A BILL TO BE ENTITLED
AN ACT TO CLARIFY AND SIMPLIFY A LICENSEE’S QUALIFICATIONS FOR LICENSURE.
The General Assembly of North Carolina enacts:

SECTION 1. G.S. 93B-1 reads as rewritten:

§ 93B-1. Definitions. As used in this Chapter, the following definitions apply:

"License" means any

(1) License. – Any license (other than a privilege license), certificate, or other evidence of qualification which an individual is required to obtain before he may engage in or represent himself to be a member of a particular profession or occupation.

"Occupational licensing board" means any

(2) Occupational licensing board. – Any board, committee, commission, or other agency in North Carolina which is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within, a particular profession or occupation, and which is authorized to issue licenses. The phrase "occupational licensing board" does not include State agencies, staffed by full-time State employees, which as a part of their regular functions may issue licenses.

(3) State agency licensing board. – Any State agency, staffed by full-time State employees, which as part of their regular functions issue licenses. The following is a nonexclusive list of State agency licensing boards and the profession or occupation for which the board, agency, or officer may issue licenses:

a. The Department of Agriculture and Consumer Services.

1. Commissioner of Agriculture.
   II. Seed Dealer. Article 31 of Chapter 106 of the General Statutes.
   III. Livestock Dealer. Article 35B of Chapter 106 of the General Statutes.


4. Structural Pest Control Committee.

b. The Department of Environmental Quality
   I. Well Contractors Certification Commission.
      I. Well Contractor. Article 7A of Chapter 87 of the General Statutes.

c. The Department of Health and Human Services.
   I. North Carolina Medical Care Commission.

The Department of Insurance.
   I. Commissioner of Insurance.
      I. Bail Bond Runner, Professional Bondsman, Surety Bondsman. Article 71 of Chapter 58 of the General Statutes.

   2. Code Officials Qualifications Board.

   3. Home Inspection Licensure Board.

   4. Manufactured Housing Board.
      I. Manufactured Housing Salesperson. Article 9A of Chapter 143 of the General Statutes.

e. The Department of Justice.
      I. Law Enforcement Officer. Article 1 of Chapter 17C of the General Statutes.

The Department of Labor.
   I. Boiler Safety Bureau.

g. The Department of Public Instruction.
   I. State Board of Education.
I. Teacher, Principal, Superintendent. Article 71E of Chapter 115C of the General Statutes.

h. The Department of Public Safety.
   1. Alcohol Law Enforcement Branch.
   2. The Alcohol Beverage Control Board.
      1. Alcoholic Beverage Distributor. Article 9 of Chapter 18B.
   3. Private Protective Services Board.

i. The Department of the Secretary of State.
   1. The Secretary of State.
      1. Athletic Agent. Article 9 of Chapter 78C of the General Statutes.
   II. Investment Advisor. Article 3 of Chapter 78C of the General Statutes.

j. The Department of Transportation.
   1. Division of Motor Vehicles.
   II. Commercial Driver, Truck Driver. Article 2 of Chapter 20 of the General Statutes.

SECTION 2. G.S. 93B-2 reads as rewritten:

"(a) No later than October 31 of each year, each occupational licensing board shall file electronically with the Secretary of State, the Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee an annual report containing all of the following information:

   …

   (9a) The number of applicants and, of that number, the number granted a license.

   (9b) The number of applicants with a conviction record and, of that number, the number granted a license, denied a license for any reason, and denied a license because of a conviction.

   …

(e) No later than October 31 of each year, each State agency occupational licensing board shall file electronically with the Secretary of State, the Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee an annual report containing all of the following information:
(1) The number of applicants for a license and, of that number, the number granted a license.

(2) The number of applicants with a conviction record and, of that number, the number granted a license, denied a license for any reason, and denied a license because of a conviction.

SECTION 3. G.S. 93B-8.1 reads as rewritten:

"§ 93B-8.1. Use of criminal history records.

(a) The following definitions apply in this section:

(1) Applicant. – A person who makes application for licensure from an occupational licensing board.

(2) Board. – An occupational licensing board or a State agency licensing board as defined in G.S. 93B-1.

(3) Criminal history record. – A State or federal history of conviction of a crime, whether a misdemeanor or felony, that bears upon an applicant's or a licensee's fitness to be licensed or disciplined.

(4) Licensee. – A person who has obtained a license to engage in or represent himself or herself to be a member of a particular profession or occupation.

(b) Unless the law governing a particular occupational licensing board provides otherwise, a board shall not automatically deny licensure on the basis of an applicant's criminal history. If the board is authorized to consider an applicant's criminal history and notwithstanding any other provisions of law, no board may deny an applicant a license based solely on conviction for a crime of moral turpitude. A board may deny a license to an applicant on the basis of conviction of any crime or for commission of a crime involving fraud or moral turpitude, and the applicant's verified criminal history record reveals one or more convictions of any crime, a crime if the board may deny the license if it finds that denial is warranted after consideration of the factors specified in subsection (b1) of this section, that the public's safety and general welfare could be adversely affected if the board issued the applicant a license.

(b1) Before a board may deny an applicant a license due to a criminal conviction under subsection (b) of this section, the board must specifically consider all of the following factors:

(1) The level and seriousness of the crime.

(2) The date of the crime.

(3) The age of the person at the time of the crime.

(4) The circumstances surrounding the commission of the crime, if known.

(5) The nexus between the criminal conduct and the prospective duties of the applicant as a licensee.

(6) The prison, jail, probation, parole, rehabilitation, and employment records of the applicant since the date the crime was committed.

(7) The subsequent commission of a crime by the applicant.

(8) Any affidavits or other written documents, including character references.

(b2) If the board denies an applicant a license under this section, the board shall:

(1) Make written findings specifying the factors in subsection (b1) of this section the board deemed relevant to the applicant and explaining the reason for the denial. The board's presiding officer must sign the findings.

(2) Provide a signed copy of the written findings to the applicant within 30 days of the denial.

(3) Retain a signed copy of the written findings for no less than five years.

(b3) Each board shall include in its application for licensure and on its public Web site all of the following information:

(1) Whether the board requires applicants to consent to a criminal background check.
The factors under subsection (b1) of this section the board shall consider when making a determination of licensure.

The appeals process pursuant to Chapter 150B of the General Statutes if the board denies an applicant licensure in whole or in part because of a criminal conviction.

If denied licensure, the applicant shall be entitled, as of right, to a rehearing on the issue before the board if the applicant has relevant evidence, not previously considered, regarding the applicant’s qualifications.

The board may deny licensure to an applicant who refuses to consent to a criminal history record check or use of fingerprints or other identifying information required by the State or National Repositories of Criminal Histories.

This section does not apply to The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs’ Education and Training Standards Commission.

SECTION 4. G.S. 83A-15(a) reads as rewritten:

"(a) The Board shall have the power to suspend or revoke a license or certificate of registration, to deny a license or certificate of registration, or to reprimand or levy a civil penalty not in excess of five hundred dollars ($500.00) per violation against any registrant who is found guilty of:

…

(3) Unprofessional conduct, including but not limited to:

…

d. Willfully violating this Chapter or any rule or standard of conduct published by the Board, or pleading guilty or nolo contendere to a felony or any crime involving moral turpitude.

SECTION 5.(a) G.S. 85B-4(b) reads as rewritten:

"(b) No person shall be licensed as an apprentice auctioneer, auctioneer, or receive an auction firm license if the person:

…

(3) Has within the preceding five years pleaded guilty to, entered a plea of nolo contendere or been convicted of any felony, committed or been convicted of any act involving fraud or moral turpitude.

SECTION 5.(b) G.S. 85B-8(a) reads as rewritten:

"(a) The following shall be grounds for the assessment of a civil penalty in accordance with G.S. 85B-3.1(b) or the denial, suspension, or revocation of an auctioneer, auctioneer apprentice, or auction firm license:

…

(9) The commission or conviction of a crime that is punishable as a felony offense under the laws of North Carolina or the laws of the jurisdiction where committed or convicted, or the commission of any act involving fraud or moral turpitude.

SECTION 6. G.S. 87-47(a1) reads as rewritten:

"(a1) The following activities are prohibited:

…

(4) Being convicted of a crime involving fraud or moral turpitude.

SECTION 7. G.S. 89C-21(a) reads as rewritten:
"(a) The Board may reprimand the licensee, suspend, refuse to renew, refuse to reinstate, or revoke the certificate of licensure, require additional education or, as appropriate, require reexamination, for any engineer or land surveyor, who is found guilty of any of the following:

... Conviction of, or entry of a plea of guilty or nolo contendere, to any crime that is a felony, whether or not related to the practice of engineering or surveying; conviction of, or entry of a plea of guilty or nolo contendere to, any crime, whether a felony, misdemeanor, or otherwise, where an essential element of the crime is dishonesty or when the crime is directly related to the practice of engineering or surveying; or conviction of, or entry of a plea of guilty or nolo contendere, of any crime involving moral turpitude, surveying.

SECTION 8. G.S. 90-14(a) reads as rewritten:
"(a) The Board shall have the power to place on probation with or without conditions, impose limitations and conditions on, publicly reprimand, assess monetary redress, issue public letters of concern, mandate free medical services, require satisfactory completion of treatment programs or remedial or educational training, fine, deny, annul, suspend, or revoke a license, or other authority to practice medicine in this State, issued by the Board to any person who has been found by the Board to have committed any of the following acts or conduct, or for any of the following reasons:

... Conviction in any court of a crime involving moral turpitude, or the violation of a law involving the practice of medicine, or a conviction of a felony; provided that a felony conviction shall be treated as provided in subsection (c) of this section.

..."

SECTION 9.(a) G.S. 90-30(a) reads as rewritten:
"(a) The North Carolina State Board of Dental Examiners shall grant licenses to practice dentistry to such applicants who are graduates of a reputable dental institution, who, in the opinion of a majority of the Board, shall undergo a satisfactory examination of proficiency in the knowledge and practice of dentistry, subject, however, to the further provisions of this section and of the provisions of this Article.

The applicant for a license to practice dentistry shall be of good moral character, at least 18 years of age at the time the application is filed. The application for a dental license shall be made to the Board in writing and shall be accompanied by evidence satisfactory to the Board that the applicant is a person of good moral character, has an academic education, the standard of which shall be determined by the Board; that the applicant is a graduate of and has a diploma from a reputable dental college or the dental department of a reputable university or college recognized, accredited and approved as such by the Board; and that the applicant has passed a clinical licensing examination, the standard of which shall be determined by the Board.

The North Carolina State Board of Dental Examiners is authorized to conduct both written or oral and clinical examinations or to accept the results of other Board-approved regional or national independent third-party clinical examinations that shall include procedures performed on human subjects as part of the assessment of restorative clinical competencies and that are determined by the Board to be of such character as to thoroughly test the qualifications of the applicant, and may refuse to grant a license to any person who, in its discretion, is found deficient in the examination. The Board may refuse to grant a license to any person guilty of cheating, deception or fraud during the examination, or whose examination discloses to the satisfaction of the Board, a deficiency in academic or clinical education. The Board may employ such dentists found qualified therefor by the Board, in examining applicants for licenses as it deems appropriate.
The North Carolina State Board of Dental Examiners may refuse to grant a license to any person guilty of a crime involving moral turpitude, or gross immorality, or to any person addicted to the use of alcoholic liquors or narcotic drugs to such an extent as, in the opinion of the Board, renders the applicant unfit to practice dentistry.

Any license obtained through fraud or by any false representation shall be void ab initio and of no effect."

SECTION 9.(b) G.S. 90-41(a) reads as rewritten:
"(a) The North Carolina State Board of Dental Examiners shall have the power and authority to (i) Refuse to issue a license to practice dentistry; (ii) Refuse to issue a certificate of renewal of a license to practice dentistry; (iii) Revoke or suspend a license to practice dentistry; and (iv) Invoke such other disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper; in any instance or instances in which the Board is satisfied that such applicant or licensee:

(4) Has been convicted of or entered a plea of guilty or nolo contendere to any felony charge or to any misdemeanor charge involving moral turpitude;charge.

..."

SECTION 10. G.S. 90-113.44(a) reads as rewritten:
"(a) Grounds for disciplinary action for an applicant or credentialed professional include:

... (4) Conviction of a felony or other public offense involving moral turpitude. felony. Conviction of a Class A-E felony shall result in an immediate suspension of licensure, certification, or registration for a minimum of one year.

..."

SECTION 11. G.S. 90-121.2(a) reads as rewritten:
"(a) The Board shall have the power to make, adopt, and promulgate such rules and regulations, including rules of ethics, as may be necessary and proper for the regulation of the practice of the profession of optometry and for the performance of its duties. The Board shall have jurisdiction and power to hear and determine all complaints, allegations, charges of malpractice, corrupt or unprofessional conduct, and of the violation of the rules and regulations, including rules of ethics, made against any optometrist licensed to practice in North Carolina. The Board shall also have the power and authority to: (i) refuse to issue a license to practice optometry; (ii) refuse to issue a certificate of renewal of a license to practice optometry; (iii) revoke or suspend a license to practice optometry; and (iv) invoke such other disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper; in any instance or instances in which the Board is satisfied that such applicant or licensee:

... (4) Has been convicted of or entered a plea of guilty or nolo contendere to any felony charge or to any misdemeanor charge involving moral turpitude;charge;

(10) Has engaged in such immoral conduct as to discredit the optometry profession;

..."

SECTION 12. G.S. 90-154(b) reads as rewritten:
"(b) Any one of the following is grounds for disciplinary action by the Board under subsection (a):

... (2) Conviction of a felony or of a crime involving moral turpitude. felony.
SECTION 13. G.S. 90-187.8(c) reads as rewritten:
"(c) Grounds for disciplinary action shall include but not be limited to the following:

..."

SECTION 14. G.S. 90-202.8(a) reads as rewritten:
"(a) The North Carolina State Board of Podiatry Examiners, in accordance with Chapter 150B (Administrative Procedure Act) of the General Statutes, shall have the power and authority to: (i) refuse to issue a license to practice podiatry; (ii) refuse to issue a certificate of renewal of a license to practice podiatry; (iii) revoke or suspend a license to practice podiatry; and (iv) invoke such other disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper;
in any instance or instances in which the Board is satisfied that such applicant or licensee:

..."

SECTION 15.(a) G.S. 90-210.25 reads as rewritten:
"§ 90-210.25. Licensing.

..."

(c) Registration, Filing and Transportation. –

..."

(e) Revocation; Suspension; Compromise; Disclosure. –

(1) Whenever the Board finds that an applicant for a license or a person to whom a license has been issued by the Board is guilty of any of the following acts or omissions and the Board also finds that the person has thereby become unfit to practice, the Board may suspend or revoke the license or refuse to issue or renew the license, in accordance with the procedures set out in Chapter 150B of the General Statutes:

a. Conviction of a felony or a crime involving fraud or moral turpitude.

..."

SECTION 15.(b) G.S. 90-210.69(c) reads as rewritten:
"(c) In accordance with the provisions of Chapter 150B of the General Statutes, if the Board finds that a licensee, an applicant for a license or an applicant for license renewal is guilty of one or more of the following, the Board may refuse to issue or renew a license or may suspend or revoke a license or place the holder thereof on probation upon conditions set by the Board, with revocation upon failure to comply with the conditions:

..."

(3) A crime involving fraud or moral turpitude by conviction thereof.
SECTION 15.(c) G.S. 90-210.123(g) reads as rewritten:

"(g) Whenever the Board finds that an owner, partner, crematory manager, member, officer, or any crematory technician of a crematory licensee or any applicant to become a crematory licensee, or that any authorized employee, agent, or representative has violated any provision of this Article, or is guilty of any of the following acts, and when the Board also finds that the crematory operator or applicant has thereby become unfit to practice, the Board may suspend, revoke, or refuse to issue or renew the license, in accordance with Chapter 150B of the General Statutes:

(1) Conviction of a felony or a crime involving fraud or moral turpitude.

..."

SECTION 16. G.S. 90-229(a) reads as rewritten:

"(a) The North Carolina State Board of Dental Examiners shall have the power and authority to (i) Refuse to issue a license to practice dental hygiene; (ii) Refuse to issue a certificate of renewal to practice dental hygiene; (iii) Revoke or suspend a license to practice dental hygiene; and (iv) Invoke such other disciplinary measures, censure or probative terms against a licensee as it deems proper; in any instance or instances in which the Board is satisfied that such applicant or licensee:

(3) Has been convicted of or entered a plea of guilty or nolo contendere to any felony charge or to any misdemeanor charge involving moral turpitude;"
psychology, or a misdemeanor charge reflecting the inability to practice psychology with due regard to the health and safety of clients or patients;

"..."

SECTION 19. G.S. 90-270.60(a) reads as rewritten:

"(a) The Board may deny, revoke, or suspend licensure, discipline, place on probation, limit practice, or require examination, remediation, or rehabilitation, or any combination of the disciplinary actions described in this subsection, of any applicant or person licensed under this Article on one or more of the following grounds:

..." 

SECTION 20. G.S. 90-270.76(a) reads as rewritten:

"(a) The Board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions on a license if the licensee or applicant for licensure has engaged in any of the following conduct:

..."

SECTION 21. G.S. 90-270.103 reads as rewritten:

"§ 90-270.103. Grounds for disciplinary action.

Grounds for disciplinary action shall include but not be limited to the following:

..."

SECTION 22. G.S. 90-340(a) reads as rewritten:

"(a) The Board may, in accordance with the provisions of Chapter 150B of the General Statutes, deny, suspend, or revoke licensure, discipline, place on probation, limit practice, or require examination, remediation, or rehabilitation of any person licensed under this Article on one or more of the following grounds:

..."

SECTION 23. G.S. 90-363(a) reads as rewritten:

"(a) The Board may deny or refuse to renew a license, may suspend or revoke a license, or may impose probationary conditions on a license if the licensee or applicant for licensure has engaged in any of the following conduct:
(1) Employment of fraud, deceit or misrepresentation in obtaining or attempting to obtain a license, or the renewal of a license.

(2) Committing an act or acts of malpractice, gross negligence or incompetence in the practice of dietetics or nutrition.

(3) Practicing as a licensed dietitian/nutritionist or a licensed nutritionist without a current license.

(4) Engaging in conduct that could result in harm or injury to the public.

(5) Conviction of or a plea of guilty or nolo contendere to any crime involving moral turpitude.

"...

SECTION 24. G.S. 90-390(a) reads as rewritten:

"(a) A certificate applied for or issued under this Article may be refused, suspended, revoked, or otherwise limited as provided in subsection (e) of this section by the Board upon proof that the applicant or person to whom a certificate was issued:

(1) Has been convicted of a felony;

(2) Has been convicted of a misdemeanor involving moral turpitude, misrepresentation or fraud in dealing with the public, or an offense relevant to fitness to practice certified fee-based pastoral counseling;

"...

SECTION 25.(a) G.S. 90-631.3(a) reads as rewritten:

"(a) The Board may deny, suspend, revoke, or refuse to approve a massage and bodywork therapy school for any of the following reasons:

... 

(10) The applicant for or holder of massage and bodywork therapy school approval has pleaded guilty, entered a plea of nolo contendere, or has been found guilty of a crime involving moral turpitude by a judge or jury in any state or federal court.

SECTION 25.(b) G.S. 90-632.15(a) reads as rewritten:

"(a) The Board may deny, suspend, revoke, discipline, or refuse to approve a massage and bodywork therapy establishment for any of the following reasons:

... 

(10) The applicant for or holder of a massage and bodywork therapy establishment license has pleaded guilty, entered a plea of nolo contendere, or has been found guilty of a crime involving moral turpitude by a judge or jury in any state or federal court.

SECTION 25.(c) G.S. 90-633(a) reads as rewritten:

"(a) The Board may deny, suspend, revoke, or refuse to license a massage and bodywork therapist or applicant for any of the following:

... 

(4) Conviction of a felony or other public offense involving moral turpitude.

"...

SECTION 26. G.S. 90-659(a) reads as rewritten:

"(a) The Board shall take the necessary actions to deny or refuse to renew a license, suspend or revoke a license, or to impose probationary conditions on a licensee or applicant if the licensee or applicant:

... 

(2) Was convicted of or entered a plea of guilty or nolo contendere to any crime involving moral turpitude.

"...

SECTION 27. G.S. 90A-64 reads as rewritten:
"§ 90A-64. Suspensions and revocations of certificates.

(a) The Board shall have the power to refuse to grant, or may suspend or revoke, any certificate issued under provisions of this Article for any of the causes hereafter enumerated, as determined by the Board:

... 

(9) Conviction in any court of a crime involving moral turpitude or conviction of a felony;

... 

(a1) A registered environmental health specialist or registered environmental health specialist intern who is convicted of a felony or a crime of moral turpitude shall report the conviction to the Board within 30 days from the date of the conviction. A felony conviction shall result in the automatic suspension of a certificate issued by the Board for 60 days until further action is taken by the Board. The Board shall immediately begin the hearing process in accordance with Article 3A of Chapter 150B of the General Statutes. Nothing in this section shall preclude the Board from taking further action.

..."

SECTION 28.(a) G.S. 93A-6(b) reads as rewritten:

"(b) The Commission may suspend or revoke any license issued under the provisions of this Chapter or reprimand or censure any licensee when:

(1) The licensee has obtained a license by false or fraudulent representation;

(2) The licensee has been convicted or has entered a plea of guilty or no contest upon which final judgment is entered by a court of competent jurisdiction in this State, or any other state, of any misdemeanor or felony that involves false swearing, misrepresentation, deceit, extortion, theft, bribery, embezzlement, false pretenses, fraud, forgery, larceny, misappropriation of funds or property, perjury, or any other offense showing professional unfitness or involving moral turpitude which would reasonably affect the licensee's performance in the real estate business;

..."

SECTION 28.(b) G.S. 93A-38 reads as rewritten:

"§ 93A-38. Suspension, revocation or denial of license.

The Commission shall have the power to suspend, revoke, deny issuance, or deny renewal of license to operate a private real estate school. In all proceedings to suspend, revoke or deny a license, the provisions of Chapter 150B of the General Statutes shall be applicable. The Commission may suspend, revoke, or deny such license when it finds:

... 

(6) That the applicant for or holder of such license or any officer of a corporate licensee or corporation applying for a license, any partner of a partnership licensee or partnership applying for a license, or any member of a limited liability company licensee or limited liability company applying for a license has pleaded guilty, entered a plea of nolo contendere or been found guilty of a crime involving moral turpitude in any state or federal court."

SECTION 29. G.S. 93E-2-8(a) reads as rewritten:

"(a) The Board may, by order, deny, suspend, revoke, or refuse to issue or renew a registration of an appraisal management company under this Article or may restrict or limit activities of a person who owns an interest in or participates in the business of an appraisal management company if the Board determines that an applicant, registrant, or any partner, member, manager, officer, director, compliance manager, or person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant or registrant has done any of the following:

..."
General Assembly Of North Carolina

SECTION 30. This act becomes effective October 1, 2019.