

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 1089
HOUSE BILL 110

AN ACT TO AUTHORIZE THE LEGISLATIVE COMMITTEE ON NEW OCCUPATIONAL AND PROFESSIONAL LICENSING BOARDS TO ASSESS PROPOSALS TO LICENSE NEW OCCUPATIONS AND PROFESSIONS ACCORDING TO CRITERIA AND PROCEDURES SPECIFIED HEREIN.

The General Assembly of North Carolina enacts:

Section 1. Chapter 120 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 17.

"Review of Proposals to License
New Occupations and Professions.

"§ 120-124. Findings and purpose. – The General Assembly finds that the number of licensed occupations and professions has substantially increased and that licensing boards have occasionally been established without a determination that the police power of the State is reasonably exercised by the establishment of such licensing boards. The General Assembly further finds that by establishing criteria and procedures for reviewing proposed occupational and professional boards, it will be better able to evaluate the need for new licensing boards. To this end it is the purpose of this Article to assure that no new licensing board shall be established unless the following criteria are met:

- (1) The unregulated practice of the profession or occupation can substantially harm or endanger the public health, safety or welfare, and the potential for such harm is recognizable and not remote or dependent upon tenuous argument;
- (2) The profession or occupation possesses qualities that distinguish it from ordinary labor;
- (3) Practice of the profession or occupation requires specialized skill or training;
- (4) A substantial majority of the public does not have the knowledge or experience to evaluate whether the practitioner is competent; and
- (5) The public is not effectively protected by other means.

"§ 120-125. Definitions. – As used in this Chapter:

- (1) 'Assessment report' means a report that initially describes the need for and the fiscal impact of a new licensing board.
- (2) 'Committee' means the Legislative Committee on New Occupational and Professional Licensing Boards.

- (3) 'Licensing' means a regulatory system that requires persons to meet certain qualifications before they are eligible to engage in a particular occupation or profession.
- (4) 'Supplementary report' means a report that assesses the changes proposed by an amendment or committee substitute which would alter a legislative proposal to create a new occupational licensing board and for which an assessment report has already been prepared.

"§ 120-126. Assessment of proposed occupational and professional licensing boards. – (a) Every legislative proposal introduced in the General Assembly after the effective date of this act proposing (1) the establishment of an occupational or professional licensing board, or (2) a study of the need to establish an occupational or professional licensing board shall have attached to it, at the time of its consideration by any committee of either house of the General Assembly, an assessment report which shall describe the need for the proposed occupational or professional licensing board. Assessment reports shall be attached to the original of each legislative proposal to establish a new licensing board which is reported favorably by any committee of either house of the General Assembly, but shall be separate therefrom, shall be clearly designated as assessment reports, and shall not constitute any part of the expression of legislative intent proposed by the formation of a licensing board.

(b) If the proposal to establish an occupational or professional licensing board is first contained in a legislative proposal, the sponsor shall present a copy of the legislative proposal to the Legislative Committee on New Occupational and Professional Licensing Boards which shall prepare an assessment report. If the proposal is not in the form of a legislative proposal, the person or organization seeking to establish an occupational or professional licensing board may obtain an assessment report from the Committee only if a legislator requests such report.

(c) Assessment reports shall be prepared and returned to the requesting legislator as soon as possible and not later than 60 days after the Committee receives the request, provided that if the volume of requests makes preparation of all such reports impossible within that time, the Committee may extend the time for preparation of any report to a maximum of 90 days from the time the request is received. Supplementary reports shall be prepared and returned to the appropriate committee chairman or sponsor or requesting legislator not later than 30 days after the Committee receives the request. The Committee shall not consider any request until it has received the information required by G.S. 120-127(a).

(d) The Committee shall make all reports, including supplementary reports, available to all members of the General Assembly. At least one copy of all preliminary and final reports shall be kept in the Legislative Library for public inspection.

(e) All assessment reports shall contain an evaluation of the proposed licensing board in terms of clarity, conciseness, conformity with existing statutes and general principles of administrative law, and specificity of the delegation of authority to promulgate rules and set fees.

"§ 120-127. Procedure and criteria to be used in preparation of assessment reports.—(a) The Legislative Committee on New Occupational and Professional Licensing Boards shall conduct an evaluation of the need for each new licensing board.

If a legislator or other person or organization is seeking to establish a new occupational or professional licensing board, that legislator or other person or organization shall have the burden of demonstrating to the Committee that the criteria listed in G.S. 120-124 are met, and shall furnish the Committee additional information to show:

- (1) That the unregulated practice of the occupation or profession may be hazardous to the public health, safety, or welfare;
- (2) The approximate number of people who would be regulated and the number of persons who are likely to utilize the services of the occupation or profession;
- (3) That the occupational or professional group has an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service;
- (4) That other states have regulatory provisions similar to the one proposed;
- (5) How the public will benefit from regulation of the occupation or profession;
- (6) How the occupation or profession will be regulated, including the qualifications and disciplinary procedures to be applied to practitioners;
- (7) The purpose of the proposed regulation and whether there has been any public support for licensure of the profession or occupation;
- (8) That no other licensing board regulates similar or parallel functions;
- (9) That the educational requirements for licensure, if any, are fully justified; and
- (10) Any other information the Committee considers relevant to the proposed regulatory plan.

The Committee shall adopt an appropriate form for use by applicants. The form shall contain a list of questions to be completed by the person or organization requesting the assessment report and a copy of this Article.

(b) In preparing an assessment report with respect to a legislative proposal to establish a new occupational or professional licensing board the Committee shall consider, but shall not be limited to considering, the factors listed in subsection (a). The report shall analyze the effects of the new licensing board and shall include the Committee's recommendation on whether the General Assembly should approve the new licensing board. The Committee shall make specific findings in its report on each of the following:

- (1) Whether the unregulated practice of the profession or occupation can substantially harm or endanger the public health, safety or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument;

- (2) Whether the profession or occupation possesses qualities that distinguish it from ordinary labor;
- (3) Whether practice of the profession or occupation requires specialized skill or training;
- (4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence; and
- (5) Whether the public can be effectively protected by other means.

(c) The Committee shall furnish a preliminary copy of the final assessment report to the requesting legislator at least 10 days before the final report is released. The requesting legislator shall have an opportunity to respond to the Committee draft. The Committee shall consider all such responses in the preparation of its final report.

(d) If the Committee recommends against licensure, it may suggest alternative measures for regulation of the occupation or profession.

"§ 120-128. Hearings by Legislative Committee on New Occupational and Professional Licensing Boards; final action by Committee. – (a) Before submitting an assessment report the Committee may, in its discretion, hold one or more public hearings in the Legislative building.

(b) When assessment reports involving the same or similar occupations or professions are pending before the Committee, the Committee may consider jointly any or all of the matters to be addressed by the reports.

"§ 120-129. Legislative Committee on New Occupational and Professional Licensing Boards .– (a) The Legislative Committee on New Occupational and Professional Licensing Boards is created to consist of a Chairman and eight members, four Senators appointed by the President of the Senate, four members of the House of Representatives appointed by the Speaker of the House and the Chairman to be appointed as provided herein. The President of the Senate shall appoint a Senator to be Chairman of the Committee who shall serve until the convening of the General Assembly in 1985.

(b) The Speaker of the House shall appoint a member of the House of Representatives as Chairman upon the convening of the General Assembly in 1985 who shall serve until the organization of the General Assembly in 1987. Thereafter the President of the Senate and the Speaker of the House shall alternate the appointment of the Chairman to serve during each biennial session of the General Assembly. The Chairman may vote only in the event of a tie vote. The members of the Committee shall likewise serve biennial terms. If the Office of Chairman or any member shall become vacant, the vacancy shall be filled for the unexpired term by the authority making the initial appointment. Five members shall constitute a quorum of the Committee.

(c) The Chairman and members of the Committee, while serving on the business of the Committee, are performing legislative duties and are entitled to the subsistence and travel allowances to which members of the General Assembly are entitled when performing legislative duties if and when authorized by the Legislative Services Commission, and may meet with such approval whenever there is a request for an assessment report. The Committee is authorized to use the facilities of the State

Legislative Building and Legislative Office Building. Clerical and professional staff shall be provided by the Legislative Services Commission."

Sec. 2. This act shall become effective August 1, 1984, and shall expire January 1, 1987.

In the General Assembly read three times and ratified, this the 5th day of July, 1984.