A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA COLON HYDROTHERAPY LICENSURE ACT.

The General Assembly of North Carolina enacts:

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

"Article 42.
Colon Hydrotherapy.

§ 90-710. Title; legislative findings.
(a) This Article may be cited as the 'North Carolina Colon Hydrotherapy Licensure Act.'
(b) The General Assembly finds that the practice of colon hydrotherapy is an area of health care that is continually evolving to include more sophisticated and demanding client care activities. The General Assembly further finds that the practice of colon hydrotherapy by unauthorized, unqualified, unprofessional, and incompetent persons is a threat to public health, safety, and welfare, and therefore it is necessary to establish minimum standards of education, training, and competency for persons engaged in the practice of colon hydrotherapy.

§ 90-711. Definitions.
The following definitions apply in this Article:
(1) Board. – The North Carolina Colon Hydrotherapy Licensing Board.
(2) Colon hydrotherapy. – The introduction of water into the colon via the anal region for the purpose of cleansing the colon.
(3) Licensee. – A person who has been issued a license to practice as a colon hydrotherapist under this Article.
(4) Practice of colon hydrotherapy. – The rendering of colon hydrotherapy services to clients for compensation.

§ 90-712. License required; exemptions.
(a) Except as otherwise provided in this Article, no person shall engage in the practice of colon hydrotherapy, use the designation 'Colon Hydrotherapist,' or advertise using any title or description that implies licensure as a colon hydrotherapist unless the person is licensed as a colon hydrotherapist as provided by this Article. A violation of this section is a Class 2 misdemeanor.
(b) The provisions in this Article shall not apply to:
(1) Any person licensed or approved by the North Carolina Medical Board to practice medicine or perform medical acts, tasks, or functions pursuant to Article 1 of Chapter 90 of the General Statutes or any person employed and
(2) A student enrolled in an accredited colon hydrotherapy education program if colon hydrotherapy services performed by the student are an integral part of the student's course of study and are performed under the direct supervision of a licensed colon hydrotherapist.

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

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

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

(1) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint two licensed colon hydrotherapists and one public member, each to serve for a term of three years.

(2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint two licensed colon hydrotherapists and one public member, each to serve for a term of two years.

(3) The Governor shall appoint a physician licensed under Article 1 of Chapter 90 of the General Statutes for a one-year term.

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

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

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

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

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

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

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

"§ 90-714. Powers and duties.

The Board shall have the following powers and duties:
To administer and enforce the provisions of this Article.

To adopt, amend, or repeal rules to carry out the provisions of this Article.

To examine and determine the qualifications and fitness of applicants for licensure and licensure renewal.

To issue, renew, deny, restrict, suspend, or revoke licenses.

To reprimand or otherwise discipline licensees under this Article.

To receive and investigate complaints from members of the public.

To conduct investigations to determine whether violations of this Article exist or constitute grounds for disciplinary action against licensees under this Article.

To conduct administrative hearings in accordance with Article 3A of Chapter 150B of the General Statutes.

To seek injunctive relief through any court of competent jurisdiction for violations of this Article.

To collect fees required by G.S. 90-718 and other monies permitted by law to be paid to the Board.

To establish and approve continuing educational requirements for persons licensed under this Article.

To employ a secretary-treasurer and any other clerical personnel the Board deems necessary to carry out the provisions of this Article and to fix compensation for employees.

To maintain a record of all proceedings conducted by the Board and make available to licensees and other concerned parties an annual report of all Board actions.

To adopt and publish a code of professional conduct and practice for all persons licensed under this Article.

To adopt a seal containing the name of the Board for use on licenses and official reports issued by the Board.

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

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

(1) Has obtained a high school diploma or its equivalent.

(2) Is 18 years of age or older.

(3) Is of good moral character as determined by the Board.

(4) Has successfully completed one semester of a three-credit hour course in anatomy and physiology from a postsecondary education school.

(5) Has successfully completed a minimum of 100 hours of training in colon hydrotherapy approved by the International Association for Colon Hydrotherapy.

(6) Passes an examination that has been approved by the National Board of Colon Hydrotherapy, meets generally accepted colon hydrotherapy principles and standards, and is approved by the Board.

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

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

(d) All colon hydrotherapists licensed under this Article shall use colon hydrotherapy equipment registered with the federal Food and Drug Administration and shall comply with all applicable federal regulations, State laws, and rules adopted by the Board. Water is the only substance that may be used with the equipment unless another substance is approved for use.
under the direction of a person licensed to practice medicine pursuant to Article 1 of Chapter 90 of the General Statutes. Any licensed colon hydrotherapist violating this subsection shall have the license revoked by the Board.

§ 90-716. Reciprocity.

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

§ 90-717. License renewal and continuing education.

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

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

§ 90-718. Expenses and fees.

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

<table>
<thead>
<tr>
<th>Fee Description</th>
<th>Fee Amount</th>
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<tbody>
<tr>
<td>Application fee</td>
<td>$150.00</td>
</tr>
<tr>
<td>Examination fee</td>
<td>$200.00</td>
</tr>
<tr>
<td>License renewal</td>
<td>$100.00</td>
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<tr>
<td>Late renewal fee</td>
<td>$50.00</td>
</tr>
<tr>
<td>License by reciprocity</td>
<td>$250.00</td>
</tr>
<tr>
<td>Duplicate license</td>
<td>$25.00</td>
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</tbody>
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(b) When the Board uses a testing service for the preparation, administration, or grading of examinations, the Board may charge the applicant the actual cost of the examination services.

§ 90-719. Disciplinary action.

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

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

§ 90-720. Civil penalties.
(a) In addition to taking any of the actions permitted under G.S. 90-719, the Board may assess a civil penalty not in excess of two thousand dollars ($2,000) for each violation of any section of this Article or the violation of any rules adopted by the Board. The clear proceeds of any civil penalty assessed under this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

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

(1) The nature, gravity, and persistence of the particular violation.
(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment.
(3) Whether the violation was willful and malicious.
(4) Any other factors that would tend to mitigate or aggravate the violation found to exist.

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

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

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

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

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

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