

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1122

Short Title: NC Colon Hydrotherapy Licensure.

(Public)

Sponsors: Representative Insko.

Referred to: Health, if favorable, Finance.

April 7, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA COLON HYDROTHERAPY
3 LICENSURE ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 42.

8 "Colon Hydrotherapy.

9 "**§ 90-710. Title; legislative findings.**

10 (a) This Article may be cited as the 'North Carolina Colon Hydrotherapy Licensure
11 Act.'

12 (b) The General Assembly finds that the practice of colon hydrotherapy is an area of
13 health care that is continually evolving to include more sophisticated and demanding client care
14 activities. The General Assembly further finds that the practice of colon hydrotherapy by
15 unauthorized, unqualified, unprofessional, and incompetent persons is a threat to public health,
16 safety, and welfare, and therefore it is necessary to establish minimum standards of education,
17 training, and competency for persons engaged in the practice of colon hydrotherapy.

18 "**§ 90-711. Definitions.**

19 The following definitions apply in this Article:

20 (1) Board. – The North Carolina Colon Hydrotherapy Licensing Board.

21 (2) Colon hydrotherapy. – The introduction of water into the colon via the anal
22 region for the purpose of cleansing the colon.

23 (3) Licensee. – A person who has been issued a license to practice as a colon
24 hydrotherapist under this Article.

25 (4) Practice of colon hydrotherapy. – The rendering of colon hydrotherapy
26 services to clients for compensation.

27 "**§ 90-712. License required; exemptions.**

28 (a) Except as otherwise provided in this Article, no person shall engage in the practice
29 of colon hydrotherapy, use the designation 'Colon Hydrotherapist,' or advertise using any title
30 or description that implies licensure as a colon hydrotherapist unless the person is licensed as a
31 colon hydrotherapist as provided by this Article. A violation of this section is a Class 2
32 misdemeanor.

33 (b) The provisions in this Article shall not apply to:

34 (1) Any person licensed or approved by the North Carolina Medical Board to
35 practice medicine or perform medical acts, tasks, or functions pursuant to
36 Article 1 of Chapter 90 of the General Statutes or any person employed and



1 working under the direct supervision of a physician licensed to practice
2 medicine pursuant to Article 1 of Chapter 90 of the General Statutes.

- 3 (2) A student enrolled in an accredited colon hydrotherapy education program if
4 colon hydrotherapy services performed by the student are an integral part of
5 the student's course of study and are performed under the direct supervision
6 of a licensed colon hydrotherapist.

7 **"§ 90-713. The North Carolina Colon Hydrotherapy Licensing Board.**

8 (a) Composition and Terms. – The North Carolina Colon Hydrotherapy Licensing
9 Board is created. The Board shall consist of seven members who shall serve staggered terms.
10 Four members shall be licensed colon hydrotherapists, one member shall be a physician
11 licensed under Article 1 of Chapter 90 of the General Statutes, and two members shall represent
12 the public at large.

13 The initial Board members shall be selected on or before October 1, 2009, as follows:

- 14 (1) The General Assembly, upon the recommendation of the President Pro
15 Tempore of the Senate, shall appoint two licensed colon hydrotherapists and
16 one public member, each to serve for a term of three years.
17 (2) The General Assembly, upon the recommendation of the Speaker of the
18 House of Representatives, shall appoint two licensed colon hydrotherapists
19 and one public member, each to serve for a term of two years.
20 (3) The Governor shall appoint a physician licensed under Article 1 of Chapter
21 90 of the General Statutes for a one-year term.

22 Upon the expiration of the terms of the initial Board members, each member shall be
23 appointed by the appointing authorities designated in subdivisions (1) through (3) of this
24 subsection for a three-year term and shall serve until a successor is appointed and qualified. No
25 member may serve more than two consecutive full terms.

26 (b) Qualifications. – Members of the Board shall be residents of this State. The colon
27 hydrotherapist members shall have been in practice as colon hydrotherapists for at least two
28 consecutive years before serving on the Board and shall meet the requirements for licensure
29 under this Article and remain in good standing with the Board during their terms. The public
30 member of the Board shall not be: (i) trained or experienced in colon hydrotherapy; (ii) an
31 agent or employee of a person engaged in the practice of colon hydrotherapy; or (iii) the spouse
32 of an individual who may not serve as a public member of the Board.

33 (c) Vacancies. – Any vacancy on the Board created by death, resignation, or otherwise
34 shall be filled in the same manner as the original appointment, except that all unexpired terms
35 of Board members appointed by the General Assembly shall be filled in accordance with
36 G.S. 120-122. Appointees to fill vacancies shall serve the remainder of the unexpired term and
37 until their successors are appointed and qualified.

38 (d) Removal. – The Board may remove any of its members for neglect of duty,
39 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings in the
40 member's capacity as a licensed colon hydrotherapist shall be disqualified from participating in
41 the official business of the Board until the charges have been resolved.

42 (e) Officers and Meetings. – The Board shall elect annually a chair and other officers as
43 it deems necessary to carry out the purposes of this Article and shall hold meetings at least
44 twice a year. A majority of the Board shall constitute a quorum.

45 (f) Compensation. – Each member of the Board may receive per diem and
46 reimbursement for travel and subsistence as set forth in G.S. 93B-5.

47 (g) Assistance. – The Board shall be entitled to the services of the Attorney General in
48 connection with the affairs of the Board or may, in its discretion, employ an attorney to assist
49 or represent it in the enforcement of this Article.

50 **"§ 90-714. Powers and duties.**

51 The Board shall have the following powers and duties:

- 1 (1) To administer and enforce the provisions of this Article.
- 2 (2) To adopt, amend, or repeal rules to carry out the provisions of this Article.
- 3 (3) To examine and determine the qualifications and fitness of applicants for
4 licensure and licensure renewal.
- 5 (4) To issue, renew, deny, restrict, suspend, or revoke licenses.
- 6 (5) To reprimand or otherwise discipline licensees under this Article.
- 7 (6) To receive and investigate complaints from members of the public.
- 8 (7) To conduct investigations to determine whether violations of this Article
9 exist or constitute grounds for disciplinary action against licensees under this
10 Article.
- 11 (8) To conduct administrative hearings in accordance with Article 3A of
12 Chapter 150B of the General Statutes.
- 13 (9) To seek injunctive relief through any court of competent jurisdiction for
14 violations of this Article.
- 15 (10) To collect fees required by G.S. 90-718 and other monies permitted by law
16 to be paid to the Board.
- 17 (11) To establish and approve continuing educational requirements for persons
18 licensed under this Article.
- 19 (12) To employ a secretary-treasurer and any other clerical personnel the Board
20 deems necessary to carry out the provisions of this Article and to fix
21 compensation for employees.
- 22 (13) To maintain a record of all proceedings conducted by the Board and make
23 available to licensees and other concerned parties an annual report of all
24 Board actions.
- 25 (14) To adopt and publish a code of professional conduct and practice for all
26 persons licensed under this Article.
- 27 (15) To adopt a seal containing the name of the Board for use on licenses and
28 official reports issued by the Board.

29 **§ 90-715. Requirements for licensure; issuance; limitations.**

30 (a) Upon application to the Board and payment of the required fees, an applicant may
31 be licensed as a colon hydrotherapist if the applicant meets all of the following qualifications:

- 32 (1) Has obtained a high school diploma or its equivalent.
- 33 (2) Is 18 years of age or older.
- 34 (3) Is of good moral character as determined by the Board.
- 35 (4) Has successfully completed one semester of a three-credit hour course in
36 anatomy and physiology from a postsecondary education school.
- 37 (5) Has successfully completed a minimum of 100 hours of training in colon
38 hydrotherapy approved by the International Association for Colon
39 Hydrotherapy.
- 40 (6) Passes an examination that has been approved by the National Board of
41 Colon Hydrotherapy, meets generally accepted colon hydrotherapy
42 principles and standards, and is approved by the Board.

43 (b) When the Board determines that an applicant has met all the requirements for
44 licensure, the Board shall issue a license to the applicant.

45 (c) A colon hydrotherapist licensed under this Article shall not dispense or administer
46 medication or provide advice regarding the use of medication, whether prescription or
47 over-the-counter, in connection with the provision of colon hydrotherapy services.

48 (d) All colon hydrotherapists licensed under this Article shall use colon hydrotherapy
49 equipment registered with the federal Food and Drug Administration and shall comply with all
50 applicable federal regulations, State laws, and rules adopted by the Board. Water is the only
51 substance that may be used with the equipment unless another substance is approved for use

1 under the direction of a person licensed to practice medicine pursuant to Article 1 of Chapter 90
2 of the General Statutes. Any licensed colon hydrotherapist violating this subsection shall have
3 the license revoked by the Board.

4 **"§ 90-716. Reciprocity.**

5 The Board may issue a license, without examination, to any person who is a colon
6 hydrotherapist licensed, certified, or registered in another state or country if the requirements
7 for licensure, certification, or registration in the other state or country are substantially
8 equivalent to the requirements for licensure in this State.

9 **"§ 90-717. License renewal and continuing education.**

10 (a) Every license issued under this Article shall be renewed on or before December 31
11 of each year. Any person who desires to continue to practice shall apply for license renewal and
12 shall submit the required fees. Licenses that are not renewed shall be automatically revoked. A
13 license may be renewed at any time within one year after its expiration, if: (i) the applicant
14 pays the required renewal fee and late renewal fee; (ii) the Board finds that the applicant has
15 not used the license in a manner inconsistent with the provisions of this Article or engaged in
16 the practice of colon hydrotherapy after notice of revocation; and (iii) the applicant is otherwise
17 eligible for licensure under the provisions of this Article. When necessary, the Board may
18 require a licensee to demonstrate continued competence as a condition of license renewal.

19 (b) As a condition of license renewal, a licensee shall meet continuing education
20 requirements set by the Board. Each licensee shall complete 12 continuing education units per
21 year. Failure to obtain continuing education units shall result in the forfeiture of a license. Upon
22 forfeiture, a person shall be required to submit a new application and retake the examination as
23 provided in this Article.

24 **"§ 90-718. Expenses and fees.**

25 (a) The Board may impose the following fees not to exceed the amounts listed below:

26 (1)	<u>Application fee</u>	<u>\$150.00</u>
27 (2)	<u>Examination fee</u>	<u>200.00</u>
28 (3)	<u>License renewal</u>	<u>100.00</u>
29 (4)	<u>Late renewal fee</u>	<u>50.00</u>
30 (5)	<u>License by reciprocity</u>	<u>250.00</u>
31 (6)	<u>Duplicate license</u>	<u>25.00.</u>

32 (b) When the Board uses a testing service for the preparation, administration, or grading
33 of examinations, the Board may charge the applicant the actual cost of the examination
34 services.

35 **"§ 90-719. Disciplinary action.**

36 The Board may deny, restrict, suspend, or revoke a license or refuse to issue or renew a
37 license if a licensee or applicant:

- 38 (1) Employs the use of fraud, deceit, or misrepresentation in obtaining or
39 attempting to obtain a license or the renewal of a license.
- 40 (2) Practices or attempts to practice colon hydrotherapy by fraudulent
41 misrepresentation.
- 42 (3) Commits an act of gross malpractice or incompetence as determined by the
43 Board.
- 44 (4) Has been convicted of or pled guilty or no contest to a crime that indicates
45 that the person is unfit or incompetent to practice as a colon hydrotherapist
46 or that indicates that the person has deceived or defrauded the public.
- 47 (5) Has been declared incompetent by a court of competent jurisdiction.
- 48 (6) Has willfully violated any provision in this Article or any rules adopted by
49 the Board.
- 50 (7) Uses or attempts to use the seal in a fraudulent or unauthorized manner.

51 **"§ 90-720. Civil penalties.**

1 (a) In addition to taking any of the actions permitted under G.S. 90-719, the Board may
2 assess a civil penalty not in excess of two thousand dollars (\$2,000) for each violation of any
3 section of this Article or the violation of any rules adopted by the Board. The clear proceeds of
4 any civil penalty assessed under this section shall be remitted to the Civil Penalty and
5 Forfeiture Fund in accordance with G.S. 115C-457.2.

6 (b) Before imposing and assessing a civil penalty and fixing the amount of the penalty,
7 the Board shall, as a part of its deliberations, take into consideration the following factors:

8 (1) The nature, gravity, and persistence of the particular violation.

9 (2) The appropriateness of the imposition of a civil penalty when considered
10 alone or in combination with other punishment.

11 (3) Whether the violation was willful and malicious.

12 (4) Any other factors that would tend to mitigate or aggravate the violation
13 found to exist.

14 (c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil penalties
15 for violations of this Article and rules adopted by the Board.

16 **"§ 90-721. Injunction to prevent violation; notification of complaints.**

17 (a) If the Board finds that a person who does not have a license issued under this Article
18 is engaging in the practice of colon hydrotherapy, the Board may appear in its own name in
19 superior court in actions for injunctive relief to prevent any person from violating the
20 provisions of this Article or rules adopted by the Board.

21 (b) A licensed colon hydrotherapist shall notify the Board by registered mail of any
22 complaints filed against the colon hydrotherapist within 30 days from the date the complaint is
23 filed."

24 **SECTION 2.** Any person who is currently a member of the International
25 Association for Colon Hydrotherapy (IACT), is certified at the Foundation Level of IACT, and
26 is using colon hydrotherapy equipment registered with the federal Food and Drug
27 Administration on the effective date of this act shall be issued a colon hydrotherapist license
28 without the requirement of examination.

29 **SECTION 3.** This act is effective when it becomes law.