

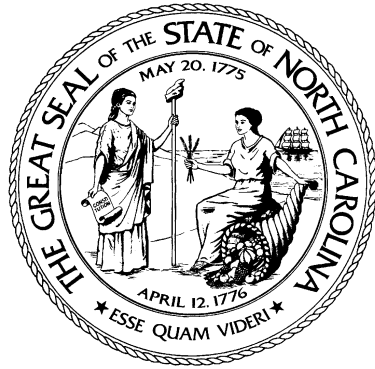
# LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

Assessment Report

For

**AMEND ELECTROLYSIS PRACTICE  
ACT/FEES**

House Bill 1330  
Senate Bill 1009



## LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

August 2, 2005

The Legislative Committee on New Licensing Boards is pleased to release this assessment report on the proposed licensure of laser clinicians, laser clinician instructors and schools of laser, light source, or pulsed-light treatments. This report constitutes both the preliminary and final assessment report.

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Representative Drew Saunders

**LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS  
(2005-2006)**

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Representative Drew Saunders, Chair

Senator Stan Bingham

Representative Harold Brubaker

Senator Kay Hagan

Representative Becky Carney

Senator David Hoyle

Representative Bruce Goforth

Senator Vernon Malone

Representative Earline Parmon

Staff

Ms. Cindy Avrette, Committee Counsel

Ms. Judy Collier, Research Assistant

Ms. Ruth Fish, Committee Clerk

## PREFACE

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The Legislative Committee on New Licensing Boards is a 9-member joint committee of the House and Senate created and governed by statute (Article 18A of Chapter 120 of the General Statutes). The primary purpose of the Committee is to evaluate the need for a new licensing board or the proposed licensing of previously unregulated practitioners by an existing board. The Committee has been in existence since 1985.

The Committee solicits written and oral testimony on each licensing proposal in carrying out its duty to determine whether the proposal meets the following criteria:

- 1) Whether the unregulated practice of the profession can substantially 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 possesses qualities that distinguish it from ordinary labor.
- 3) Whether practice of the profession requires specialized skill or training.
- 4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence.
- 5) Whether the public can effectively be protected by other means.
- 6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's good or services.

The Committee issues an assessment report on its findings and recommendations. The recommendation in the report is not binding on other committees considering the proposal.

**HOUSE BILL 1330  
SENATE BILL 1009  
AMEND ELECTROLYSIS PRACTICE ACT/FEEES**

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**BACKGROUND**<sup>1</sup>

*Current Standards.*

The North Carolina Medical Board issued a policy statement in November 1998 that the revision, destruction, incision, or other structural alteration of human tissue using laser technology is surgery and should be performed only by a physician or by an appropriately trained health care practitioner working under the supervision of a physician. Approximately one hundred licensed electrologists are currently practicing laser hair removal.<sup>2</sup> To the extent these health care practitioners perform laser hair removal without the supervision of a licensed physician, they are practicing medicine without a license. House Bill 1330 and Senate Bill 1009 would amend the Electrolysis Practice Act to provide for the licensure of an electrologist who meets the requisite educational requirements as a laser clinician who may perform this medical act.

The North Carolina Board of Electrolysis Examiners was established by the General Assembly in 1990 when it enacted the Electrolysis Practice Act "to ensure minimum standards of competency, to protect the public from misrepresentation of status by persons who hold themselves out to be 'certified electrologists', and to provide the public with safe care by the mandatory licensing of electrologists."<sup>3</sup> Electrolysis is the permanent removal of hair by the application of an electrical current to the dermal papilla by a filament to cause

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<sup>1</sup> **Source:** *Response to Questionnaire for the Legislative Committee for New Licensing Boards.* A copy of the questionnaire is attached to this report.

<sup>2</sup> **Source:** *Response to Questionnaire for the Legislative Committee for New Licensing Boards.* A copy of the questionnaire is attached to this report.

<sup>3</sup> G.S. § 88A-2

decomposition, coagulation, or dehydration within the hair follicle as approved by the Food and Drug Administration of the United States Government.<sup>4</sup> Chapter 88A of the General Statutes sets out the requirements for licensure as an electrologist, certification as an electrology instructor, and certification as a Board-approved school of electrology. A violation of practicing electrolysis without a license is a Class 2 misdemeanor.

The proposed legislation would expand the Board's scope of authority to include the licensure of a laser clinician and laser clinician instructor, and to certify Board-approved schools of laser, light source, or pulsed-light treatments that meet requirements established by the Board. The proposed legislation defines a laser clinician as a person who engages in laser, light source, or pulsed light treatments of skin or hair. "Laser, light source, or pulsed-light treatments" are defined as the use of laser or pulsed-light devices for nonablative procedures for the removal of hair.

#### **LICENSING REQUIREMENTS**

##### ***Who Must Be Licensed.***

Under the proposed legislation, it would be a Class 2 misdemeanor to engage in the practice of laser, light source, or pulsed-light treatments without a license. Licenses must be renewed annually according to the criteria for renewal established by the Board. The proposed legislation establishes the following professional requirements for licensure:

##### **Laser Clinician:**

- Be a licensed electrologist.
- Complete a 30-hour laser, light source, or pulsed-light treatment course approved by the Board and in accordance with rules adopted by the Board.
- Be certified to operate and currently using or anticipate using laser, light source, or pulsed-light devices.

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<sup>4</sup> As defined in G.S. § 88A-3(2).

*Laser Clinician Instructor:*

- Submit a Board-approved application
- Be a licensed electrologist.
- Be a licensed electrology instructor.
- Have practiced laser and light-based treatments actively for at least one year immediately before the application.
- Have at least 100 hours of training in laser and light-based treatments.

*School of laser, light source, or pulsed-light treatments:*

- Submit a Board-approved application.
- Submit a detailed institutional floor plan demonstrating adequate school facilities.
- Submit a detailed list of equipment to be used by students in the course of study.
- Submit a copy of the curriculum consisting of the hours and subject matter determined by the Board, with the hours required being not less than 30 and not more than 600.
- Submit a certified copy of the school manual of instruction.
- Submit the names and qualifications of the licensed instructors.
- Submit any additional information the Board may require.

***License Renewal Requirements.***

**Renewal Requirements:** Every license issued pursuant to Chapter 88 must be renewed annually. An electrologist or laser clinician must meet all of the following conditions for license renewal:

- Submit a renewal application on Board approved forms.
- Provide evidence of successful completion of a long-term educational program approved by the Board.
- Meet the criteria for renewal established by the Board.
- Pay the required fee.

Laser clinicians are required to complete 10 hours of continuing education annually to maintain their licensure.





**Fees.** Fees are set by the Board and cannot exceed the following amounts:

Purpose of Fee	Fee Amount
Application for licensure as an electrologist	\$150.00
Initial license	\$150.00
Examination or reexamination	\$125.00
Licensure of electrology renewal	\$200.00
Application for licensure as an electrology instructor	\$150.00
Licensure of electrology instructor renewal	\$75.00
Application for certification as a Board-approved school of electrology	\$500.00
Application for licensure as a laser clinician	\$150.00
Licensure as laser clinician renewal	\$200.00
Application for licensure as laser clinician instructor	\$150.00
Licensure as laser clinician instructor renewal	\$75.00
Application for certification as a Board-approved school of laser, light source, or pulsed-light treatments	\$500.00
Certificate of Board-approved school of laser, light source, or pulsed-light renewal	\$250.00
Certificate of Board-approved school of electrology renewal	\$250.00
Certification of out-of-state schools	\$100.00
Certification of out-of-state schools renewal	\$75.00
Office inspection or reinspection	\$100.00
License by reciprocity	\$150.00
Late renewal charge	\$75.00
Reinstatement of expired license or certification	\$300.00
Reactivation of license	\$200.00
Duplicate license or certification	\$25.00

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

*SPECIFIC FINDINGS REGARDING  
LASER CLINICIANS*

*HOUSE BILL 1330  
SENATE BILL 1009*

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- (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;
- (5) Whether the public can be effectively protected by other means; and
- (6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's goods or services.



**FINDINGS AND RECOMMENDATIONS**  
**AMEND ELECTROLYSIS PRACTICE ACT/FEEES**

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*Findings.* The Legislative Committee on New Licensing Boards finds that the sponsors have met the six criteria by which the Committee judges licensure proposals. Specifically, the Committee finds that:

- 1) The unregulated practice of laser hair removal can substantially harm or endanger the public health, safety, or welfare because there is not a regulatory body in place to investigate and resolve allegations of impropriety by laser clinicians that are not licensed or certified by the existing Board of Electrolysis Examiners. The greatest potential for harm would be from individuals who lack the appropriate professional credentials but are engaging in the direct delivery of laser hair removal services to persons seeking laser hair removal procedures or services.
- 2) The profession possesses qualities that distinguish it from ordinary labor due to the requirement that an applicant for laser clinician licensure already be licensed as an electrologist before being allowed to complete a Board approved course of study in laser practice.
- 3) The practice of laser hair removal requires specialized skill or training.
- 4) A substantial majority of the public does not have the knowledge or experience to evaluate the competence of laser clinicians.
- 5) The public cannot be effectively protected by other means.
- 6) Licensure would not have a substantial adverse economic impact upon the recipient of the services of a laser clinician.

*Recommendation.* The Legislative Committee on New Licensing Boards recommends that the practice of laser hair removal be performed by a licensed professional. The Committee does not make a recommendation as to who that licensed professional should be. This assessment report constitutes both the preliminary and final assessment report for the licensure of laser clinicians, laser clinician instructors and schools of laser, light source, or pulsed-light treatments. The report is based on the proposed licensing of laser clinicians, laser clinician instructors and schools of laser, light source, or pulsed-light treatments as set

out in House Bill 1330 and Senate Bill 1009, the response to the Committee's questionnaire (Attachment), and testimony before the Committee on July 6, 2005 and August 2, 2005.

# ATTACHMENT

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*Response to Questionnaire for the  
Legislative Committee on New Licensing  
Boards*

## **Legislative Questions Regarding HB1330**

**NORTH CAROLINA BOARD OF ELECTROLYSIS EXAMINERS**  
**Pinehurst Building, Box 34, 2 Centerview Drive, Greensboro, NC 27407**  
**Office: 336 856-1010**  
**(E-mail: ncbeexam@yahoo.com)**

1. The marketplace has failed to regulate adequately the profession in numerous ways. First, lack of required education and training. Second, allowing anyone who can afford to purchase a laser to use it. Untrained people without the proper background and training cannot safely offer light treatments without understanding tissue interaction, contra-indications, post treatment guidelines and the amount of destruction light can cause to the skin if administered improperly.
2. There have been complaints about the unregulated profession. A specific example would be the recent death of a young woman in Raleigh, after receiving a topical lidocaine solution from a laser hair removal clinic named Premier Body Laser Clinic. The Clinic was owned and operated by a Certified Public Accountant.
3. The public thinks that because someone advertises in the yellow pages they have passed some type of professional requirement. The lack of state regulations allows anyone to operate a laser without training or guidelines. This creates a potential harm to public health, safety and welfare.
4. There is potential harm and danger to the public due to lack of regulation. Unfortunately, some of these dangers are only recognized after there has been injury to the public.
5. The potential harm or danger to the public is recognized by other states and Florida and Ohio have been the leaders in issuing regulations for practitioners who offer laser hair removal. Florida requires an electrology license and 40 hours of additional training, while physicians are exempt. Ohio requires 50 hours of additional training by electrologists and physicians are exempt.
6. The economic advantage of licensing to the public will be that they will get better results for their money. It will cost them less because a properly trained practitioner will get better results with less treatments.
7. The economic disadvantage to the public is non existent. Untrained people cannot provide effective results and it takes more treatments with a higher risk of injury such as burns, hypo/hyperpigmentation and other tissue damage.
8. The economic advantage to licensing for the practitioners would be lower insurance rates due to higher skill levels and repeat business because of quality control and credentials. Also, the fly by night businesses that provide poor treatments and endanger the public would be made to achieve better skill levels or exit the profession.
9. No economic disadvantages are foreseeable if licensing occurs to this field.
10. The potential benefits to the public of licensing outweigh the potential harmful effects of licensure because of safer treatments for the public, lower risk of injury and lower insurance cost which would be passed on to the consumer since physicians and their staff would still be able to offer this service and the cost of treatments should remain the same.

11. The specific skill of training that distinguishes the profession from ordinary labor includes 600 hours of education, including the following: Trichology (Hair Growth ) Hair Structure and function, Growth cycles, including re-growth cycles. Follicle structure and function. Endocrinology. Causes of hair growth, including new hair stimulation. Study and function of glands. Dermatology. Skin structure and function. Disease of the skin (as related to this procedure) Reaction of the skin as related to the clinical application of the procedure. Neurology/Angiology. Nervous system. Pain thresholds. Pain variables. Synoptic responses. Circulatory System, Cardiovascular system, Lymphatic system, Bacteriology, Sanitation, Sterilization rules and standards promulgated by the Board. Principles of Electricity. Short wave (Alternating) current. Direct (Galvanic) current. Equipment. Modalities; alternating, direct, laser and light based sources. Expectations, tissue reaction to currents, wavelengths, contra-indications and the practitioner must pass a written and practical examination given by the North Carolina Board of Electrologist Examiners.
12. The professional qualities that distinguish it from ordinary labor is the ability to assess medical history, evaluate if the client is a good candidate for the treatment and determine safe protocols and treat within safe parameters. The treatments that the patient receives are medical, and all medical practitioners must be licensed and/or certified in their scope of practice.
13. Licensing requirements will cover all practicing members of the profession that have an interest in doing light based hair removal.
14. Currently, there are approximately one hundred professionals practicing laser hair removal that are also electrologists that are expected to apply for licensure and tens of thousands would utilize the services of these practitioners.
15. The public at this time does not have the knowledge or experience to evaluate the services offered by the practitioner. This regulation will assist them because they will be dealing with practitioners with better qualifications.
16. There is voluntary certification for laser practitioners made recently available through the North Carolina Board of Electrologist Examiners and electrologists are already licensed. Full disclosure of both certifications are available for review at the Legislative Committee's advanced request.