prior thereto, actively engaged in one or more branches of psychology or in the education and training of master's, specialist, 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 unlawful act involving moral turpitude;
- (5) Is found guilty of malfeasance, misfeasance, or nonfeasance in relation to his or her Board duties by a court of competent jurisdiction; or
- (6) Is incapacitated and without reasonable likelihood of resuming Board duties, as determined by the Board.

90-270.142. 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.

90-270.143. Election of officers; meetings; adoption of seal and appropriate rules; powers of the Board.

The Board shall annually elect the chair and vice-chair from among its membership. The Board shall meet annually, at a time set by the Board, in the City of Raleigh, and it may hold additional meetings and conduct business at any place in the State. Four members of the Board shall

constitute a quorum. The Board may empower any member to conduct any proceeding or investigation necessary to its purposes and may empower its agent or counsel to conduct any investigation necessary to its purposes, but any final action requires a quorum of the Board. The Board may order that any records concerning the practice of psychology relevant to a complaint received by the Board or an inquiry or investigation conducted by or on behalf of the Board be produced before the Board or for inspection and copying by representatives of or counsel to the Board by the custodian of such records. The Board shall adopt an official seal, which shall be affixed to all licenses issued by it. The Board shall make such rules and regulations not inconsistent with law, as may be necessary to regulate its proceedings and otherwise to implement the provisions of this Article.

90-270.144. Annual report.

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

90-270.145. Licensure; examination; foreign graduates.

(a) Licensed Psychologist. --

The Board shall issue a permanent license to practice psychology to any applicant who pays an application fee and any applicable examination fee as specified in G.S. 90-270.151(b), who passes an examination in psychology as prescribed by the Board, and who submits evidence verified by oath and satisfactory to the Board that he or she:

- (1) Is at least 18 years of age;
- (2) Is of good moral character;
- (3) Has received a doctoral degree based on a planned and directed program of studies in psychology from an institution of higher education. The degree program, wherever administratively housed, must be publicly identified and clearly labeled as a psychology program. The Board shall adopt rules implementing and defining these provisions, including, but not limited to, such factors as residence in the educational program, internship and related field experiences, number of course credits, course content, numbers and qualifications of faculty, and program identification and identity.
- (4) Has had at least two years of acceptable and appropriate supervised experience germane to his or her training and intended area of practice as a psychologist as specified in Section 90-270.139(d).

(b) Licensed Psychological Associate. --

- (1) The Board shall issue a permanent license to practice psychology to any applicant who pays an application fee and any applicable examination fee as specified in G.S. 90-270.151(b), who passes an examination in psychology as prescribed by the Board, and who submits evidence verified by oath and satisfactory to the Board that he or she:
 - a. Is at least 18 years of age;
 - b. Is of good moral character;
 - c. Has received a master's degree in psychology or a specialist degree in psychology from an institution of higher education. The degree program, wherever administratively housed, must be publicly identified and clearly labeled as a psychology program. The Board shall adopt rules implementing and defining these provisions, including, but not limited to, such factors as residence in the program, internship and related field experiences, number of course credits, course content, numbers and qualifications of faculty, and program identification and identity.
- (2) Notwithstanding the provisions of this subsection, a licensed psychologist applicant who has met all requirements for licensure except passing the examination at the licensed psychologist level, may be issued a license as a licensed psychological associate without having a master's degree or

specialist degree in psychology if the applicant passes the examination at the licensed psychological associate level.

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

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

90-270.146. Licensure of psychologists licensed or certified in other jurisdictions; licensure of diplomates of the American Board of Professional Psychology; Reciprocity.

(a) Upon application and payment of the required fee, the Board shall grant permanent licensure at the appropriate level to any person who, at the time of application meets all of the following requirements:

- (1) Is licensed or certified as a psychologist by a similar psychology licensing board in another jurisdiction.
- (2) The license or certification is in good standing.
- (3) Is a graduate of an institution of higher education.
- (4) Who passes an examination prescribed by the Board.
- (5) Meets the definition of a senior psychologist as that term is defined by the rules of the Board.

(a1) Upon application and payment of the required fee, the Board shall grant permanent licensure at the appropriate level to any person who, at the time of application, meets all of the following requirements:

- (1) Is licensed or certified as a psychologist by a similar psychology licensing board in another jurisdiction.
- (2) The license or certification is in good standing.
- (3) Possesses a doctoral degree in psychology from an institution of higher education.
- (4) Passes an examination prescribed by the Board.
- (5) Has no unresolved complaints in any jurisdiction at the time of application in this State.
- (6) Holds a current credential for psychology licensure mobility, as defined in rules adopted by the Board.

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

(c) The Board shall grant health services provider certification to any person licensed under the provisions of subsections (a) and (b) above when it determines that the applicant's training and experience are substantially equivalent to or greater than that specified in G.S. 90-270.153.

(d) Upon application and payment of the requisite fee, the Board shall waive the requirement of the national written examination to any person who is a diplomate in good standing of the American Board of Professional Psychology.

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

(f) The Board may deny licensure to any person otherwise eligible for permanent licensure under this section upon documentation of conduct specified in G.S. 90-270.148.

90-270.147. Renewal of licenses; duplicate or replacement licenses.

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

- (1) Each application for renewal must be made on a form prescribed by the Board and accompanied by a fee as specified in G.S. 90-270.151(b). If a license is not renewed on or before the renewal date, an additional fee shall be charged for late renewal as specified in G.S. 90-270.151(b).
- (2) The Board may establish continuing education requirements as a condition for license renewal.

(b) A licensee may request the Board to issue a duplicate or replacement license for a fee as specified in G.S. 90-270.151(b). Upon receipt of the request and a showing of good cause for the issuance of a duplicate or replacement license, and the payment of the fee, the Board shall issue a duplicate or replacement license.

90-270.148. Denial, suspension, or revocation of licenses and health services provider certification, and other disciplinary and remedial actions for violations of the Code of Conduct; relinquishing of license.

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

- (1) Has been convicted of a felony or entered a plea of guilty or *nolo contendere* to any felony charge;
- (2) Has been convicted of or entered a plea of guilty or *nolo contendere* to any misdemeanor involving moral turpitude, misrepresentation or fraud in dealing with the public, or conduct otherwise relevant to fitness to practice, or a misdemeanor charge reflecting the inability to practice psychology with due regard to the health and safety of clients or patients;
- (3) Has engaged in fraud or deceit in securing or attempting to secure or renew a license or in securing or attempting to secure health services provider certification under this Article or has willfully concealed from the Board material information in connection with application for a license or health services provider certification, or for renewal of a license under this Article;
- (4) Has practiced any fraud, deceit, or misrepresentation upon the public, the Board, or any individual in connection with the practice of psychology, the offer of psychological services, the filing of Medicare, Medicaid, or other claims to any third party payor, or in any manner otherwise relevant to fitness for the practice of psychology;
- (5) Has made fraudulent, misleading, or intentionally or materially false statements pertaining to education, licensure, license renewal, certification as a health services provider, supervision, continuing education, any disciplinary actions or sanctions pending or occurring in any other jurisdiction, professional credentials, or qualifications or fitness for the practice of psychology to the public, any individual, the Board, or any other organization;
- (6) Has had a license or certification for the practice of psychology in any other jurisdiction suspended or revoked, or has been disciplined by the licensing or certification board in any other jurisdiction for conduct which would subject him or her to discipline under this Article;
- (7) Has violated any provision of this Article or of the duly adopted rules of the Board;
- (8) Has aided or abetted the unlawful practice of psychology by any person not licensed by the Board;
- (9) For a licensed psychologist, has provided health services without health services provider certification;
- (10) Has been guilty of immoral, dishonorable, unprofessional, or unethical conduct as defined in this subsection, or in the then-current code of ethics of the American Psychological Association, except as the provisions of such code of ethics may be inconsistent and in conflict with the provisions of this Article, in which case, the provisions of this Article control;
- (11) Has practiced psychology in such a manner as to endanger the welfare of clients or patients;
- (12) Has demonstrated an inability to practice psychology with reasonable skill and safety by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other

substance affecting mental or physical functioning, or as a result of any mental or physical condition;

- (13) Has practiced psychology or conducted research outside the boundaries of demonstrated competence or the limitations of education, training, or supervised experience;
- (14) Has failed to use, administer, score, or interpret psychological assessment techniques, including interviewing and observation, in a competent manner, or has provided findings or recommendations which do not accurately reflect the assessment data, or exceed what can reasonably be inferred, predicted, or determined from test, interview, or observational data;
- (15) Has failed to provide competent diagnosis, counseling, treatment, consultation, or supervision, in keeping with standards of usual and customary practice in this State;
- (16) In the absence of established standards, has failed to take all reasonable steps to ensure the competence of services;
- (17) Has failed to maintain a clear and accurate case record which documents the following for each patient or client:
 - a. Presenting problems, diagnosis, or purpose of the evaluation, counseling, treatment, or other services provided;
 - b. Fees, dates of services, and itemized charges;
 - c. Summary content of each session of evaluation, counseling, treatment, or other services, except that summary content need not include specific information that may cause significant harm to any person if the information were released;
 - d. Test results or other findings, including basic test data; and
 - e. Copies of all reports prepared;
- (18) Except when prevented from doing so by circumstances beyond the psychologist's control, has failed to retain securely and confidentially the complete case record for at least seven years from the date of the last provision of psychological services; or, except when prevented from doing so by circumstances beyond the psychologist's control, has failed to retain securely and confidentially the complete case record for three years from the date of the attainment of majority age by the patient or client or for at least seven years from the date of the last provision of psychological services, whichever is longer; or, except when prevented from doing so by circumstances beyond the psychologist's control, has failed to retain securely and confidentially the complete case record indefinitely if there are pending legal or ethical matters or if there is any other compelling circumstance;
- (19) Has failed to cooperate with other psychologists or other professionals to the potential or actual detriment of clients, patients, or other recipients of service, or has behaved in ways which substantially impede or impair other psychologists' or other professionals' abilities to perform professional duties;
- (20) Has exercised undue influence in such a manner as to exploit the client, patient, student, supervisee, or trainee for the financial or other personal advantage or gratification of the psychologist or a third party;
- (21) Has harassed or abused, sexually or otherwise, a client, patient, student, supervisee, or trainee;
- (22) Has failed to cooperate with or to respond promptly, completely, and honestly to the Board, to credentials committees, or to ethics committees of professional psychological associations, hospitals, or other health care organizations or educational institutions, when those organizations or entities have jurisdiction; or has failed to cooperate with institutional review boards or professional standards review organizations, when those organizations or entities have jurisdiction; or
- (23) Has refused to appear before the Board after having been ordered to do so in writing by the Chair.

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

applicant or licensee, may require supervision for the services provided by the applicant or licensee by a licensee designated or approved by the Board, the expense to be borne by the applicant or licensee, may limit or circumscribe the practice of psychology provided by the applicant or licensee with respect to the extent, nature, or location of the services provided, as the Board deems advisable, or may discipline and impose any appropriate combination of the foregoing. In addition, the Board may impose such conditions of probation or restrictions upon continued practice at the conclusion of a period of suspension or as requirements for the restoration of a revoked or suspended license. In lieu of or in connection with any disciplinary proceedings or investigation, the Board may enter into a consent order relative to the discipline, supervision, probation, remediation, rehabilitation, or practice limitation of a licensee or applicant for a license.

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

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

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

who has not consented to the public disclosure of such treatment or services may be deleted; and provided, further, that if any such record, paper, or other document containing information theretofore collected and compiled by or on behalf of the Board, as hereinbefore provided, is received and admitted in evidence in any hearing before the Board, it shall thereupon be a public record within the meaning of Chapter 132 of the General Statutes, subject to any deletions of identifying information concerning the treatment of or delivery of psychological services to a patient or client who has not consented to the public disclosure of such treatment or services.

(f) A license and a health services provider certificate issued under this Article are suspended automatically by operation of law after failure to renew a license for a period of more than sixty days after the renewal date. The Board may reinstate a license and a health services provider certificate suspended under this subsection upon payment of a fee as specified in G.S. 90-270.151(b), and may require that the applicant file a new application, furnish new supervisory reports or references or otherwise update his or her credentials, or submit to examination for reinstatement. Notwithstanding any provision to the contrary, the Board retains full jurisdiction to investigate alleged violations of this Article by any person whose license is suspended under this subsection and, upon proof of any violation of this Article by any such person, the Board may take disciplinary action as authorized by this section.

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

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

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

90-270.149. Prohibited acts.

(a) Except as permitted in G.S. 90-270.138 and G.S. 90-270.139, it shall be a violation of this Article for any person not licensed in accordance with the provisions of this Article to represent himself or herself as a psychologist, licensed psychologist, licensed psychological associate, or health services provider in psychology.

(b) Except as provided in G.S. 90-270.138 and G.S. 90-270.139, it shall be a violation of this Article for any person not licensed in accordance with the provisions of this Article to practice or offer to practice psychology as defined in this Article whether as an individual, firm, partnership, corporation, agency, or other entity.

(c) Except as provided in G.S. 90-270.138 and G.S. 90-270.139, it shall be a violation of this Article for any person not licensed in accordance with the provisions of this Article to use a title or description of services including the term "psychology," or any of its derivatives such as "psychologic", "psychological", or "psychologist", singly or in conjunction with modifiers such as "licensed", "practicing", "certified", or "registered".

90-270.150. Violations and penalties.

Any person who violates G.S. 90-270.149 is guilty of a Class 2 misdemeanor. Each violation shall constitute a separate offense.

90-270.151. Disposition and schedule of fees.

(a) Except for fees paid directly to the vendor as provided in subdivision (b)(2) of this section, all fees derived from the operation of this Article shall be deposited with the State Treasurer to the credit of a revolving fund for the use of the Board in carrying out its functions. All fees derived from the operation of this Article shall be non-refundable.

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

- (1) Application fees for licensed psychologists and licensed psychological associates per G.S. 90-270.145(a) and (b)(1), or G.S. 90-270.146, shall not exceed one hundred dollars (\$100.00).
- (2) Fees for the national written examination shall be the cost of the examination as set by the vendor plus an additional fee not to

exceed fifty dollars (\$50.00). The Board may require applicants to pay the fee directly to the vendor.

- (3) Fees for additional examinations shall be as prescribed by the Board.
- (4) Fees for the renewal of licenses, per G.S. 90-270.147(a)(1), shall not exceed two hundred fifty dollars (\$250.00) per biennium. This fee may not be prorated.
- (5) Late fees for license renewal, per G.S. 90-270.147(a)(1), shall be twenty-five dollars (\$25.00).
- (6) Fees for the reinstatement of a license, per G.S. 90-270.148(f), shall not exceed one hundred dollars (\$100.00).
- (7) Fees for a duplicate license, per G.S. 90-270.147(b), shall be twenty-five dollars (\$25.00).
- (8) Fees for a temporary license, per G.S. 90-270.139(f) and 90-270.139(g), shall be thirty-five dollars (\$35.00).
- (9) Application fees for a health services provider certificate, per G.S. 90-270.153, shall be fifty dollars (\$50.00).

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

90-270.152. Injunctive authority.

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

90-270.153. Provision of health services; certification as health services provider.

(a) Health services, as defined in G.S. 90-270.136(4) and G.S. 90-270.136(8), may be provided by qualified licensed psychological associates, qualified licensed psychologists holding provisional, temporary, or permanent licenses, or qualified applicants. Qualified licensed psychological associates, qualified licensed psychologists holding provisional or temporary licenses, or qualified applicants may provide health services only under supervision as specified in the duly adopted rules of the Board.

(b) After January 1, 1995, any licensed psychologist who is qualified by education, who holds permanent licensure and a doctoral degree, and who provides or offers to provide health services to the public must be certified as a health services provider psychologist (HSP-P) by the Board. The Board shall certify as health services provider psychologists those applicants who shall demonstrate at least two years of acceptable supervised health services experience, of which at least one year is post-doctoral. The Board shall specify the format, setting, content, and organization of the supervised health services experience or program. The Board may, upon verification of supervised experience and the meeting of all requirements as a licensed psychologist, issue the license and certificate simultaneously. An application fee, as specified in G.S. 90-270.151(b)(9), must be paid.

(c) After January 1, 1995, any licensed psychological associate who is qualified by education may be granted certification as a health services provider psychological associate (HSP-PA). The Board may, upon verification of qualifications and the meeting of all requirements as a licensed psychological associate, issue the license and certificate simultaneously. An application fee, as specified in G.S. 90-270.151(b)(9), must be paid.

(d) After January 1, 1995, any licensed psychologist holding a provisional license who is qualified by education may be granted certification as a health services provider psychologist (provisional) (HSP-PP) by the Board. The Board may, upon verification of qualifications and the meeting of all requirements for a provisional license, issue the license and certificate simultaneously. An application fee, as specified in G.S. 90-270.151(b)(9), must be paid.

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

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

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

(g) The Board shall have the authority to deny, revoke, or suspend the health services provider certificate issued pursuant to these subsections upon a finding that the psychologist has not behaved in conformity with the ethical and professional standards prescribed in G.S. 90-270.148.

90-270.154. Ancillary services.

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

90-270.155. Criminal history record checks of applicants for licensure and licensees.

(a) The Board may request that an applicant for licensure or reinstatement of a license or that a licensed psychologist or psychological associate currently under investigation by the Board for allegedly violating this Article consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure or reinstatement of a license to an applicant or take disciplinary action against a licensee, including revocation of a license. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or licensee consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories, and any additional information required by the Department of Justice. The Board shall keep all information obtained pursuant to this section confidential.

The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for the cost of conducting the criminal history record check.

(b) Limited Immunity. The Board, its officers and employees, acting reasonably and in compliance with this section, shall be immune from civil liability for denying licensure or reinstatement of a license to an applicant or the revocation of a license or other discipline of a licensee based on information provided in the applicant's or licensee's criminal history record check.