

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

S

4

SENATE BILL 705  
Health Care Committee Substitute Adopted 5/16/05  
Third Edition Engrossed 6/1/05  
House Committee Substitute Favorable 8/8/05

Short Title: Amend Substance Abuse and Smoking Laws.

(Public)

Sponsors:

Referred to:

March 21, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE LICENSURE OF SUBSTANCE ABUSE PROFESSIONALS, TO ESTABLISH THE CREDENTIAL OF CERTIFIED CRIMINAL JUSTICE ADDICTIONS PROFESSIONAL, AND TO ALLOW THE DEPARTMENT OF JUSTICE TO CONDUCT CRIMINAL HISTORY RECORD CHECKS FROM STATE AND NATIONAL REPOSITORIES OF CRIMINAL HISTORY OF APPLICANTS FOR CREDENTIALS UPON THE REQUEST OF THE NORTH CAROLINA SUBSTANCE ABUSE PROFESSIONAL PRACTICE BOARD, AND TO AMEND THE LAW CONCERNING SMOKING IN PUBLIC PLACES TO REDUCE SMOKING IN RESTAURANTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 5C of Chapter 90 of the General Statutes reads as rewritten:

"Article 5C.

"North Carolina Substance Abuse ~~Professionals Certification~~ Professional Practice Act.

**§ 90-113.30. Declaration of purpose.**

The North Carolina Substance Abuse Professional ~~Certification~~ Practice Board, established by G.S. 90-113.32, is recognized as the ~~certifying, registering, certifying, and licensing~~ authority for substance abuse professionals described in this Article in order to safeguard the public health, safety, and welfare, to protect the public from being harmed by unqualified persons, to assure the highest degree of professional care and conduct on the part of ~~certified-credentialed~~ substance abuse professionals, to provide for the establishment of standards for the education of ~~certified-credentialed~~ substance abuse professionals, and to ensure the availability of ~~certified-credentialed~~ substance abuse professional services of high quality to persons in need of these services. It is the purpose of this Article to provide for the regulation of ~~Board-certified~~ Board-credentialed persons offering substance abuse counseling

1 services, substance abuse prevention services, or any other substance abuse services for  
2 which the Board may grant ~~certification, registration, certification, or licensure.~~

3 ~~"§90-113.31. Definitions.~~

4 The following definitions shall apply in this Article:

- 5 (1) ~~Approved supervisor.— A person who provides supervision as required~~  
6 ~~by the Board to persons applying for registration or certification as a~~  
7 ~~substance abuse professional pursuant to this Article.~~
- 8 (1a) ~~Board.— The North Carolina Substance Abuse Professional~~  
9 ~~Certification Board.~~
- 10 (1b) ~~Certified clinical addictions specialist.— A person certified by the~~  
11 ~~Board to practice as a clinical addictions specialist in accordance with~~  
12 ~~the provisions of this Article.~~
- 13 (1c) ~~Certified clinical supervisor.— A person certified by the Board to~~  
14 ~~practice as a clinical supervisor in accordance with the provisions of~~  
15 ~~this Article.~~
- 16 (1d) ~~Certified residential facility director.— A person certified by the Board~~  
17 ~~to practice as a residential facility director in accordance with the~~  
18 ~~provisions of this Article.~~
- 19 (2) ~~Certified substance abuse counselor.— A person certified by the Board~~  
20 ~~to practice as a substance abuse counselor in accordance with the~~  
21 ~~provisions of this Article.~~
- 22 (3) ~~Repealed by S.L. 1997-492, s. 2.~~
- 23 (3a) ~~Certified substance abuse prevention consultant.— A person certified~~  
24 ~~by the Board to practice substance abuse prevention in accordance~~  
25 ~~with the provisions of this Article.~~
- 26 (4) ~~Clinical supervisor intern.— A person designated by the Board to~~  
27 ~~practice as a clinical supervisor intern for a period not to exceed three~~  
28 ~~years without a showing of good cause in accordance with the~~  
29 ~~provisions of this Article.~~
- 30 (4a) ~~Credentialing body.— A board that licenses, certifies, or regulates a~~  
31 ~~profession or practice.~~
- 32 (4b) ~~Deemed status.— Recognition by the Board of the credentials offered~~  
33 ~~by a professional discipline whereby the individuals certified, licensed,~~  
34 ~~or otherwise recognized by the discipline as having met the standards~~  
35 ~~of a substance abuse specialist may apply individually for certification~~  
36 ~~as a certified clinical addictions specialist.~~
- 37 (4c) ~~Human services field.— An area of study that focuses on the~~  
38 ~~biological, psychological, and social aspects of human beings.~~
- 39 (4d) ~~Repealed by Session Laws 1999-164, s. 1.~~
- 40 (5) ~~Prevention.— The reduction, delay, or avoidance of alcohol and of~~  
41 ~~other drug use behavior. "Prevention" includes the promotion of~~  
42 ~~positive environments and individual strengths that contribute to~~  
43 ~~personal health and well-being over an entire life and the development~~

1 of strategies that encourage individuals, families, and communities to  
2 take part in assessing and changing their lifestyle and environments.

3 (6) ~~Professional discipline. — A field of study characterized by the~~  
4 ~~technical, educational, and ethical standards of a profession.~~

5 (6a) ~~Registrant. — A person who has initiated a certification process to~~  
6 ~~become a certified substance abuse counselor or a certified clinical~~  
7 ~~addictions specialist pursuant to this Article and is authorized to~~  
8 ~~provide DWI assessments pursuant to G.S. 122C-142.1.~~

9 (7) ~~Substance abuse counseling. — The assessment, evaluation, and~~  
10 ~~provision of counseling to persons suffering from substance, drug, or~~  
11 ~~alcohol abuse or dependency.~~

12 (7a) ~~Substance abuse counselor intern. — A person who successfully~~  
13 ~~completes 300 hours of Board approved supervised practical training~~  
14 ~~and a written examination in pursuit of certification as a substance~~  
15 ~~abuse counselor.~~

16 (8) ~~Substance abuse professional. — A certified substance abuse counselor,~~  
17 ~~certified substance abuse prevention consultant, certified clinical~~  
18 ~~supervisor, certified clinical addictions specialist, or certified~~  
19 ~~residential facility director.~~

20 **"§ 90-113.31A. Definitions.**

21 The following definitions shall apply in this Article:

22 (1) Applicant. — A person who has initiated a process to become a  
23 substance abuse professional pursuant to this Article.

24 (2) Applicant supervisor. — A person who provides supervision as required  
25 by the Board to persons applying for registration, certification, or  
26 licensure as a substance abuse professional pursuant to this Article.

27 (3) Board. — The North Carolina Substance Abuse Professional Practice  
28 Board.

29 (4) Certified clinical supervisor. — A person certified by the Board to  
30 practice as a clinical supervisor in accordance with the provisions of  
31 this Article.

32 (5) Certified criminal justice addictions professional. — A person certified  
33 by the Board to practice as a criminal justice addictions professional  
34 who, under supervision, provides direct services to clients or offenders  
35 exhibiting substance abuse disorders and works in a program  
36 determined by the Board to be involved in a criminal justice setting.

37 (6) Certified substance abuse counselor. — A person certified by the Board  
38 to practice under the supervision of a practice supervisor as a  
39 substance abuse counselor in accordance with the provisions of this  
40 Article.

41 (7) Certified substance abuse prevention consultant. — A person certified  
42 by the Board to practice substance abuse prevention in accordance  
43 with the provisions of this Article.

- 1           (8)   Certified substance abuse residential facility director. – A person  
2           certified by the Board to practice as a substance abuse residential  
3           facility director in accordance with the provisions of this Article.
- 4           (9)   Clinical addictions specialist intern. – A person who successfully  
5           completes 300 hours of Board-approved supervised practical training  
6           and passes a written examination in pursuit of licensure as a clinical  
7           addictions specialist.
- 8           (10) Clinical supervisor intern. – A person designated by the Board to  
9           practice as a clinical supervisor under the supervision of a certified  
10           clinical supervisor for a period not to exceed three years without a  
11           showing of good cause in accordance with the provisions of this  
12           Article.
- 13          (11) Counseling. – The utilization of special skills to assist individuals,  
14           families, or groups in achieving objectives, including the following:  
15           a.    Exploring a problem and its ramifications.  
16           b.    Examining attitudes and feelings.  
17           c.    Considering alternative solutions.  
18           d.    Decision making.
- 19          (12) Credential. – Any registration, certification, or license issued by the  
20           Board.
- 21          (13) Credentialing body. – A board that licenses, certifies, registers, or  
22           otherwise regulates a profession or practice.
- 23          (14) Criminal history. – A history of conviction of a State crime, whether a  
24           misdemeanor or felony, that bears on an applicant's fitness for  
25           licensure to practice substance abuse professional services. The crimes  
26           include the criminal offenses set forth in any of the following Articles  
27           of Chapter 14 of the General Statutes: Article 5, Counterfeiting and  
28           Issuing Monetary Substitutes; Article 5A, Endangering Executive and  
29           Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other  
30           Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and  
31           Abduction; Article 13, Malicious Injury or Damage by Use of  
32           Explosive or Incendiary Device or Material; Article 14, Burglary and  
33           Other Housebreakings; Article 15, Arson and Other Burnings; Article  
34           16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article  
35           19, False Pretenses and Cheats; Article 19A, Obtaining Property or  
36           Services by False or Fraudulent Use of Credit Device or Other Means;  
37           Article 19B, Financial Transaction Card Crime Act; Article 20,  
38           Frauds; Article 21, Forgery; Article 26, Offenses Against Public  
39           Morality and Decency; Article 26A, Adult Establishments; Article 27,  
40           Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31,  
41           Misconduct in Public Office; Article 35, Offenses Against the Public  
42           Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection  
43           of Minors; Article 40, Protection of the Family; Article 59, Public  
44           Intoxication; and Article 60, Computer-Related Crime. The crimes

1 also include possession or sale of drugs in violation of the North  
2 Carolina Controlled Substances Act in Article 5 of Chapter 90 of the  
3 General Statutes and alcohol-related offenses including sale to  
4 underage persons in violation of G.S. 18B-302 or driving while  
5 impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.

- 6 (15) Deemed status. – Recognition by the Board of the credentials offered  
7 by a professional discipline whereby the individuals certified, licensed,  
8 or otherwise recognized by the discipline as having met the standards  
9 of a clinical addictions specialist may apply individually for licensure  
10 as a licensed clinical addictions specialist.
- 11 (16) Dual relationship. – A relationship in addition to the professional  
12 relationship with a person to whom the substance abuse professional  
13 delivers services in the Twelve Core Functions or the performance  
14 domains, both as defined in rules adopted by the Board, or as provided  
15 in a supervisory capacity. These relationships may result in grounds  
16 for disciplinary action.
- 17 (17) Human services field. – An area of study that focuses on the  
18 biological, psychological, behavioral, and social aspects of human  
19 welfare with focus on the direct services designed to improve it.
- 20 (18) Independent study. – Any course of study that is not traditional  
21 classroom-based that must be preapproved by the Board or any  
22 organization that has deemed status with the Board.
- 23 (19) Licensed clinical addictions specialist. – A person licensed by the  
24 Board to practice as a clinical addictions specialist in accordance with  
25 the provisions of this Article.
- 26 (20) Practice supervisor. – A certified clinical supervisor, clinical  
27 supervisor intern, or licensed clinical addictions specialist who  
28 provides oversight and responsibility in a face-to-face capacity for  
29 each certified substance abuse counselor or criminal justice addictions  
30 professional.
- 31 (21) Prevention. – The reduction, delay, or avoidance of alcohol and of  
32 other drug use behavior. 'Prevention' includes the promotion of  
33 positive environments and individual strengths that contribute to  
34 personal health and well-being over an entire life and the development  
35 of strategies that encourage individuals, families, and communities to  
36 take part in assessing and changing their lifestyles and environments.
- 37 (22) Professional discipline. – A field of study characterized by the  
38 technical, educational, and ethical standards of a profession.
- 39 (23) Registrant. – A person who completes all requirements to be registered  
40 with the Board and is supervised by a certified clinical supervisor or  
41 clinical supervisor intern.
- 42 (24) Substance abuse counseling. – The assessment, evaluation, and  
43 provision of counseling and therapeutic service to persons suffering  
44 from substance abuse or dependency.

1           (25) Substance abuse counselor intern. – A person who successfully  
2           completes 300 hours of Board-approved supervised practical training  
3           and passes a written examination in pursuit of credentialing as a  
4           substance abuse counselor.

5           (26) Substance abuse professional. – A registrant, certified substance abuse  
6           counselor, substance abuse counselor intern, certified substance abuse  
7           prevention consultant, certified clinical supervisor, clinical addictions  
8           specialist intern, licensed clinical addictions specialist, certified  
9           substance abuse residential facility director, or certified criminal  
10           justice addictions professional.

11 **"§ 90-113.31B. Scope of practice.**

12           The scope of practice is the use by all substance abuse professionals and their  
13           ongoing supervisees of principles, methods, and procedures of the Twelve Core  
14           Functions or performance domains as prescribed by the International Certification and  
15           Reciprocity Consortium/Alcohol and Other Drug Abuse, Incorporated, and as limited by  
16           individual credential and supervisory requirements pursuant to this Article. Specifically,  
17           the scope of practice for each individual defined as a substance abuse professional under  
18           G.S. 90-113.31A is as follows:

19           (1) The practice of a certified substance abuse counselor consists of the  
20           Twelve Core Functions, including screening, intake, orientation,  
21           assessment, treatment planning, counseling, case management, crisis  
22           intervention, client education, report and record keeping, consultation  
23           with other professionals in regard to client treatment and services, and  
24           referral to treat addictive disorder or disease and help prevent relapse.

25           (2) The practice of a certified substance abuse prevention consultant is  
26           based on knowledge in the performance domains to prevent or reduce  
27           the conditions that place individuals at increased risk of developing  
28           addictive disorder or disease and help prevent relapse.

29           (3) The practice of a certified clinical supervisor is based on knowledge in  
30           the performance domains to supervise substance abuse professionals  
31           who work to treat, prevent, or reduce the conditions that place  
32           individuals at risk of developing addictive disorder or disease and help  
33           prevent relapse.

34           (4) The practice of a licensed clinical addictions specialist may be  
35           independent and consists of the Twelve Core Functions, including  
36           screening, intake, orientation, assessment, treatment planning,  
37           counseling, case management, crisis intervention, client education,  
38           report and record keeping, consultation with other professionals in  
39           regard to client treatment and services, referral to reduce the conditions  
40           that place individuals at risk of developing addictive disorder or  
41           disease with co-occurring disorders, and treatment for addictive  
42           disorder or disease. The licensed clinical addictions specialist may  
43           provide supervision to maintain a professional credential as defined by  
44           this Article.

- 1           (5)    The practice of a certified substance abuse residential facility director  
2           is a voluntary credential and consists of the Twelve Core Functions,  
3           including screening, intake, orientation, assessment, treatment  
4           planning, counseling, case management, crisis intervention, client  
5           education, report and record keeping, consultation with professionals  
6           in regard to client treatment and services, referral to prevent or reduce  
7           the conditions that place individuals at increased risk of developing  
8           addictive disorder or disease, treatment for addictive disorder or  
9           disease, and the prevention of relapse as well as academic management  
10           training.
- 11          (6)    The practice of a certified criminal justice addictions professional is  
12           based on knowledge in the performance domains of dynamics of  
13           addiction in criminal behavior; legal, ethical, and professional  
14           responsibility; criminal justice system and processes; screening, intake,  
15           and assessment; case management; monitoring; and client supervision  
16           and counseling to prevent or reduce the conditions that place  
17           individuals at increased risk of developing addictive disorder or  
18           disease, treat addictive disorder or disease, and help prevent relapse.

19 **"§ 90-113.32. Board; composition; voting.**

20          (a)    The Board is created as the ~~certifying~~ authority for ~~substance abuse~~  
21 ~~counselors, substance abuse prevention consultants, clinical supervisors, clinical~~  
22 ~~addictions specialists, and residential facility directors~~to credential substance abuse  
23 professionals in North Carolina.

24          (b)    Until the full Board is elected or appointed pursuant to subsection (c) of this  
25 section, the Board shall consist of 16 members with one member appointed by the  
26 General Assembly upon the recommendation of the Speaker of the House of  
27 Representatives in accordance with G.S. 120-121, and one member appointed by the  
28 General Assembly upon the recommendation of the President Pro Tempore of the  
29 Senate in accordance with G.S. 120-121. The remaining 14 shall be those members of  
30 the current North Carolina Substance Abuse Professional ~~Certification-Practice~~ Board,  
31 Inc., who have terms that are unexpired as of the effective date of this Article. The  
32 initial Board shall appoint an initial Nominating and Elections Committee to fill  
33 immediate vacancies on the Board, using the process established in subsection (d) of  
34 this section. The election and appointment process of the initial Board shall result in a  
35 Board of 19 members by April 1, 1995. As these initial members' terms expire, their  
36 successors shall be appointed as described in subsection (c) of this section, until the  
37 permanent Board is established, as described in subsection (c) of this section. Time  
38 spent as an initial member counts in determining the limitation on consecutive terms  
39 prescribed in subsection (e) of this section.

40          (c)    After the initial Board members' terms expire, the Board shall consist of the  
41 following members, all of whom shall reside in North Carolina, appointed or elected as  
42 follows:

- 43           (1)    Eleven professionals ~~certified-credentialed~~ pursuant to this Article and  
44           elected by the ~~certified-credentialed~~ professionals, at least two of

1 whom shall serve each of the four Division of Mental Health,  
2 Developmental Disabilities, and Substance Abuse Services regions of  
3 the State. Three members shall serve as members at large.

4 (2) Three members at large chosen from laypersons or other professional  
5 disciplines who have shown a special interest in the field of substance  
6 abuse, nominated by the Nominating and Elections Committee  
7 established by subsection (d) of this section and elected by the Board.

8 (3) Two members from the Division of Mental Health, Developmental  
9 Disabilities, and Substance Abuse Services, Department of Health and  
10 Human Services, appointed by the Chief of ~~Substance Abuse Services~~  
11 ~~Section, Division of Mental Health, Developmental Disabilities, and~~  
12 ~~Substance Abuse Services, Department of Health and Human~~  
13 ~~Services,~~ the North Carolina Substance Abuse Single State Agency, at  
14 least one of whom is from the ~~Substance Abuse Services~~  
15 ~~Section~~ administers substance abuse services.

16 (4) One member of the public at large appointed by the Governor.

17 (5) One member of the public at large appointed by the General Assembly  
18 upon the recommendation of the Speaker of the House of  
19 Representatives in accordance with G.S. 120-121 and one member of  
20 the public at large appointed by the General Assembly upon the  
21 recommendation of the President Pro Tempore of the Senate in  
22 accordance with G.S. 120-121.

23 (6) One member shall represent each of the professional disciplines  
24 granted deemed status under G.S. 90-113.41A. The member may be  
25 appointed by the professional discipline on or before a date set by the  
26 Board. If the professional discipline has at least one association in the  
27 State, the member shall be chosen from a list of nominees submitted to  
28 the association. The members appointed or elected under this  
29 subdivision shall be certified as substance abuse specialists by the  
30 professional discipline that the members represent.

31 No member of the General Assembly shall serve on the Board.

32 (c1) Every member of the Board shall have the right to vote on all matters before  
33 the Board, except for the President who shall vote only in case of a tie or when another  
34 member of the Board abstains on the question of whether the professional discipline the  
35 member represents shall retain its deemed status.

36 (d) The Board shall appoint five professionals from the field of substance abuse  
37 counseling and substance abuse prevention consulting to serve on the Nominating and  
38 Elections Committee. Of these five, at least three shall not be members of the Board.  
39 The Board shall appoint a member of the Nominating and Elections Committee to serve  
40 as chair. The Committee's purpose is to accept nominations from professionals certified  
41 or licensed by the Board to fill vacancies on the Board in membership categories  
42 prescribed by subdivisions (1) and (2) of subsection (c) of this section and to conduct  
43 the election of Board members. The Committee shall solicit nominations from all  
44 professionals it has certified or licensed under this Article when elected members' terms



1 are due to expire. The certified or licensed professionals shall submit to the Committee  
2 all nominations beginning 90 days and ending 14-28 days before the election of new  
3 Board members. The Committee shall furnish all certified or licensed professionals with  
4 a ballot containing all the nominees for each elected Board member vacancy. In  
5 soliciting and making nominations for this process, the Committee shall give  
6 consideration to factors that promote representation on the Board by professionals  
7 certified or licensed by the Board. The Committee shall serve for a two-year term, its  
8 successors to be appointed for the same term by the Board.

9 (e) Members of the Board shall serve for ~~three-year~~ four-year terms. No Board  
10 member shall serve for more than two consecutive terms, but a person who has been a  
11 member for two consecutive terms may be reappointed after being off the Board for a  
12 period of at least one year. When a vacancy occurs in an unexpired term, the Board  
13 shall, as soon as practicable, appoint temporary members to serve until the end of the  
14 unexpired terms. Time spent as a temporary member does not count in determining the  
15 limitation on consecutive terms.

16 (f) If a member becomes ineligible to serve on the Board for any reason, except  
17 when the member has committed an ethical violation that results in the suspension or  
18 revocation of the member's professional credentials, ~~the~~ that member may fulfill the  
19 remainder of ~~the member's~~ his or her term on the Board.

20 **"§ 90-113.33. Board; powers and duties.**

21 The Board shall:

- 22 (1) Examine and determine the qualifications and fitness of applicants for  
23 certification and licensure to practice in this State.
- 24 (1a) Determine the qualifications and fitness of organizations applying for  
25 deemed status.
- 26 (2) Issue, renew, deny, suspend, or revoke ~~certification—licensure,~~  
27 certification, or registration to practice in this State or reprimand or  
28 otherwise discipline ~~certificate—a license, certificate,~~ or registration  
29 holders—holder in this State. ~~Denial of an applicant's certification or~~  
30 ~~registration or the granting of certification or registration on a~~  
31 ~~probationary or other conditional status shall be subject to substantially~~  
32 ~~the same rules and procedures prescribed by the Board for review and~~  
33 ~~disciplinary actions against those persons holding certificates or~~  
34 ~~registrations. Disciplinary actions involving a clinical addictions~~  
35 ~~specialist whose certification is achieved through deemed status shall~~  
36 ~~be initially heard by the specialist's credentialing body. The specialist~~  
37 ~~may appeal the body's decision to the Board. The Board shall,~~  
38 ~~however, have the authority to hear the initial disciplinary action~~  
39 ~~involving a clinical addictions specialist.~~
- 40 (3) Deal with issues concerning reciprocity.
- 41 (4) Conduct investigations for the purpose of determining whether  
42 violations of this Article or grounds for disciplining exists.
- 43 (5) Employ ~~the professional and clerical~~ and fix the compensation of  
44 personnel and legal counsel that the Board determines is necessary to

1 carry out the provisions of this Article. The Board's employment of  
2 legal counsel is subject to the provisions of G.S. 114-2.3. The Board  
3 may purchase or rent necessary office space, equipment, and supplies.

4 (6) Conduct administrative hearings in accordance with Chapter 150B of  
5 the General Statutes when a "contested case", as defined in Chapter  
6 150B, arises.

7 (7) Appoint from its own membership one or more members to act as  
8 representatives of the Board at any meeting in which it considers this  
9 representation is desirable.

10 (8) Establish fees for applications for examination, registration,  
11 certificates of ~~eertification~~ certification, licensure, and renewal, and  
12 other services provided by the Board.

13 (9) Adopt any rules necessary to carry out the purpose of this Article and  
14 its duties and responsibilities pursuant to this Article.

15 (10) Request that the Department of Justice conduct criminal history record  
16 checks of applicants for registration, certification, or licensure  
17 pursuant to G.S. 114-19.11A.

18 The powers and duties enumerated in this section are granted for the purposes of  
19 enabling the Board to safeguard the public health, safety, and welfare against  
20 unqualified or incompetent practitioners and are to be liberally construed to accomplish  
21 this objective. When the Board exercises its authority under this Article to discipline a  
22 person, it may, as part of the decision imposing the discipline, charge the costs of  
23 investigations and the hearing to the person disciplined.

24 **"§ 90-113.33A. Officers may administer oaths, and subpoena witnesses, records,**  
25 **and other materials.**

26 The President or other presiding officer of the Board may administer oaths to all  
27 persons appearing before it as the Board may deem necessary to perform its duties, and  
28 may summon and issue subpoenas for the appearance of any witnesses deemed  
29 necessary to testify concerning any matter to be heard before or inquired into by the  
30 Board. The Board may order that any client records, documents, or other materials  
31 concerning any matter to be heard before or inquired into by the Board shall be  
32 produced before the Board or made available for inspection, notwithstanding any other  
33 provisions of law providing for the application of any counselor-client or  
34 physician-patient privilege with respect to such records, documents, or other materials.  
35 All records, documents, or other materials compiled by the Board are subject to the  
36 provisions of G.S. 90-113.34, except that in any proceeding before the Board, record of  
37 any hearing before the Board, and notice of charges against any person ~~eertified~~  
38 credentialed by the Board, the Board shall withhold from public disclosure the identity  
39 of a client, including information relating to dates and places of treatment, or any other  
40 information that tends to identify the client unless the client or the client's representative  
41 has expressly consented to the disclosure. Upon written request, the Board shall revoke  
42 a subpoena if, upon a hearing, it finds that the evidence sought does not relate to a  
43 matter in issue, the subpoena does not describe the evidence with sufficient  
44 particularity, or the subpoena is invalid.

**"§ 90-113.34. Records to be kept; copies of records.**

(a) The Board shall keep a regular record of its proceedings, together with the names of the members of the Board present, the names of the applicants for registration, certification, and licensure as well as other information relevant to its actions. The Board shall cause a record to be kept that shall show the name, last known place of business, last known place of residence, and date and number of the ~~certificate of certification as a certified substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director for every living certified~~ person-credential assigned to each substance abuse professional meeting the standards set forth in this Article. Any interested person in the State is entitled to obtain a copy of ~~that record on~~ Board records upon application to the Board and ~~upon~~ payment of a reasonable charge that is based on the costs involved in providing the copy.

(b) The Board may in a closed session receive evidence regarding the provision of substance abuse counseling or other treatment and services provided to a client who has not expressly or through implication consented to the public disclosure of such treatment as may be necessary for the protection of the rights of the client or of the accused registrant or substance abuse professional and the full presentation of relevant evidence. All records, papers, and other documents containing information collected and compiled by the Board, its members, or employees as a result of investigations, inquiries, or interviews conducted in connection with ~~a certification awarding a credential~~ or a disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes, except any notice or statement of charges, or notice of hearing shall be a public record notwithstanding that it may contain information collected and compiled as a result of an investigation, inquiry, or interview. If any record, paper, or other document containing information collected and compiled by the Board as provided in this subsection is received and admitted in evidence in any hearing before the Board, it shall thereupon be a public record.

(c) Notwithstanding any provision to the contrary, the Board may, in any proceeding, record of any hearing, and notice of charges, withhold from public disclosure the identity of a client who has not expressly or through implication consented to such disclosure of treatment by the accused substance abuse professional.

**"§ 90-113.35. Disposition of funds.**

All fees and other moneys collected and received by the Board shall be used to implement this Article. The financial records of the Board shall be subjected to an annual audit and paid for out of the funds of the Board.

**"§ 90-113.36. ~~Certificates of certification.~~ Credentials.**

(a) The Board shall furnish a certificate of certification or licensure to each applicant successfully completing the requirements for ~~certification.~~ his or her credential.

(b) The Board may furnish a certificate of certification or licensure to any person in another state or territory if the individual's qualifications were, at the date of ~~registration or~~ registration, certification, or licensure, substantially equal to the

1 requirements under this Article. However, an out-of-state applicant shall first file  
2 application and pay any required fees.

3 ~~"§ 90-113.37. Renewal of certification; lapse; revival.~~

4 ~~(a) Every person certified pursuant to this Article who desires to maintain~~  
5 ~~certification status shall apply to the Board for a renewal of certification every other~~  
6 ~~year and pay to the secretary treasurer the prescribed fee. Renewal of certification is~~  
7 ~~subject to completion of no more than 60 hours of those continuing education~~  
8 ~~requirements established by the Board. A clinical supervisor shall complete 15 hours of~~  
9 ~~substance abuse clinical supervision training prior to the certificate being renewed.~~  
10 ~~Certification that is not renewed automatically lapses, unless the Board provides for the~~  
11 ~~late renewal of certification upon the payment of a late fee. No late renewal shall be~~  
12 ~~granted more than five years after a certification expires. A suspended certification is~~  
13 ~~subject to this section's renewal requirements and may be renewed as provided in this~~  
14 ~~section. This renewal does not entitle the certified person to engage in the certified~~  
15 ~~activity or in any other conduct or activity in violation of the order or judgment by~~  
16 ~~which the certification was suspended, until the certification is reinstated. If a~~  
17 ~~certification revoked on disciplinary grounds is reinstated and requires renewal, the~~  
18 ~~certified person shall pay the renewal fee and any applicable late fee.~~

19 ~~(b) The Board shall establish the manner in which lapsed certification may be~~  
20 ~~revived or extended.~~

21 "§ 90-113.37A. Renewal of credential; lapse.

22 (a) Every person credentialed pursuant to this Article who desires to maintain his  
23 or her credentials shall apply to the Board for a renewal of certification or licensure  
24 every other year and pay to the treasurer the prescribed fee.

25 (b) Renewal of licensure is subject to completion of at least 40 hours of the  
26 continuing education requirements established by the Board. Renewal of substance  
27 abuse counselor or substance abuse prevention consultant certification is subject to  
28 completion of at least 60 hours of the continuing education requirements established by  
29 the Board. A certified substance abuse counselor shall submit a Board-approved  
30 supervision contract signed by the applicant and a practice supervisor documenting  
31 ongoing supervision at a ratio of one hour of supervision to every 40 hours of practice  
32 after certification is granted by the Board on a form provided by the Board. Any person  
33 certified by the Board as a certified alcoholism counselor or certified drug abuse  
34 counselor shall become a certified substance abuse counselor.

35 A clinical supervisor shall complete at least 15 hours of substance abuse clinical  
36 supervision training prior to the certificate being renewed. A substance abuse residential  
37 facility director shall complete at least 10 hours of substance abuse training for renewal.  
38 A certified criminal justice addictions professional shall complete at least 40 hours of  
39 continuing education that must be earned in the certified criminal justice addictions  
40 professional performance domains. A certified criminal justice addictions professional  
41 shall submit a Board-approved supervision contract signed by the criminal justice  
42 addictions professional and a practice supervisor documenting ongoing supervision at a  
43 ratio of one hour of supervision to every 40 hours of practice after certification is  
44 granted by the Board on a form provided by the Board.

1       (c) Independent study hours shall compose no more than fifty percent (50%) of  
2 the total number of hours required for renewal.

3       (d) A credential that is not renewed automatically lapses, unless the Board  
4 approves the late renewal of a credential upon the payment of a late fee.

5       (e) No late renewal shall be granted more than five years after a certification or  
6 licensure expires.

7       (f) A suspended credential may be renewed as provided in this section. This  
8 renewal does not entitle the credentialed person to engage in conduct or activity in  
9 violation of the order or judgment by which the credential was suspended, until the  
10 credential is reinstated. If a credential revoked on disciplinary grounds is reinstated and  
11 requires renewal, the credentialed person shall pay the renewal fee and any applicable  
12 late fee.

13       (g) The Board shall establish the manner in which lapsed certification or  
14 licensure may be revived or extended.

15 **"§ 90-113.38. Maximums for certain fees.**

16       (a) The fee to obtain a certificate of certification as a substance abuse counselor,  
17 substance abuse prevention consultant, clinical supervisor, ~~or~~ substance abuse  
18 residential facility ~~director~~ director, or certified criminal justice addictions professional  
19 may not exceed four hundred seventy-five dollars (\$475.00). The fee to renew a  
20 certificate may not exceed one hundred fifty dollars (\$150.00).

21       (b) The fee to obtain a certificate of ~~certification~~ licensure for a clinical  
22 addictions specialist pursuant to deemed status ~~may~~ shall not exceed one hundred fifty  
23 dollars (\$150.00). The fee to renew a ~~certificate~~ maylicense for a clinical addictions  
24 specialist pursuant to deemed status shall not exceed one hundred dollars (\$100.00). The  
25 fee to obtain a ~~certificate of certification~~ license for a clinical addictions specialist  
26 pursuant to all other procedures authorized by this Article ~~may~~ shall not exceed four  
27 hundred seventy-five dollars (\$475.00). The fee to renew the ~~certificate~~ maylicense  
28 shall not exceed one hundred fifty dollars (\$150.00).

29       (b1) The fee to obtain a registration as a registrant shall ~~be~~ not exceed one hundred  
30 fifty dollars (\$150.00). The fee to renew a registration shall ~~be~~ not exceed one hundred  
31 fifty dollars (\$150.00).

32       (c) There shall be a reexamination fee of one hundred fifty dollars (\$150.00)  
33 which shall be paid for each reexamination in addition to the fees ~~required~~  
34 ~~under~~ authorized pursuant to subsection (a) of this section. There shall be a fee not to  
35 exceed twenty-five dollars (\$25.00) for rescheduling any examination.

36       (d) There shall be a fee ~~of~~ not to exceed twenty-five dollars (\$25.00) to obtain a  
37 written verification ~~of certification~~ or additional copy of a credential issued by the  
38 Board.

39       (e) There shall be a late renewal fee not to exceed one hundred twenty-five  
40 dollars (\$125.00).

41       (f) In addition to any other prescribed fees, the Board shall charge a fee not to  
42 exceed one hundred fifty dollars (\$150.00) for each administration of the test an  
43 applicant must pass to be credentialed as a United States Department of Transportation  
44 substance abuse professional.

1 **"§ 90-113.39. Standards for ~~certification-credentials~~.**

2 The Board shall establish standards ~~for certification-ofto~~ credential substance abuse  
3 professionals. The ~~certification-credentialing~~ standards of the International Certification  
4 and Reciprocity Consortium/Alcohol and Other Drug Abuse, Incorporated and the  
5 standards adopted by professional disciplines granted deemed status or their successor  
6 organizations may be used as guidelines for the Board's standards. The Board shall  
7 publish these required standards ~~separately from its rules so as to provide easy access to~~  
8 ~~the~~ standards.

9 **"§ 90-113.40. Requirements for ~~certification-certification and licensure~~.**

10 (a) The Board shall issue a certificate certifying an applicant as a "Certified  
11 Substance Abuse Counselor" or as a "Certified Substance Abuse Prevention Consultant"  
12 if:

- 13 (1) The applicant is of good moral character.
- 14 (2) The applicant is not and has not engaged in any practice or conduct  
15 that would be grounds for disciplinary action under G.S. 90-113.44.
- 16 (3) The applicant is qualified for certification pursuant to the requirements  
17 of this Article and any rules adopted pursuant to it.
- 18 (4) The applicant has, at a minimum, a high school diploma or a high  
19 school equivalency certificate.
- 20 (5) The applicant has signed a form attesting to the intention to adhere  
21 fully to the ethical standards adopted by the Board.
- 22 (5a) The applicant submits to a complete criminal history record check  
23 pursuant to G.S. 90-113.46A.
- 24 (6) The applicant has completed 270 hours of Board-approved education.  
25 The Board may prescribe that a certain number of hours be in a course  
26 of study for substance abuse counseling and that a certain number of  
27 hours be in a course of study for substance abuse prevention  
28 consulting. Independent study hours shall not compose more than fifty  
29 percent (50%) of the total number of hours required for initial  
30 credentialing.
- 31 (7) The applicant has documented completion of a minimum of 300 hours  
32 of ~~Supervised Practical Training and Training~~, has provided a  
33 Board-approved supervision contract between the applicant and an  
34 ~~approved supervisor~~ applicant supervisor, and has been deemed  
35 recommended by the applicant supervisor to advance in the  
36 credentialing process.
- 37 (8) The applicant for substance abuse counselor has completed ~~either~~ a  
38 total of 6,000 hours of supervised experience in the field, whether paid  
39 or volunteer, or, if a graduate of a Board approved master's degree  
40 program, a total of 3,000 hours of supervised experience in the field,  
41 ~~whether paid or volunteer~~. The applicant for substance abuse  
42 prevention consultant has completed a total of ~~10,000~~ 6,000 hours  
43 supervised experience in the field, whether paid or volunteer, or 4,000

1 hours if the applicant has at least a bachelors degree in a human  
2 services field from a regionally accredited college or university.

- 3 (9) The applicant has ~~successfully completed~~obtained a passing score on a  
4 written examination and examination. An applicant for certification as  
5 a substance abuse counselor must also obtain a passing score on an  
6 oral examination promulgated and administered by the Board.

7 (b) The Board shall issue a certificate certifying an individual as a "Certified  
8 Clinical Supervisor" if, in addition to meeting the requirements of subdivisions (a)(1)  
9 through ~~(5)~~(5a) of this section, the applicant:

- 10 (1) Submits proof of designation by the Board as a clinical supervisor  
11 intern.
- 12 (2) Prior to June 30, 1998, the applicant presents proof that the applicant  
13 has 12,000 hours experience in alcohol and drug abuse counseling and  
14 a bachelors degree or 8,000 hours experience in alcohol and drug  
15 abuse counseling and a minimum of a master's degree. After June 30,  
16 1998, the applicant shall present proof that the applicant has a  
17 minimum of a master's degree in a human services field with a clinical  
18 application from a regionally accredited college or university.
- 19 (3) Has 6,000 hours experience as a substance abuse clinical supervisor if  
20 the applicant has a bachelors degree or 4,000 hours experience if the  
21 applicant has a master's degree in a human services field with a clinical  
22 application from a regionally accredited college or university.
- 23 (4) Has 30 hours of substance abuse clinical supervision specific  
24 education or training. These hours shall be reflective of the ~~12 core~~  
25 ~~functions~~Twelve Core Functions in the applicant's clinical application  
26 and practice and may also be counted toward the applicant's  
27 ~~recertification-renewal~~ as a substance abuse ~~counselor~~counselor or a  
28 clinical addictions specialist.
- 29 (5) Submits a letter of reference from a professional who can attest to the  
30 applicant's supervisory competence and two letters of reference from  
31 either counselors who have been supervised by the applicant or  
32 professionals who can attest to the applicant's competence.
- 33 (6) ~~Successfully completes~~Obtains a passing score on a written  
34 examination administered by the Board.

35 A person who practices as a certified clinical supervisor in addition to practicing as a  
36 certified substance abuse counselor shall be exempt from the practice supervision  
37 contract requirement.

38 (b1) The Board shall designate an applicant as a "Clinical Supervisor Intern" if, in  
39 addition to meeting the requirements of subdivisions (a)(1) through ~~(5)~~(5a) of this  
40 section, the applicant meets the following qualifications:

- 41 (1) Submits an application, resume, and official transcript showing that the  
42 applicant has obtained a master's degree in a human services field with  
43 a clinical application from a regionally accredited college or  
44 university.

- 1           (2)   Submits verification statements.
- 2           (3)   Submits proof of ~~certification~~credentialing as a certified substance  
3           abuse ~~counselor or a certified~~counselor, a licensed clinical addictions  
4           ~~specialist~~specialist, or certification or licensure through an  
5           organization granted deemed status by the Board.
- 6           (4)   Submits documentation establishing that the applicant has completed  
7           at least fifty percent of the required clinical supervision specific  
8           training hours as defined by the Board.
- 9       (c)   The Board shall issue a ~~certificate certifying~~license credentialing an applicant  
10       as a "~~Certified~~Licensed Clinical Addictions Specialist" if, in addition to meeting the  
11       requirements of subdivisions (a)(1) through ~~(5)~~(5a) of this section, the applicant meets  
12       one of the following criteria:
- 13           (1)   Criteria A. – The applicant:
- 14               a.    Has a minimum of a master's degree with a clinical application  
15               in a human services field from a regionally accredited college  
16               or university.
- 17               b.    Has two years postgraduate supervised substance abuse  
18               counseling experience.
- 19               c.    Submits three letters of reference from ~~certified~~licensed  
20               clinical addictions specialists or certified substance abuse  
21               counselors who have obtained master's degrees.
- 22               d.    Has achieved a combined score set by the Board on a master's  
23               level written and oral examination administered by the Board.
- 24               e.    Has attained 180 hours of substance abuse specific training as  
25               described from either a regionally accredited college or  
26               university, which may include unlimited independent study, or  
27               from training events of which no more than fifty percent (50%)  
28               shall be in independent study. All hours shall be credited  
29               according to the standards set forth in G.S. 90-113.41A.
- 30               f.    The applicant has documented completion of a minimum of 300  
31               hours of supervised practical training and has provided a  
32               Board-approved supervision contract between the applicant and  
33               an ~~approved~~applicant supervisor.
- 34           (2)   Criteria B. – The applicant:
- 35               a.    Has a minimum of a master's degree with a clinical application  
36               in a human services field from a regionally accredited college  
37               or university.
- 38               b.    Has been certified as a substance abuse counselor.
- 39               c.    Has one year of postgraduate supervised substance abuse  
40               counseling experience.
- 41               d.    Has achieved a passing score on a master's level written  
42               examination administered by the Board.



- 1 e. Submits three letters of reference from ~~certified~~ either licensed  
2 clinical addictions specialists or certified substance abuse  
3 counselors who have obtained master's degrees.
- 4 (3) Criteria C. – The applicant:
- 5 a. Has a minimum of a master's degree in a human services field  
6 with both a clinical application and a substance abuse specialty  
7 from a regionally accredited college or university that includes  
8 180 hours of substance abuse specific education and training  
9 pursuant to G.S. 90-113.41A.
- 10 b. Has one year of postgraduate supervised substance abuse  
11 counseling experience.
- 12 c. Has achieved a passing score on an oral examination  
13 administered by the Board.
- 14 d. Submits three letters of reference from ~~certified~~ licensed  
15 clinical addictions specialists or certified substance abuse  
16 counselors who have obtained master's degrees.
- 17 (4) Criteria D. – The applicant has a substance abuse certification from a  
18 professional discipline that has been granted deemed status by the  
19 Board.
- 20 (d) The Board shall issue a certificate certifying an applicant as a "Substance  
21 Abuse Certified-Residential Facility Director" ~~if, in addition to meeting the~~  
22 ~~requirements of subdivisions (a)(1) through (5) of this section, if~~ the applicant:
- 23 (1) Has been ~~certified~~ credentialed as a substance abuse counselor or a  
24 clinical addictions specialist.
- 25 (2) Has 50 hours of Board approved academic or didactic management  
26 specific training or a combination thereof. Independent study may  
27 compose up to fifty percent (50%) of the total number of hours  
28 required for initial credentialing.
- 29 (3) Submits letters of reference from the applicant's current supervisor and  
30 a colleague or coworker.
- 31 (d1) The Board shall issue a certificate certifying an applicant as a 'Certified  
32 Criminal Justice Addictions Professional', with the acronym 'CCJP', if in addition to  
33 meeting the requirements of subdivisions (a)(1) through (5a) of this section, the  
34 applicant:
- 35 (1) Has attained 270 hours of Board-approved education or training,  
36 unless the applicant has attained a minimum of a masters degree with a  
37 clinical application and a substance abuse specialty from a regionally  
38 accredited college or university whereby the applicant must only  
39 obtain 180 hours. The hours of education shall be specifically related  
40 to the knowledge and skills necessary to perform the tasks within the  
41 International Certification and Reciprocity Consortium/Alcohol and  
42 Other Drug Abuse, Incorporated, 'IC&RC/AODA, Inc.,' criminal  
43 justice addictions professional performance domains as they relate to  
44 both adults and juveniles. Independent study may compose up to fifty

- 1                   percent (50%) of the total number of hours obtained for initial  
2                   certification or renewal.
- 3           (2)       Has documented 300 hours of Board-approved supervised practical  
4                   training. This supervision shall mean the administrative, clinical, and  
5                   evaluative process of monitoring, assessing, and enhancing  
6                   professional performance. A minimum of 10 hours of supervision in  
7                   each criminal justice domain established by the IC&RC/AODA, Inc.,  
8                   is required.
- 9           (3)       Has provided documentation of supervised work experience providing  
10                   direct service to clients or offenders involved in one of the three  
11                   branches of the criminal justice system, which include law  
12                   enforcement, the judiciary, and corrections. The applicant must meet  
13                   one of the following criteria:
- 14                   a.       Criteria A. – In addition to having a high school degree or  
15                   GED, the applicant has a minimum of 6,000 hours of  
16                   documented work experience in direct services in criminal  
17                   justice or addictions services or any combination of these  
18                   services that have been obtained during the past 10 years.
- 19                   b.       Criteria B. – In addition to having an associate degree, the  
20                   applicant has a minimum of 5,000 hours of documented work  
21                   experience in direct services in criminal justice or addictions  
22                   services or any combination of these services obtained during  
23                   the past 10 years.
- 24                   c.       Criteria C. – In addition to having at least a bachelors degree,  
25                   the applicant has a minimum of 4,000 hours of documented  
26                   work experience in direct services in criminal justice or  
27                   addictions services, or any combination of these services, and  
28                   this experience has been obtained during the past 10 years.
- 29                   d.       Criteria D. – In addition to having at least a masters degree in a  
30                   human services field, the applicant has a minimum of 2,000  
31                   hours of documented work experience in direct services in  
32                   criminal justice or addictions services or any combination of  
33                   these services that has been obtained during the past 10 years.
- 34                   e.       Criteria E. – In addition to having at least a masters degree in a  
35                   human services field with a specialty from a regionally  
36                   accredited college or university that includes 180 hours of  
37                   substance abuse specific education or training, the applicant has  
38                   a minimum of 2,000 hours of postgraduate supervised substance  
39                   abuse counseling experience.
- 40                   f.       Criteria F. – In addition to having obtained the credential of a  
41                   certified clinical addictions specialist or other advanced  
42                   credential in a human services field from an organization that  
43                   has obtained deemed status with the Board, the applicant has a  
44                   minimum of 1,000 hours of documented work experience in

1                    direct services in criminal justice or addictions services that has  
2                    been obtained during the past 10 years.

3            (4) Has passed the IC&RC/AODA, Inc., certified criminal justice  
4            addictions professional written examination.

5            (e) The Board shall publish from time to time information in order to provide  
6            specifics for potential applicants of an acceptable educational curriculum and the terms  
7            of acceptable supervised fieldwork experience.

8            (f) ~~Effective until January 1, 2001, any person who is certified as a certified~~  
9            ~~clinical supervisor or who functions by his or her job description as a certified clinical~~  
10           ~~supervisor shall be qualified to supervise applicants for certified clinical supervisor.~~

11           ~~Effective from January 1, 2001 until January 1, 2003, only a person who is certified~~  
12           ~~both as a certified clinical supervisor and as a certified clinical addictions specialist~~  
13           ~~shall be qualified to supervise applicants for certified clinical addictions specialist, but a~~  
14           ~~person who is certified as a certified clinical supervisor or a certified clinical addictions~~  
15           ~~specialist shall be qualified to supervise an applicant for certification as a certified~~  
16           ~~substance abuse counselor.~~

17           Effective January 1, 2003, only a person who is certified as a certified clinical  
18           supervisor or a clinical supervisor intern shall be qualified to supervise applicants for  
19           certified clinical supervisor and certified substance abuse counselor and applicants for  
20           ~~certified-licensed~~ clinical addictions specialist who meet the qualifications of their  
21           credential other than through deemed status as provided in G.S. 90-113.40(c)(4).

22           **"§ 90-113.40A. Requirements for registration.**

23           (a) Upon application and payment of the required fee, the Board shall issue a  
24           registration designating an applicant as a registrant if the applicant:

25            (1) Provides documentation that he or she has received a high school  
26            diploma, or the equivalent, and evidence of any baccalaureate or  
27            advanced degrees the applicant has received.

28            (2) Completes a registration application on a form provided by the Board.

29            (3) Provides documentation of three hours of educational training in  
30            ethics.

31            (4) Signs a form attesting to the applicant's commitment to adhere to the  
32            ethical standards adopted by the Board.

33            (4a) Submits to a complete criminal history record check pursuant to  
34            G.S. 90-113.46A.

35            (5) Signs a supervision contract provided by the Board that documents the  
36            proposed supervision process by an ~~approved applicant~~ supervisor.

37           (b) Registrant status shall be maintained for a period of up to five years while the  
38           registrant is in the process of completing his or her requirements for ~~certification~~  
39           credentials pursuant to this Article. If at the end of a five-year period a registrant has not  
40           obtained ~~certification~~ a credential under this Article, the Board shall renew the  
41           registration for up to an additional five-year period after the registrant pays the required  
42           fee and complies with all requirements for registration pursuant to G.S. 90-113.40A.  
43           The Board shall terminate the registration of any registrant who fails to renew his or her  
44           registration.

1 (c) The registrant shall notify the Board of any criminal conviction imposed  
2 during the period of registration.

3 **"§ 90-113.40B. Approved Applicant supervision.**

4 The Board shall designate a person as an ~~approved applicant~~ supervisor of  
5 individuals applying for ~~registration or certification~~ registration, certification, or  
6 licensure as a substance abuse professional as follows:

7 (1) A certified clinical supervisor shall supervise a clinical supervisor  
8 intern.

9 (2) A certified clinical supervisor or a clinical supervisor intern shall  
10 supervise a substance abuse residential facility director applicant, a  
11 clinical addictions specialist applicant, or a substance abuse counselor  
12 applicant.

13 ~~(3) A certified clinical supervisor, a clinical supervisor intern, a certified~~  
14 ~~clinical addictions specialist, or a certified substance abuse counselor~~  
15 ~~shall supervise a registrant who provides DWI assessments.~~

16 (4) A certified substance abuse prevention consultant with a minimum of  
17 three years of professional experience, a certified clinical supervisor,  
18 or a clinical supervisor intern shall supervise a registrant applying for  
19 certification as a prevention consultant.

20 (5) Pursuant to the deemed status procedure under G.S. 90-113.41A, the  
21 supervision requirements described in subdivisions (1) through (4) of  
22 this section shall not apply to persons applying for ~~certification~~  
23 licensure as a ~~certified licensed~~ clinical addictions specialist.

24 (6) A criminal justice addictions professional applicant shall be supervised  
25 by a certified clinical supervisor or clinical supervisor intern.

26 **"§ 90-113.41. Examination.**

27 (a) Except for those individuals applying for ~~certification~~ licensure under  
28 G.S. 90-113.41A, applicants for certification or licensure under this Article shall file an  
29 application at least 60 days prior to the date of examination and upon the forms and in  
30 the manner prescribed by the Board. The application shall be accompanied by the  
31 appropriate fee. No portion of this fee is refundable. Applicants who fail an examination  
32 may apply for reexamination upon the payment of another examination fee.

33 (b) Each applicant for certification or licensure under this Article shall be  
34 ~~examined tested~~ in an examination ~~that is consistent with the examination requirements~~  
35 ~~of~~ developed by the International Certification and Reciprocity Consortium/Alcohol and  
36 Other Drug Abuse, Incorporated and the standards adopted by professional disciplines  
37 granted deemed status or their successor organizations.

38 (c) Applicants for certification or licensure shall be examined at a time and place  
39 and under the supervision that the Board determines. Examinations shall be given in this  
40 State at least twice each year.

41 (d) Applicants may obtain their examination scores and may review their  
42 examination papers in accordance with rules the Board adopts and agreements between  
43 Board-authorized test development companies.

44 **"§ 90-113.41A. Deemed status.**

1 (a) To be granted deemed status by the Board, a credentialing body of a  
2 professional discipline or its designee shall demonstrate that its substance abuse  
3 ~~certification-credentialing~~ program substantially meets the following:

4 (1) Each person to whom the credentialing body awards credentials  
5 following the effective date of this act meets and maintains minimum  
6 requirements in substance abuse specific content areas. Each person  
7 also has a minimum of a master's degree with a clinical application in  
8 a human services field.

9 (2) The body requires 180 hours, or the equivalent thereof, of substance  
10 abuse specific education and training that covers the following content  
11 areas:

12 a. Basic addiction and cross addiction Physiology and  
13 Pharmacology of Psychoactive drugs that are abused.

14 b. Screening, assessment, and intake of clients.

15 c. Individual, group, and family counseling.

16 d. Treatment, planning, reporting, and record keeping.

17 e. Crisis intervention.

18 f. Case management and treatment resources.

19 g. Ethics, legal issues, and confidentiality.

20 h. Psychological, emotional, personality, and developmental  
21 issues.

22 i. ~~Coexisting~~ Co-occurring physical and mental disabilities.

23 j. Special population issues, including age, gender, race, ethnicity,  
24 and health status.

25 k. Traditions and philosophies of recovery treatment models and  
26 support groups.

27 (3) The program requires one year or its equivalent of post-degree  
28 supervised clinical substance abuse practice. At least fifty percent  
29 (50%) of the practice shall consist of direct substance abuse clinical  
30 care.

31 (b) The professional discipline seeking deemed status shall require its members  
32 to adhere to a code of ethical conduct and shall enforce that code with disciplinary  
33 action.

34 (c) The Board may grant deemed status to any professional discipline that  
35 substantially meets the standards in this section. Once such status has been granted, an  
36 individual within the professional discipline may apply to the Board for ~~certification as~~  
37 ~~a certified clinical addictions specialist.~~ the credential of licensed clinical addictions  
38 specialist.

39 (d) The Standards and ~~Credentialing~~ Committee of the Board shall review the  
40 standards of each professional discipline every third year from the date it was granted  
41 deemed status to determine if the discipline continues to substantially meet the  
42 requirements of this section. If the Committee finds that a professional discipline no  
43 longer meets the requirements of this section, it shall report its findings to the Board at  
44 the Board's next regularly scheduled meeting. The deemed status standing of a

1 professional discipline's credential may be discontinued by a two-thirds vote of the  
2 Board.

3 **"§ 90-113.41B. Change of name or address.**

4 Every person licensed, ~~certified~~-certified, or registered under the provisions of this  
5 Article shall give written notice to the Board of any change in his or her name or  
6 address within 60 business days after the change takes place.

7 **"§ 90-113.42. ~~Exemptions. Violations; exemptions.~~**

8 (a) It shall be unlawful for any person not licensed or otherwise credentialed as a  
9 substance abuse professional pursuant to this Article to engage in those activities set  
10 forth in the scope of practice of a substance abuse professional under G.S. 90-113.31B,  
11 unless that person is regulated by another profession or is a registrant or intern as  
12 defined by this Article.

13 (b) It is not the intent of this Article to regulate members of other regulated  
14 professions who provide substance abuse services or consultation in the normal course  
15 of the practice of their profession. ~~Accordingly, this~~

16 (c) This Article does not apply to any person registered, certified, or licensed by  
17 the State or federal government to practice any other occupation or profession while  
18 rendering substance abuse services or consultation in the performance of the occupation  
19 or profession for which the person is registered, certified, or licensed.

20 (d) Only individuals ~~certified-registered, certified, or licensed~~ under this Article  
21 may use the title ~~certified substance abuse counselor, certified substance abuse~~  
22 ~~prevention consultant, certified clinical supervisor, certified clinical addictions~~  
23 ~~specialist, or certified residential facility director.~~ 'Certified Substance Abuse  
24 Counselor', 'Certified Substance Abuse Prevention Consultant', 'Certified Clinical  
25 Supervisor', 'Licensed Clinical Addictions Specialist', 'Certified Substance Abuse  
26 Residential Facility Director', 'Certified Criminal Justice Addictions Professional',  
27 'Substance Abuse Counselor Intern', 'Clinical Addictions Specialist Intern', 'Clinical  
28 Supervisor Intern', or 'Registrant'.

29 **"§ 90-113.43. Illegal practice; misdemeanor penalty.**

30 Except as otherwise authorized in this Article, no person shall:

- 31 (1) ~~Practice,~~Offer substance abuse professional services, practice, attempt  
32 to practice, or supervise while holding himself or herself out to be a  
33 certified substance abuse counselor, certified substance abuse  
34 prevention consultant, certified clinical supervisor, certified clinical  
35 addictions specialist, or certified residential facility directorsubstance  
36 abuse counselor, certified substance abuse prevention consultant,  
37 certified clinical supervisor, certified or licensed clinical addictions  
38 specialist, clinical addictions specialist intern, substance abuse  
39 residential facility director, certified criminal justice addictions  
40 professional, clinical supervisor intern, substance abuse prevention  
41 consultant, or registrant without first having obtained a certificate of  
42 ~~certification-registration, certification, or licensure~~ from the Board.
- 43 (2) Use in connection with any name any letters, words, numerical codes,  
44 or insignia indicating or implying that this person is a ~~certified~~

1            registrant, substance abuse counselor, ~~certified~~ substance abuse  
 2            prevention consultant, certified clinical supervisor, ~~certified~~ clinical  
 3            addictions specialist, ~~or~~ certified substance abuse residential facility  
 4            ~~director~~ director, substance abuse counselor intern, or clinical  
 5            ~~addictions specialist intern unless this person is ~~certified~~ registered,~~  
 6            ~~certified, or licensed pursuant to this Article.~~

7            (3) Practice or attempt to practice as a certified substance abuse counselor,  
 8            certified substance abuse prevention consultant, certified clinical  
 9            supervisor, ~~certified~~ licensed clinical addictions specialist, certified  
 10            criminal justice addictions professional, or certified substance abuse  
 11            residential facility director with a revoked, lapsed, or suspended  
 12            ~~certification~~ certification or license.

13            (4) Aid, abet, or assist any ~~uncertified~~ person to practice as a certified  
 14            substance abuse counselor, certified substance abuse prevention  
 15            consultant, certified clinical supervisor, ~~certified~~ licensed clinical  
 16            addictions specialist, ~~or~~ certified substance abuse residential facility  
 17            ~~director~~ director, registrant, substance abuse counselor intern, clinical  
 18            ~~addictions specialist, or clinical supervisor intern in violation of this~~  
 19            Article.

20            (5) Knowingly serve in a position required by State law or rule or federal  
 21            law or regulation to be filled by a registrant, certified substance abuse  
 22            counselor, certified substance abuse prevention consultant, certified  
 23            clinical supervisor, ~~certified~~ licensed clinical addictions specialist, ~~or~~  
 24            certified substance abuse residential facility ~~director~~ director,  
 25            substance abuse counselor intern, clinical addictions specialist intern,  
 26            or clinical supervisor intern unless that person is ~~certified~~ registered,  
 27            ~~certified, or licensed under this Article.~~

28            (6) Repealed by S.L. 1997-492, s. 13.

29            (7) Practice, supervise, or attempt to practice or supervise or knowingly  
 30            serve in a position required by State law or rule or federal law or  
 31            regulation to be filled by a designated substance abuse intern without  
 32            being designated as such by the Board.

33            A person who engages in any of the illegal practices enumerated by this section is  
 34            guilty of a Class 1 misdemeanor. Each act of unlawful practice constitutes a distinct and  
 35            separate offense.

36            **"§ 90-113.44. Grounds for disciplinary action.**

37            (a) Grounds for disciplinary action for an applicant or credentialed professional  
 38            include:

39            (1) The employment of fraud, deceit, or misrepresentation in obtaining or  
 40            attempting to obtain ~~certification~~ licensure, certification, or registration  
 41            or renewal of ~~certification~~ licensure, certification, or registration.

42            (2) The use of drugs or alcoholic beverages to the extent that professional  
 43            competency is ~~affected, until proof of rehabilitation can be~~  
 44            ~~established~~ affected.

- 1           (2a) The use of drugs or alcoholic beverages to the extent that a substance  
2           abuse professional suffers impairment.
- 3           (3) ~~Conviction of an offense under any municipal, State, or federal~~  
4           ~~narcotic or controlled substance law, until proof of rehabilitation can~~  
5           ~~be established.~~ law other than traffic laws as prescribed by Chapter 20  
6           of the General Statutes.
- 7           (4) ~~Conviction of a felony or other public offense involving moral~~  
8           ~~turpitude, until proof of rehabilitation can be established.~~ turpitude.  
9           Conviction of a Class A-E felony shall result in an immediate  
10           suspension of ~~certification~~ licensure, certification, or registration for a  
11           minimum of one year.
- 12           (5) An adjudication of insanity or incompetency, until proof of recovery  
13           from this condition can be ~~established.~~ established by a licensed  
14           psychologist or psychiatrist.
- 15           (6) Engaging in any act or practice in violation of any of the provisions of  
16           this Article or any of the rules adopted pursuant to it, or aiding,  
17           abetting, or assisting any other person in such a violation.
- 18           (7) The commission of an act of malpractice, gross negligence, or  
19           incompetence ~~in the practice of substance abuse counseling, substance~~  
20           ~~abuse prevention consulting, clinical supervising, or in serving as a~~  
21           ~~clinical addictions specialist, residential facility director, or a~~  
22           ~~registrant.~~ while serving as a substance abuse professional, intern, or  
23           registrant.
- 24           (8) ~~Practicing as a certified substance abuse counselor, certified substance~~  
25           ~~abuse prevention consultant, certified clinical supervisor, certified~~  
26           ~~clinical addictions specialist or certified residential facility director~~  
27           ~~without a valid certificate or practicing as a registrant without a valid~~  
28           ~~registration.~~
- 29           (9) Engaging in conduct that could result in harm or injury to the public.
- 30           (10) Entering into a dual relationship that impairs professional judgment or  
31           increases the risk of exploitation with a client or supervisee.
- 32           (11) Practicing as a credentialed substance abuse professional outside of his  
33           or her scope of practice pursuant to G.S. 90-113.31B.
- 34           (b) Denial of an applicant's licensure, certification, or registration or the granting  
35           of licensure, certification, or registration on a probationary or other conditional status  
36           shall be subject to substantially the same rules and procedures prescribed by the Board  
37           for review and disciplinary actions against any person holding a license, certificate, or  
38           registration. A suspension of a credential resulting from impairment due to substance  
39           use, mental health, or medical disorder shall be imposed for at least six months  
40           beginning from the date of successful discharge from a residential substance abuse  
41           treatment program or other appropriate treatment modality determined as a result of an  
42           assessment by a Board-approved assessor. Disciplinary actions involving a clinical  
43           addictions specialist whose licensure is achieved through deemed status shall be initially  
44           heard by the specialist's credentialing body. The specialist may appeal the body's



1 decision to the Board. The Board shall, however, have the discretionary authority to  
2 hear the initial disciplinary action involving a credentialed professional.

3 **"§ 90-113.45. Enjoining illegal practices.**

4 (a) The Board may, if it finds that any person is violating any of the provisions of  
5 this Article or of the rules adopted pursuant to it, apply in its own name to the superior  
6 court for a temporary or permanent restraining order or injunction to restrain that person  
7 from continuing these illegal practices. The court may grant injunctive relief regardless  
8 of whether criminal prosecution or other action has been or may be instituted as a result  
9 of the violation. In the court's consideration of the issue of whether to grant or continue  
10 an injunction sought by the Board, a showing of conduct in violation of the terms of this  
11 Article shall be sufficient to meet any requirement of general North Carolina injunction  
12 law for irreparable damage.

13 (b) The venue for actions brought under this section is the superior court of any  
14 county in which the illegal acts are alleged to have been committed or in the county  
15 where the defendant resides.

16 **"§ 90-113.46. Application of requirements of Article.**

17 All persons ~~certified~~credentialed by the North Carolina Substance Abuse  
18 Professional ~~Certification~~Practice Board, Inc., as of July 1, 1994, shall be ~~certified~~  
19 credentialed by the Board pursuant to this Article. All these persons are subject to all the  
20 other requirements of this Article and of the rules adopted pursuant to it.

21 **"§ 90-113.46A. Criminal history record checks of applicants for registration,**  
22 **certification, or licensure.**

23 (a) All applicants for registration, certification, or licensure shall consent to a  
24 criminal history record check. Refusal to consent to a criminal history record check may  
25 constitute grounds for the Board to deny registration, certification, or licensure to an  
26 applicant. The Board shall ensure that the State and national criminal history of an  
27 applicant is checked. The Board shall be responsible for providing to the North Carolina  
28 Department of Justice the fingerprints of the applicant to be checked, a form signed by  
29 the applicant consenting to the criminal history record check and the use of fingerprints  
30 and other identifying information required by the State or National Repositories, the fee  
31 required by the Department of Justice for providing this service, and any additional  
32 information required by the Department of Justice. The Board shall keep all information  
33 obtained pursuant to this section confidential.

34 (b) If an applicant's criminal history record check reveals one or more  
35 convictions as defined in G.S. 90-113.31A(14), the conviction shall not automatically  
36 bar issuance of a credential by the Board to the applicant. The Board shall consider all  
37 of the following factors regarding the conviction:

- 38 (1) The level of seriousness of the crime.
- 39 (2) The date of the crime.
- 40 (3) The age of the person at the time of the conviction.
- 41 (4) The circumstances surrounding the commission of the crime, if known.
- 42 (5) The nexus between the criminal conduct of the person and the job  
43 duties of the position to be filled.

1           (6) The person's prison, jail, probation, parole, rehabilitation, and  
2           employment records since the date the crime was committed.

3           (7) The subsequent commission by the person of a crime as defined in  
4           G.S. 90-113.31A(14).

5 If, after reviewing the factors, the Board determines that the grounds set forth in  
6 G.S. 90-113.44 exist, the Board may deny registration, certification, or licensure of the  
7 applicant. The Board may disclose to the applicant information contained in the  
8 criminal history record check that is relevant to the denial. The Board shall not provide  
9 a copy of the criminal history record check to the applicant. The applicant shall have the  
10 right to appear before the Board to appeal the Board's decision. However, an appearance  
11 before the full Board shall constitute an exhaustion of administrative remedies in  
12 accordance with Chapter 150B of the General Statutes.

13       (c) Limited Immunity. – The Board, its officers and employees, acting in good  
14 faith and in compliance with this section, shall be immune from civil liability for  
15 denying registration, certification, or licensure to an applicant based on information  
16 provided in the applicant's criminal history record check."

17       **SECTION 2.** Article 4 of Chapter 114 of the General Statutes is amended by  
18 adding the following new section to read:

19 **"§ 114-19.11A. Criminal record checks of applicants for registration, certification,**  
20 **or licensure as a substance abuse professional.**

21       The Department of Justice may provide to the North Carolina Substance Abuse  
22 Professional Practice Board from the State and National Repositories of Criminal  
23 Histories the criminal history of any applicant for registration, certification, or licensure  
24 pursuant to Article 5C of Chapter 90 of the General Statutes. Along with the request, the  
25 Board shall provide to the Department of Justice the fingerprints of the applicant, a form  
26 signed by the applicant consenting to the criminal record check and use of fingerprints  
27 and other identifying information required by the State and National Repositories, and  
28 any additional information required by the Department of Justice. The applicant's  
29 fingerprints shall be forwarded to the State Bureau of Investigation for a search of the  
30 State's criminal history record file, and the State Bureau of Investigation shall forward a  
31 set of fingerprints to the Federal Bureau of Investigation for a national criminal history  
32 record check. The Board shall keep all information obtained pursuant to this section  
33 confidential. The Department of Justice may charge a fee to offset the cost incurred by it  
34 to conduct a criminal record check under this section. The fee shall not exceed the  
35 actual cost of locating, editing, researching, and retrieving the information."

36       **SECTION 3.** All members serving on the North Carolina Substance Abuse  
37 Professional Practice Board on the effective date of this act shall complete their current  
38 three-year terms. Upon completion of their terms, newly appointed or elected members  
39 of the Board shall serve four-year terms pursuant to G.S. 90-113.33, as enacted in  
40 Section 1 of this act.

41       **SECTION 4.** Notwithstanding G.S. 90-113.40(d1), as enacted by Section 1  
42 of this act, the North Carolina Substance Abuse Professional Practice Board may certify  
43 a person as a certified criminal justice addictions professional during a limited period of  
44 90 days from the date this act becomes effective and the credential is approved by the

1 IC&RC/AODA, Inc., if the applicant qualifies based on experience providing services  
2 to clients or offenders exhibiting substance abuse disorders and is working in a program  
3 determined by the Board to be integrally involved in at least one of the three branches of  
4 the criminal justice system, which include law enforcement, the judiciary, and  
5 corrections. In addition to meeting the requirements of G.S. 90-113.40(a)(1) through  
6 (5a), the person shall do the following:

- 7 (1) Provide two letters recommending certification from a current or  
8 former peer who functions in substantially the same professional  
9 capacity as determined by the Board.
- 10 (2) Provide one letter recommending certification from a person currently  
11 supervising or who has supervised the applicant within the previous  
12 five years attesting to the applicant's competency in the fields of  
13 substance abuse and criminal justice.
- 14 (3) Pay the criminal justice addictions professional certification fee for  
15 certification not to exceed one hundred fifty dollars (\$150.00).
- 16 (4) Provide one of the following:
  - 17 a. A high school diploma or a high school equivalency certificate,  
18 documentation of eight years or 16,000 hours of supervised  
19 work experience providing direct service to clients or offenders  
20 determined by the Board to be integrally involved in at least one  
21 of the three branches of the criminal justice system, which  
22 include law enforcement, the judiciary, and corrections.
  - 23 b. An associate degree and documentation of six years or 12,000  
24 hours of supervised work experience providing direct service to  
25 clients or offenders determined by the Board to be integrally  
26 involved in the three branches of the criminal justice system,  
27 which include law enforcement, the judiciary, and corrections.
  - 28 c. A bachelors degree in the human services field with four years  
29 or 8,000 hours of supervised work experience providing direct  
30 service to clients or offenders determined by the Board to be  
31 integrally involved in at least one of the three branches of the  
32 criminal justice system, which include law enforcement, the  
33 judiciary, and corrections.
  - 34 d. A masters degree or above in the human services field with two  
35 years or 4,000 hours of supervised work experience providing  
36 direct service to clients or offenders determined by the Board to  
37 be integrally involved in the three branches of the criminal  
38 justice system, which include law enforcement, the judiciary,  
39 and corrections.
- 40 (5) Provide documentation of at least 270 clock hours of Board-approved  
41 education and 300 hours of Board-approved supervised practical  
42 training, both in the International Certification & Reciprocity  
43 Consortium/Alcohol and Other Drug Abuse, Incorporated, criminal  
44 justice addiction professional performance domains.

1           **SECTION 5.** G.S. 143-596(4) is repealed.

2           **SECTION 6.** Chapter 14 of the General Statutes is amended by adding a  
3 new Article to read:

4   "Article 62.

5   "Smoking in Public Restaurants.

6           **"§ 14-462. Definitions.**

7           The following definitions shall apply to this Article:

8           (1) Restaurant. – An eating establishment substantially engaged in the  
9           business of preparing and serving meals and regularly and customarily  
10           selling food to be eaten on the premises with a seating capacity of 50  
11           or more, including, but not limited to, coffee shops, cafeterias,  
12           sandwich stands, and any building, structure, or area where food is  
13           available for eating on the premises in consideration of payment. The  
14           term 'restaurant' shall not include a designated bar or lounge area  
15           attached to a restaurant where alcoholic beverages are sold and shall  
16           not include an outdoor or partially enclosed outdoor seating area with  
17           or without a ceiling.

18           (2) Smoke or smoking. – The use or possession of a lighted cigarette,  
19           lighted cigar, lighted pipe, or any other lighted tobacco product.

20           **"§ 14-463. Smoking in public restaurants; notice.**

21           (a) Every restaurant may have a designated smoking area. Notwithstanding any  
22           other provision of law, the smoking area of a restaurant shall be no more than  
23           twenty-five percent (25%) of the seating capacity inside the restaurant. 'No Smoking'  
24           signs or the international 'No Smoking' symbol, which consists of a pictorial  
25           representation of a burning cigarette enclosed in a circle with a bar across it, shall be  
26           conspicuously posted and properly maintained in each area of the restaurant not  
27           designated as a smoking area.

28           (b) No person may smoke in any area of a restaurant that is accessible to the  
29           public and not designated as a smoking area.

30           (c) Any person in charge of a restaurant open and accessible to the public or a  
31           designated agent or employee of the restaurant, who observes a person smoking in  
32           apparent violation of this section, shall ask the person to extinguish all lighted tobacco  
33           products. If the person persists in apparent violation of this section, the person in charge  
34           of the restaurant or the designated agent or employee of the restaurant shall ask the  
35           person to leave the premises.

36           (d) Nothing in this Article shall prohibit a county health department from  
37           establishing an Internet listing of local restaurants that are considered to be 'smoke free'.  
38           No such listing shall contain negative information about any restaurant or other  
39           establishment that allows smoking.

40           **"§ 14-464. Violations; penalties.**

41           Any person who refuses to either extinguish all lighted tobacco products or leave the  
42           premises of a restaurant when asked to do so pursuant to G.S. 14-463(b) is responsible  
43           for an infraction. For violations occurring prior to January 1, 2007, the person shall be  
44           issued a warning. A person committing a violation on or after January 1, 2007, is

1 subject to a fine not to exceed fifty dollars (\$50.00). Any violation of this Article may  
2 be reported to a law enforcement officer.

3 **"§ 14-465. Exceptions.**

4 This Article shall not apply to the following:

- 5 (1) Any building owned, rented, leased, or otherwise operated by a social,  
6 fraternal, or religious organization when used solely by the  
7 organization members or their guests or families.  
8 (2) Any facility or private room rented or leased for private functions from  
9 which the general public is excluded.  
10 (3) Private clubs.

11 **"§ 14-466. Limit on civil liability.**

12 No person may bring an action against a restaurant for requesting that person to  
13 extinguish all lighted tobacco products in compliance with this Article."

14 **SECTION 7.(a)** G.S. 14-462, as enacted by Section 6 of this act, reads as  
15 rewritten:

16 **"§ 14-462. Definitions.**

17 The following definitions shall apply to this Article:

- 18 (1) Restaurant. – An eating establishment substantially engaged in the  
19 business of preparing and serving meals and regularly and customarily  
20 selling food to be eaten on the premises with a seating capacity of 50  
21 or more, including but not limited to, coffee shops, cafeterias,  
22 sandwich stands, and any building, structure, or area where food is  
23 available for eating on the premises in consideration of payment. The  
24 term 'restaurant' shall ~~not~~ include a designated bar or lounge area  
25 attached to a restaurant where alcoholic beverages are sold and shall  
26 not include an outdoor or partially enclosed outdoor seating area with  
27 or without a ceiling.  
28 (2) Smoke or smoking. – The use or possession of a lighted cigarette,  
29 lighted cigar, lighted pipe, or any other lighted tobacco product.  
30 (3) Smoking area. – A portion of a restaurant designated to permit  
31 smoking that is completely enclosed, separate and apart from the  
32 remainder of the restaurant, with adequate ventilation to prevent  
33 environmental tobacco smoke from mixing with the air outside the  
34 smoking area."

35 **SECTION 7.(b)** G.S. 14-463, as enacted by Section 6 of this act, is amended  
36 by adding a new subsection to read:

37 "(e) The 'smoking area' of a restaurant shall be in a room or rooms separate and  
38 apart from the main dining area."

39 **SECTION 7.(c)** G.S. 130A-248(a3) reads as rewritten:

40 "(a3) The rules adopted by the Commission pursuant to subsections (a), (a1), and  
41 (a2) of this section shall address, but not be limited to, the following:

- 42 (1) Sanitation requirements for cleanliness of floors, walls, ceilings,  
43 storage spaces, utensils, ventilation equipment, and other areas and  
44 items; items.

- 1           (2) Requirements for:  
 2           a. Lighting and water supply;  
 3           b. Wastewater collection, treatment, and disposal facilities; and  
 4           c. Lavatory and toilet facilities, food protection, and waste  
 5           ~~disposal;~~disposal.  
 6           (3) The cleaning and bactericidal treatment of eating and drinking utensils  
 7           and other food-contact surfaces. A requirement imposed under this  
 8           subdivision to sanitize multiuse eating and drinking utensils and other  
 9           food-contact surfaces does not apply to utensils and surfaces provided  
 10          in the guest room of the lodging unit for guests to prepare food while  
 11          staying in the guest room.  
 12          (3a) The appropriate and reasonable use of gloves or utensils by employees  
 13          who handle unwrapped ~~food;~~food.  
 14          (4) The methods of food preparation, transportation, catering, storage, and  
 15          ~~serving;~~serving.  
 16          (5) The health of ~~employees;~~employees.  
 17          (6) Animal and vermin ~~control;~~ and control.  
 18          (7) The prohibition against the offering of unwrapped food samples to the  
 19          general public unless the offering and acceptance of the samples are  
 20          continuously supervised by an agent of the entity preparing or offering  
 21          the samples or by an agent of the entity on whose premises the samples  
 22          are made available. As used in this subdivision, "food samples" means  
 23          unwrapped food prepared and made available for sampling by and  
 24          without charge to the general public for the purpose of promoting the  
 25          food made available for sampling. This subdivision does not apply to  
 26          unwrapped food prepared and offered in buffet, cafeteria, or other style  
 27          in exchange for payment by the general public or by the person or  
 28          entity arranging for the preparation and offering of such unwrapped  
 29          food. This subdivision shall not apply to open air produce markets nor  
 30          to farmer market facilities operated on land owned or leased by the  
 31          State of North Carolina or any local government.

32          (8) Requirements for smoking areas as defined in G.S. 14-462.

33 The rules shall contain a system for grading establishments, such as Grade A, Grade B,  
 34 and Grade C. The rules shall be written in a manner that promotes consistency in both  
 35 the interpretation and application of the grading system."

36           **SECTION 7.(d)** This section becomes effective January 1, 2007.

37           **SECTION 8.(a)** G.S. 14-463, as enacted by Sections 6 and 7 of this act, is  
 38 amended by adding a new subsection to read:

39           "(f) Any restaurant employee who is an unemancipated minor shall provide the  
 40 employer with a signed written statement from the unemancipated minor's parent or  
 41 guardian authorizing the unemancipated minor to work in a restaurant where smoking is  
 42 permitted unless the unemancipated minor will be working only in 'No Smoking' or  
 43 outside areas of the restaurant. This subsection shall not apply to an unemancipated  
 44 minor employed by a parent or guardian."

1           **SECTION 8.(b)** This section becomes effective January 1, 2008.

2           **SECTION 9.(a)** G.S. 14-463, as enacted by Sections 6, 7, and 8 of this act,  
3 is amended by adding a new subsection to read:

4           "(g) Any restaurant that allows smoking shall post and maintain at least one notice  
5 in the immediate vicinity of the sanitation grade or on the front door of the restaurant  
6 that smoking is allowed in the restaurant."

7           **SECTION 9.(b)** This section becomes effective January 1, 2010.

8           **SECTION 10.** Sections 1 through 4 and 10 of this act are effective when it  
9 becomes law. Except as otherwise provided in this act, the remainder of this act  
10 becomes effective January 1, 2006, and applies to acts committed on or after that date.