



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

HOUSE BILL 434: North Carolina Healing Arts Commission.

2021-2022 General Assembly

Committee:	House Regulatory Reform. If favorable, re- refer to Rules, Calendar, and Operations of the House	Date:	June 29, 2021
Introduced by:	Reps. Warren, Riddell	Prepared by:	Kyle Evans
Analysis of:	PCS to First Edition H434-CSBCf-39		Committee Counsel

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 434 would establish the Healing Arts Commission to regulate the practice of healing arts in the State and create a State certification process for reflexologists and music therapists.*

BILL ANALYSIS:

The PCS to House Bill 434 would create the Healing Arts Article (Article) within Chapter 90 of the General Statutes and establish the **North Carolina Healing Arts Commission** (Commission) to regulate and oversee the practice and provision of healing arts in the State. The two initial healing arts professions that would be regulated under the Commission are reflexology and music therapy.

The Article broadly defines "healing arts" as the "use of allopathic, complementary, or alternative approaches to the art and science of medicine for the prevention, diagnosis, and treatment of human physical or mental conditions, diseases, ailments, illnesses, infirmities, pain, defects, or injuries and the promotion and restoration of health and wellness."

The Commission would initially be comprised of seven members appointed by the Governor and the General Assembly, as follows:

- Two reflexologists (one appointed by the Governor, one by the Senate).
- Two music therapists (one appointed by the Governor, one by the House).
- Three public members (two appointed by the Governor, one by the House).

After the initial appointments expire, Commission terms would be for three years. The House and Senate would alternate the public member appointment and any future healing arts profession appointments.

The Commission would have the authority to administer the provisions of the Article, adopt rules, appoint advisory committees to regulate healing arts professions, issue, revoke, or deny North Carolina Healing Art Certificates, discipline certificate holders, conduct any necessary administrative hearings, establish fees, authorize expenditures from those collected fees, and remit funds to the advisory committees.

The Commission may establish fees for healing arts professions not exceeding the following amount:

- Certificate issuance: \$100
- Certificate renewal (every five years): \$100
- Late renewal fee: \$100

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Violations of the Article would result in a written warning for the first violation, a civil penalty of no more than \$200 for the second violation, and a civil penalty of no more than \$200 and be guilty of a Class 1 misdemeanor for the third and each subsequent violation. The Commission would also be permitted to seek an injunction against any person found violating the Article. The clear proceeds of any civil penalty would be remitted to the Civil Penalty and Forfeiture Fund.

Part 2 of the Article would provide that the **practice of reflexology** would be considered a healing arts profession and therefore regulated under the Article. The Article defines "reflexology" as a "protocol of manual techniques, including thumb and finger walking, hook and backup and rotating on a point, that are applied to specific reflex areas predominantly on the feet and hands and that stimulate the complex neural pathways linking body systems and support the body's efforts to function optimally" and further clarifies that the practice of reflexology is not massage and bodywork therapy as defined in Article 36 of Chapter 90.

Part 2 would direct the Commission to create a Reflexology Advisory Committee (Reflexology AC) comprised of two reflexologists from a list of names submitted by the North Carolina Reflexology Association and a public member not engaged in the practice of reflexology or otherwise having a significant financial interest in a health service or profession. The Reflexology AC would be responsible for administering the Part, establishing and determining qualifications for certification, providing proof of certification to certified reflexologists, maintaining a list of certified reflexologists, and directing the Commission to adopt rules, issue, deny, revoke, or suspend certificates, discipline certified reflexologists, including directing the Commission to seek civil or criminal penalties against noncertified individuals engaging in the practice of reflexology in the State.

To obtain a Healings Arts Certificate in reflexology, an applicant must meet all the following criteria:

- The applicant must be at least 18 years of age.
- The applicant is of good moral character, as determined by the Reflexology AC.
- The applicant holds a national certification in reflexology from the American Reflexology Certification Board (ARCB).
- The applicant has paid an application or renewal fee to the Commission as required by this Article.

A Healing Arts Certificate in reflexology issued by the Commission must be renewed on or before January 1 every five years.

Under this Article, compensation may be received for reflexology services only when those services are performed by an individual holding a national certification in reflexology. Non-certified individuals providing reflexology services would be subject to the injunctive, civil, and criminal penalties of the Article, unless the individual is a reflexology student working to obtain certification from the ARCB or the individual holds a certification from the ARCB and that certification was obtained no more than six months prior to that individual receiving compensation for reflexology services.

At all places of business in which compensated reflexology services are offered, a valid and up-to-date certificate issued by the ARCB for all individuals offering compensated reflexology services shall be displayed in a prominent place. If an individual with a national certification performs reflexology services for compensation at a location outside of the reflexologist's main place of business, the reflexologist must have on his or her person a valid, up to date certification card issued by the certifying entity at the time the services are performed.

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All public advertising designed to attract clients for reflexology services must identify that the services will be performed by an individual holding a national certification and must include the name of the certifying entity.

No individual may use the title "North Carolina Certified Reflexologist" unless that individual holds a valid North Carolina Healing Arts Certificate in reflexology issued by the Commission. Individuals holding themselves out as North Carolina Certified Reflexologists must always carry a Reflexology AC-issued identification card when providing reflexology services. Individuals in violation of this subsection are subject to the injunctive, civil, and criminal penalties of the Article.

Reciprocity would be available for individuals who are licensed or certified to practice reflexology in another State, and this Article would not apply to individuals providing reflexology services if the individual is a licensed massage therapist, physician, chiropractor, acupuncturist, physical therapist, cosmetologist, registered nurse, or a member of other professions licensed by the State so long as the reflexology services account for less than 25% of the individual's work.

Part 3 of the Article would provide that the **practice of music therapy** would be considered a healing arts profession and therefore regulated under the Article. The Article defines "music therapy" as the "clinical and evidence based use of music interventions to accomplish individualized goals within a therapeutic relationship by a credentialed professional who has completed an approved music therapy program, including (i) assessment of a client's emotional, physical, and spiritual health, social functioning, communication abilities, and cognitive skills through the client's history and observation and interaction of the client in music and nonmusic settings; (ii) development and implementation of treatment plans, based on a client's assessed needs, using music interventions, including music improvisation, receptive music listening, song writing, lyric discussion, music and imagery, music performance, learning through music, and movement to music; and (iii) evaluation and documentation of the client's response to treatment."

Part 3 matches the provisions of Part 2, except for certain items specific to music therapy, listed below:

- The Music Therapy Advisory Committee (Music Therapy AC) would be comprised of two music therapists from a list of names submitted by the Music Therapy Association of North Carolina and a public member not engaged in the practice of music therapy or otherwise having a significant financial interest in a health service or profession.
- In addition to the age, character, and fee requirements for certification by the Music Therapy AC, the applicant must also:
 - The applicant has completed an academic program accredited by the American Music Therapy Association (AMTA), with at least a bachelor's degree in music therapy from an accredited college or university.
 - The applicant has successfully completed the certification exam offered by the Certification Board for Music Therapists (CBMT).
 - The applicant has completed a minimum of 1,200 hours of clinical training, with at least 180 hours in pre-internship experience and 900 hours in internship experience.
- There are no place-of-business display requirements for music therapists, nor are there student/recent graduation exemptions for the practice of music therapy for compensation without a national certification.

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- There are no exemptions from the Article for individuals licensed by the State who provide music therapy services.

Section 2 of the PCS would provide that a certified reflexologist engaging in the practice of reflexology is not required to obtain licensure under the Massage and Bodywork Therapy Practice Act.

EFFECTIVE DATE: Section 1 of this act would become effective January 1, 2022. The remainder of this act would become effective when law.