



**This Bill Analysis
reflects the
contents of the bill
as it was presented
in committee.**

HOUSE BILL 1007: Amend Occupational Licensing Boards Statutes.

2016-2017 General Assembly

Committee:	House Judiciary II	Date:	June 13, 2016
Introduced by:	Reps. Jordan, Stevens, Bryan	Prepared by:	Susan Sitze*
Analysis of:	PCS to First Edition H1007-CSTQ-35		Committee Counsel

SUMMARY: *The Proposed Committee Substitute (PCS) for House Bill 1007 amends laws regarding occupational licensing boards in order to respond to the holding in North Carolina State Board of Dental Examiners v. Federal Trade Commission.*

[As introduced, this bill was identical to S783, as introduced by Sen. Hartsell, which is currently in Senate Rules and Operations of the Senate.]

BILL ANALYSIS: The PCS for H1007 would amend various statutes to provide more State guidance and oversight to occupational licensing boards.

Section 1 of the PCS would amend G.S. 93B-1 to modify the definition of "occupational licensing board" and list 64 specific boards or commissions that are governed by Chapter 93B. This section provides that no board or commission may be added to this list without the approval of the Joint Legislative Administrative Procedure Oversight Committee.

Section 2 of the PCS would add additional financial information requirements to the annual report filed by each occupational licensing board. **Section 3** of the PCS removes language from G.S. 93B-4 that has been relocated to the reporting requirement in Section 2 of the PCS.

Section 4 of the PCS would increase the per diem authorization for board members from \$100 to \$200 per day, and requires that board members' training include information on antitrust law and state action immunity.

Section 5 of the PCS would add several new statutes to Chapter 93B as follows:

- G.S. 93B-17 would require occupational licensing boards to adopt rules for the receipt and resolution of complaints, for taking disciplinary or enforcement actions against its licensees, and for taking enforcement actions against persons not licensed by the board.
- G.S. 93B-18 would clarify occupational licensing boards' authority to investigate unlicensed activity and to notify unlicensed person of possible violations of laws and rules. This section would also provide standardized language for notifying unlicensed persons and entities of possible violations of the law. The notification would not indicate that the board has made a finding of a violation, but may indicate the board's belief or opinion that an unlicensed activity may violate the board's enabling statutes, include factual information regarding legislation and court proceedings concerning the potential violation, and provide notice of the board's intent to pursue administrative remedies or court proceedings.

Karen Cochrane-Brown
Director



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Legislative Analysis
Division
919-733-2578

House PCS 1007

Page 2

- G.S. 93B-19 would provide the venue for an injunctive relief sought by an occupational licensing board is the superior court of the county where the defendant resides or in the county where the occupational licensing board has its principal place of business.
- G.S. 93B-20 would authorize an occupational licensing board to appear in its own name in actions for injunctive relief, authorizes the superior court to grant injunctions, restraining orders, or take other appropriate action even if criminal prosecution has been instituted. No board shall issue orders independently of the superior court unless specifically authorized to do so by law.
- G.S. 93B-21 would encourage the resolution of jurisdictional disputes among occupational licensing boards by informal procedures, but authorizes the use of the administrative hearing process where that fails.
- G.S. 93B-22 would require each occupational licensing board to implement a complaint process, with the requirements specified, and implement that process no later than January 1, 2017.

Sections 6, 7, and 8 of the PCS would amend other statutes requiring certain information be reported by providing that the report required by G.S. 93B-2 will satisfy that requirement.

Sections 9 and 10 would amend statutes related to the administrative hearing process to ensure occupational licensing boards have access to that process and clarify venue for superior court review of an administrative final decision.

Section 11 of the PCS would provide that the Joint Legislative Administrative Procedure Oversight Committee shall continue to monitor and study the effects of *NC Dental Board v. FTC* and other issues related to the scope of practice jurisdiction of occupational licensing boards.

EFFECTIVE DATE: This act is effective when it becomes law.

BACKGROUND: In *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 135 S. Ct. 1101 (2015), the US Supreme Court found that the NC Dental Board was not protected from antitrust actions under the doctrine of state action immunity.

**Chris Saunders, Staff Attorney, contributed substantially to this summary.*