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(Public)

Sponsors:

Referred to:

February 16, 2023

A BILL TO BE ENTITLED

AN ACT TO ALLOW MILITARY RELOCATION LICENSES FOR PHYSICIAN AND
PHYSICIAN ASSISTANT SERVICEMEMBERS AND SPOUSES; TO ALLOW THE
GRANTING OF AN INTERNATIONALLY-TRAINED PHYSICIAN EMPLOYEE
LICENSE; TO MODIFY THE LAW FOR OVER-THE-COUNTER HEARING AIDS; TO
MODIFY THE CREDENTIALING OF BEHAVIOR ANALYSTS UNDER THE NORTH
CAROLINA BEHAVIOR ANALYST BOARD; TO MAKE MODIFICATIONS TO THE
LAWS OF OPTOMETRY; TO DEVELOP A PLAN TO TRANSITION THE NURSE AIDE
I EDUCATION AND TRAINING PROGRAM TO THE BOARD OF NURSING; TO
PROTECT HEALTH CARE WORKERS FROM VIOLENCE BY REQUIRING CERTAIN
HOSPITALS TO HAVE LAW ENFORCEMENT OFFICERS IN EMERGENCY
DEPARTMENTS, TO ADDRESS THE VIOLATION OF A PROTECTIVE ORDER
ISSUED UPON THE REQUEST OF A HOSPITAL, TO INCREASE THE PUNISHMENT
FOR ASSAULT AGAINST CERTAIN PERSONNEL; TO MODERNIZE AND EXPAND
PHYSICIAN-PHARMACIST COLLABORATIVE PRACTICE; AND TO EXTEND
FLEXIBILITY FOR AMBULANCE TRANSPORT PROVIDED UNDER THE EXPIRING
FEDERAL PUBLIC HEALTH EMERGENCY DECLARATION.

The General Assembly of North Carolina enacts:

**PART I. MILITARY RELOCATION LICENSE FOR PHYSICIAN AND PHYSICIAN
ASSISTANT SERVICEMEMBERS AND SPOUSES**

SECTION 1.1.(a) Article 1 of Chapter 90 of the General Statutes is amended by
adding a new section to read:

**"§ 90-12.02. Physician and physician assistant military relocation license for military
servicemembers and spouses.**

(a) The Board may issue a license known as a "military relocation license" to a physician
or physician assistant not otherwise actively licensed by the Board who meets all of the following
requirements:

- (1) Is a servicemember of the United States Armed Forces or a spouse of a
servicemember of the United States Armed Forces.
- (2) Resides in this State pursuant to military orders for military service.



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- 1 (3) Holds a current license in another jurisdiction that has licensing requirements
2 that are substantially equivalent or otherwise exceed the requirements for
3 licensure in this State.
- 4 (4) Is in good standing in the jurisdiction of licensure, has not been disciplined in
5 the last five years by any occupational licensing board, and has no pending
6 investigations by any occupational licensing board.
- 7 (5) Has actively practiced medicine an average of 20 hours per week during the
8 two years immediately preceding relocation in this State.

9 (b) A military relocation license remains active for the duration of military orders for
10 military service in this State and upon completion of annual registration, which shall include
11 providing documentation of meeting the requirements of subsection (a) of this section. The
12 military relocation license shall become inactive at the time the license holder relocates pursuant
13 to military orders to reside in another state, when the military orders for military service in this
14 State expire, or when the servicemember separates from military service. The license holder shall
15 notify the Board within 15 days of the issuance of new military orders requiring relocation to
16 another state, within 15 days of the expiration of military orders, or within 15 days of separation
17 from military service. The Board shall retain jurisdiction over the holder of the inactive license.

18 (c) A military relocation license may be converted to a full license by completing an
19 application for full license. The Board shall waive the application fee for converting to a full
20 license if the application is submitted within one year of the issuance of the military relocation
21 license.

22 (d) The Board may, by rule, require an applicant for a military relocation license under
23 this section to comply with other requirements or to submit additional information."

24 **SECTION 1.1.(b)** G.S. 90-13.1 reads as rewritten:

25 "**§ 90-13.1. License fees.**

26 (a) Each applicant for a license to practice medicine and surgery in this State under ~~either~~
27 ~~G.S. 90-9.1 or G.S. 90-9.2~~ G.S. 90-9.1, 90-9.2, 90-12.02, or 90-12.03 shall pay to the North
28 Carolina Medical Board an application fee of four hundred dollars (\$400.00).

29 (b) Each applicant for a limited license to practice in a medical education and training
30 program under G.S. 90-12.01 shall pay to the Board a fee of one hundred dollars (\$100.00).

31 (c) An applicant for a limited volunteer license under G.S. 90-12.1A or G.S. 90-12.1B
32 shall not pay a fee.

33 (d) A fee of twenty-five dollars (\$25.00) shall be paid for the issuance of a duplicate
34 license.

35 (e) All fees shall be paid in advance to the North Carolina Medical Board, to be held in
36 a fund for the use of the Board.

37 (f) For the initial and annual licensure of an anesthesiologist assistant, the Board may
38 require the payment of a fee not to exceed one hundred fifty dollars (\$150.00)."

39 **SECTION 1.1.(c)** This section becomes effective October 1, 2023.

40 **PART II. INTERNATIONALLY-TRAINED PHYSICIAN EMPLOYEE LICENSE**

41 **SECTION 2.1.(a)** Article 1 of Chapter 90 of the General Statutes is amended by
42 adding a new section to read:

43 "**§ 90-12.03. Internationally-trained physician employee license.**

44 (a) The Board may issue an "internationally-trained physician employee license" to
45 practice medicine and surgery to a physician where the Board has received satisfactory
46 verification of all of the following requirements:

- 47 (1) The applicant has been offered employment as a physician in a full-time
48 capacity at (i) a hospital that is located in North Carolina, licensed by the State
49 of North Carolina, and accredited by the Joint Commission or (ii) a medical
50 practice located in a rural county with a population of less than 500 people per
51 square mile.

1 square mile, in North Carolina, and will be supervised by a physician licensed
2 by the State of North Carolina and who is physically practicing on-site at the
3 rural medical practice. The Board shall adopt rules pertaining to adequate
4 supervision of internationally-trained physicians.

5 (2) The applicant has a current and active license in good standing to practice
6 medicine in a foreign country or had such license expire no more than five
7 years prior to submission of an application to the Board.

8 (3) The applicant previously completed 130 weeks of medical education at a
9 medical school listed in the World Dictionary of Medical Schools and is
10 eligible to be certified by the Educational Commission for Foreign Medical
11 Graduates and meets one of the following requirements:

12 a. The applicant has completed two years of postgraduate training in a
13 medical education program accredited by an agency with the World
14 Federation for Medical Education Recognition Status after graduation
15 from medical school.

16 b. The applicant has actively practiced medicine in the applicant's
17 country of licensure for at least 10 years after graduation.

18 (4) The applicant has demonstrated competency to practice medicine in at least
19 one of the following ways:

20 a. Successfully passing each part of an examination listed in
21 G.S. 90-10.1.

22 b. Successfully passing each part of a nationally recognized standard
23 medical licensing examination from a country that is a member of the
24 International Association of Medical Regulatory Authorities, that
25 meets all of the following requirements:

26 1. Tests for the ability to practice medicine.

27 2. Tests for medical knowledge, skills, and understanding of
28 clinical science essential for providing patient care, including
29 general practice, cardiology, internal medicine,
30 gastroenterology, hematology, nephrology, neurology,
31 pediatrics, psychiatry, pulmonology, obstetrics and
32 gynecology, radiology, rheumatology, urology, and surgery.

33 3. Tests for communication and interpersonal skills.

34 4. Includes an interactive testing component.

35 The examining body must provide verification in English directly to
36 the Board that the applicant has passed an examination meeting the
37 requirements of this sub-subdivision.

38 c. Receiving specialty board certification as approved by any of the
39 following:

40 1. The American Board of Medical Specialties.

41 2. The Bureau of Osteopathic Specialists of American
42 Osteopathic Association.

43 3. The Royal College of Physicians and Surgeons of Canada.

44 4. Any other specialty board recognized pursuant to rules adopted
45 by the Board.

46 d. Submitting to a comprehensive assessment demonstrating clinical
47 competence by a program approved by the Board.

48 Alternatively, the Board may waive the requirements of this subdivision and
49 issue a temporary license and require the applicant to successfully pass the
50 Special Purpose Examination (SPEX) or Post-Licensure Assessment Systems
51 within one year.

1 (5) The applicant has not had a license revoked, suspended, restricted, denied, or
2 otherwise acted against in any jurisdiction and is the subject of no pending
3 investigations. For purposes of this subdivision, the licensing authority's
4 acceptance of a license to practice voluntarily relinquished by a licensee or
5 relinquished by stipulation, consent order, or other settlement in response to or
6 in anticipation of the filing of administrative charges against the licensee's
7 license, or an inactivation or voluntary surrender of a license while under
8 investigation, is deemed to be an action against a license to practice.

9 (6) The applicant does not have any convictions in any court involving moral
10 turpitude, or the violation of a law involving the practice of medicine, or a
11 conviction of a law substantially equivalent to a felony. The applicant shall submit
12 to, and the Board must receive, a background screening from the country in which
13 they are licensed.

14 (7) The applicant has practiced medicine for at least five years.

15 (8) The applicant is proficient in English.

16 (9) The applicant is legally authorized to work in the United States.

17 (b) The holder of the internationally-trained physician employee license issued under this
18 section shall not practice medicine or surgery outside the confines of the North Carolina hospital
19 or rural medical practice, or its affiliate, by whose employment the holder was qualified to be
20 issued the license pursuant to subdivision (1) of subsection (a) of this section. A person who
21 violates this subsection shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be
22 fined not more than five hundred dollars (\$500.00) for each offense. The Board, at its discretion,
23 may revoke the special license after due notice is given to the holder of the certified physician
24 employee license.

25 (b1) An internationally-trained physician employee license shall become inactive at the
26 time its holder does one or more of the following:

27 (1) Ceases to be employed in a full-time capacity by a North Carolina hospital or
28 medical practice meeting the criteria set forth in subdivision (1) of subsection
29 (a) of this section.

30 (2) Ceases to be employed at a medical practice located in a rural county or who
31 practices without supervision by a physician licensed by the State of North
32 Carolina who is physically practicing on site at the medical practice.

33 (3) Obtains any other license to practice medicine issued by the Board.

34 The Board shall retain jurisdiction over the holder of the inactive license."

35 **SECTION 2.1.(b)** The Board shall adopt rules necessary to issue an
36 internationally-trained physician employee license. The Board may adopt a rule establishing a
37 time limit for the term of an internationally-trained physician employee license.

38 **SECTION 2.1.(c)** Section 2.1(a) of this act becomes effective October 1, 2023.

39 **PART III. OVER-THE-COUNTER HEARING AID MODIFICATIONS**

40 **SECTION 3.1.(a)** G.S. 93D-1 reads as rewritten:

41 "**§ 93D-1. Definitions.**

42 For the purposes of this Chapter:

43 (1) ~~"Board" shall mean the Board.~~ – The North Carolina State Hearing Aid
44 Dealers and Fitters Board.

45 (2) ~~"Fitting and selling hearing aids" shall mean the Fitting and selling hearing~~
46 aids. – The evaluation or measurement of the powers or range of human
47 hearing by means of an audiometer or by other means and the consequent
48 selection or adaptation or sale or rental selection, adaptation, sale, rental,
49 prescription, or order for the use of hearing aids intended to compensate for
50 hearing loss including the making of an impression of the ear.
51

- 1 (3) ~~"Hearing aid" shall mean any~~ Hearing aid. – Any instrument or device
 2 designed for or represented as aiding, improving or compensating for
 3 defective human hearing and any parts, attachments or accessories of such an
 4 instrument or device.
- 5 (4) ~~"Hearing Aid Specialist" shall mean a~~ Hearing Aid Specialist. – A person
 6 licensed by the Board to engage in the activities within the scope of practice
 7 of a hearing aid specialist in North Carolina.
- 8 (4a) Over-the-counter hearing aid. – As defined in 21 C.F.R. § 800.30(b).
- 9 (5) ~~"Registered Sponsor" shall mean a~~ Registered Sponsor. – A person with a
 10 permanent license as an audiologist under Article 22 of Chapter 90 of the
 11 General Statutes who is registered in accordance with G.S. 93D-3(c)(16), or a
 12 licensee of the Board who has been approved as a sponsor of an apprentice."

13 **SECTION 3.1.(b)** G.S. 93D-1.1 reads as rewritten:

14 **"§ 93D-1.1. Hearing aid specialist; scope of practice.**

15 The scope of practice of a hearing aid specialist regulated pursuant to this Chapter shall
 16 include the following activities:

- 17 (1) ~~Fitting~~ Prescribing, or ordering the use of, or fitting and selling hearing aids.
 18 (2) Eliciting patient histories.
 19 (3) Performing hearing evaluations.
 20 (4) Administering and interpreting tests of human hearing.
 21 (5) Referring, as appropriate, for cochlear implant evaluation or other clinical,
 22 rehabilitative, or medical intervention.
 23 (6) Determining candidacy for hearing aids, tinnitus management devices, and
 24 other assistive listening devices.
 25 (7) Providing hearing aid, tinnitus management device, and assistive device
 26 recommendations and selection.
 27 (8) Performing hearing aid fittings, programming, and adjustments.
 28 (9) Assessing hearing aid efficacy utilizing appropriate fitting verification
 29 methodology.
 30 (10) Performing hearing aid repairs.
 31 (11) Administering cerumen management in the course of examining ears.
 32 (12) Making ear impressions, and preparing, designing, and modifying ear molds.
 33 (13) Providing counseling and rehabilitation services related to hearing aids.
 34 (14) Providing supervision and in-service training for apprentices in fitting and
 35 selling hearing aids.
 36 (15), (16) Repealed by Session Laws 2014-115, s. 42.3(a), effective August 11,
 37 2014."

38 **SECTION 3.1.(c)** G.S. 93D-2 reads as rewritten:

39 **"§ 93D-2. Practice without license unlawful.**

40 It shall be unlawful for any person to engage in any activity within the scope of practice of a
 41 hearing aid specialist, unless the person has first obtained a license from the North Carolina State
 42 Hearing Aid Dealers and Fitters Board, is an apprentice working under the supervision of a
 43 Registered Sponsor, or is otherwise authorized by law to engage in the activity within the scope
 44 of practice of another regulated profession. The provisions of this Chapter do not apply to the
 45 selling of over-the-counter hearing aids as defined in this Article."

46
 47 **PART IV. BEHAVIOR ANALYST CREDENTIALING MODIFICATION**

48 **SECTION 4.1.(a)** G.S. 90-732 reads as rewritten:

49 **"§ 90-732. Definitions.**

50 The following definitions apply in this Article:

- 1 (1) Behavior analysis. – The design, implementation, and evaluation of
 2 systematic instructional and environmental modifications to produce
 3 significant personal or interpersonal improvements in human behavior.
 4 (2) Behavior technician. – A paraprofessional who delivers applied behavior
 5 analysis services and who practices under the close, ongoing supervision of a
 6 licensed behavior analyst, licensed assistant behavior analyst, or other
 7 professional licensed under this Chapter or Chapter 90B of the General
 8 Statutes, so long as the services of the licensed professional are within the
 9 scope of practice of the license possessed by that licensed professional, and
 10 the services performed are commensurate with the licensed professional's
 11 education, training, and experience. The behavior technician does not design
 12 assessment or intervention plans or procedures but delivers services as
 13 assigned by a supervisor who is responsible for the behavior technician's
 14 work.
 15 (3) Board. – The North Carolina Behavior Analyst Board.
 16 (4) Certifying entity. – The nationally accredited Behavior Analyst Certification
 17 Board, Inc., or its ~~successor~~-successor, or the nationally accredited Qualified
 18 Applied Behavior Analysis Credentialing Board, or its successor.
 19"

21 PART V. MODIFICATIONS TO OPTOMETRY LAWS

22 SECTION 5.1.(a) G.S. 90-118.10 reads as rewritten:

23 "§ 90-118.10. Annual renewal of licenses.

24 Since the laws of North Carolina now in force provided for the annual renewal of any license
 25 issued by the North Carolina State Board of Examiners in Optometry, it is hereby declared to be
 26 the policy of this State that all ~~licenses~~-licenses, primary and branch, heretofore issued by the
 27 North Carolina State Board of Examiners in Optometry, or hereafter issued by said Board are
 28 subject to annual renewal and the exercise of any privilege granted by any license heretofore
 29 issued or hereafter issued by the North Carolina State Board of Examiners in Optometry is subject
 30 to the issuance on or before ~~the first day of January~~-December 31 of each year of a certificate of
 31 renewal of license.

32 On or before ~~the first day of January~~-December 31 of each year, each optometrist engaged in
 33 the practice of optometry in North Carolina shall make application to the North Carolina State
 34 Board of Examiners in Optometry and receive from said Board, subject to the further provisions
 35 of this section and of this Article, a certificate of renewal of said license.

36 The application shall show the serial number of the applicant's license, his or her full name,
 37 ~~address~~-the address, including the street and the county-county, in which he or she has practiced
 38 during the preceding year, the date of the original issuance of license to said applicant and such
 39 other information as the said Board from time to time may prescribe by regulation.

40 If the application for such renewal certificate, accompanied by the fee required by this Article,
 41 is not received by the Board before ~~January 31~~-January 1 of each year, an additional fee of fifty
 42 dollars (\$50.00) shall be charged for renewal certificate. If such application accompanied by the
 43 renewal fee is not received by the Board before ~~March 31~~-January 31 of each year, every person
 44 thereafter continuing to practice optometry without having applied for a certificate of renewal
 45 shall be guilty of the unauthorized practice of optometry and shall be subject to the penalties
 46 prescribed by G.S. 90-118.11. If the inactive license is not appropriately renewed by December
 47 31 of that year, that license will expire and will not be eligible for renewal.

48 In issuing a certificate of renewal, the Board shall expressly state whether such person,
 49 otherwise licensed in the practice of optometry, has been certified to prescribe and use
 50 pharmaceutical agents."

51 SECTION 5.1.(b) G.S. 90-123 reads as rewritten:

"§ 90-123. Fees.

In order to provide the means of carrying out and enforcing the provisions of this Article and the duties of devolving upon the North Carolina State Board of Examiners in Optometry, the Board is authorized to charge and collect the following fees:

- (1) Each application for general optometry ~~examination~~license ~~\$800.00~~\$1,000
- (2) Each general optometry license renewal, which fee shall be annually fixed by the Board, and not later than December 15 of each year written notice of the amount of the renewal fee shall be given to each optometrist licensed to practice in this State by mailing the notice to the last address of record with the Board of each such optometrist..... ~~300.00~~500.00
- (2a) Each provisional license..... 300.00
- (2b) Each renewal of a provisional license 100.00
- (3) ~~Each certificate of license to a resident optometrist desiring to change to another state or territory.....~~ 300.00
- (4) ~~Each license issued to a practitioner of another state or territory to practice in this State.....~~ 350.00
- (5) ~~Each license to resume practice issued to an optometrist who has retired from the practice of optometry or who has removed from and returned to this State.....~~ 350.00
- (6) Each application for registration as an optometric assistant or renewal thereof 100.00
- (7) Each application for registration as an optometric technician or renewal thereof 100.00
- (8) ~~Each duplicate license or application for a branch office license or renewal thereof for each branch office~~ 100.00, 200.00."

SECTION 5.1.(c) G.S. 90-121.2 reads as rewritten:

"§ 90-121.2. Rules and regulations; discipline, suspension, revocation and regrant of certificate.

(a) The Board shall have the power to make, adopt, and promulgate such rules and regulations, including rules of ethics, as may be necessary and proper for the regulation of the practice of the profession of optometry and for the performance of its duties. The Board shall have jurisdiction and power to hear and determine all complaints, allegations, charges of malpractice, corrupt or unprofessional conduct, and of the violation of the rules and regulations, including rules of ethics, made against any optometrist licensed to practice in North Carolina. The Board shall also have the power and authority to: (i) refuse to issue a license to practice optometry; (ii) refuse to issue a certificate of renewal of a license to practice optometry; (iii) revoke or suspend a license to practice optometry; and (iv) invoke such other disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper; in any instance or instances in which the Board is satisfied that such applicant or ~~licensee~~licensee meets any of the following criteria:

- ...
- (7) ~~Is mentally, emotionally, or physically unfit to practice optometry or is afflicted with such a physical or mental disability as to be deemed dangerous to the health and welfare of his patients. An adjudication of mental incompetency in a court of competent jurisdiction or a determination thereof by other lawful means shall be conclusive proof of unfitness to practice optometry unless or until such person shall have been subsequently lawfully declared to be mentally competent;~~
- (7a) Is unable to practice optometry with reasonable skill and safety by reason of abuse of alcohol, drugs, chemicals, or any other type of substance, or by

1 reason of any physical or mental illness, abnormality, or other limiting
 2 condition;

3 ...

4 (a1) The Board may, in its discretion, order an applicant or licensee to submit to a mental
 5 or physical examination by physicians or physician assistants, or other appropriate licensed
 6 health care providers, designated by the Board during the pendency of the licensing application,
 7 or before or after charges may be presented against the applicant or licensee. The results of the
 8 examination shall be admissible in evidence in a hearing before the Board in accordance with the
 9 provisions of this Article. An adjudication of mental incompetency in any court of competent
 10 jurisdiction or a determination of mental incompetency by other lawful means shall be conclusive
 11 proof of unfitness to practice optometry, unless or until that applicant or licensee is subsequently
 12 lawfully declared mentally competent. An adjudication or determination of mental incompetency
 13 shall constitute good cause for the issuance of an order by the Board that the licensee immediately
 14 cease practice and surrender their license to the Board. Failure to comply with an order under
 15 this subsection may be considered unprofessional conduct.

16 (a2) In addition to and in conjunction with the actions described above, in subsections (a)
 17 and (a1) of this section, the Board may make a finding adverse to a licensee or applicant but
 18 withhold imposition of judgment and penalty or it may impose judgment and penalty but suspend
 19 enforcement thereof and place the licensee on probation, which probation may be vacated upon
 20 noncompliance with such reasonable terms as the Board may impose. The Board may administer
 21 a public or private reprimand or a private letter of concern, and the private reprimand and private
 22 letter of concern shall not require a hearing in accordance with G.S. 90-121.3 and shall not be
 23 disclosed to any person except the licensee. The Board may require a licensee to: (i) make
 24 specific redress or monetary redress; (ii) provide free public or charity service; (iii) complete
 25 educational, remedial training, or treatment programs; (iv) pay a fine; and (v) reimburse the
 26 Board for disciplinary costs.

27"

28 **SECTION 5.1.(d) G.S. 90-121.6 reads as rewritten:**

29 **"§ 90-121.6. ~~Reporting and publication of~~ Duty to report judgments, awards, payments,**
 30 **and settlements.**

31 (a) All optometrists licensed or applying for licensure by the Board shall report to the
 32 Board:Board within 30 days of the occurrence of any of the following:

- 33 (1) All medical malpractice judgments or awards affecting or involving the
 34 optometrist.
- 35 (2) All settlements in the amount of seventy-five thousand dollars (\$75,000) or
 36 more related to an incident of alleged medical malpractice affecting or
 37 involving the optometrist where the settlement occurred on or after May 1,
 38 2008.
- 39 (3) All settlements in the aggregate amount of seventy-five thousand dollars
 40 (\$75,000) or more related to any one incident of alleged medical malpractice
 41 affecting or involving the optometrist not already reported pursuant to
 42 subdivision (2) of this subsection where, instead of a single payment of
 43 seventy-five thousand dollars (\$75,000) or more occurring on or after May 1,
 44 2008, there is a series of payments made to the same claimant which, in the
 45 aggregate, equal or exceed seventy-five thousand dollars (\$75,000).

46 ...

47 (d1) Reports under this section shall be made to the Board by one of the following
 48 methods:

- 49 (1) Certified mail and obtaining a delivery receipt.
- 50 (2) A designated delivery service authorized by G.S. 1A-1, Rule 4(j), and
 51 obtaining a delivery receipt.

1 (3) Emailing the Board at their public email address found on the Board's website
2 and confirming receipt by the Board via return email.

3 (d2) Failure to report under this section shall constitute unprofessional conduct and shall
4 be grounds for discipline under G.S. 90-121.2.

5 (e) Nothing in this section shall limit the Board from collecting information needed to
6 administer this Article."

7 **SECTION 5.1.(e)** Article 6 of Chapter 90 of the General Statutes is amended by
8 adding a new section to read:

9 **"§ 90-121.7. Duty to report certain other acts or events.**

10 (a) Every licensee has a duty to report to the Board any incidents that the licensee
11 reasonably believes to have occurred involving any of the following, within 30 days of learning
12 about the incident:

13 (1) Sexual misconduct of any person licensed by the Board under this Article with
14 a patient. Patient consent or initiation of acts or contact by a patient shall not
15 constitute affirmative defenses to sexual misconduct. For purposes of this
16 subdivision, the term "sexual misconduct" means vaginal intercourse or any
17 sexual act or sexual contact or touching as described in G.S. 14-17.20. Sexual
18 misconduct shall not include any act or contact that is for an accepted medical
19 purpose.

20 (2) Fraudulent prescribing, drug diversion, or theft of any controlled substances
21 by another person licensed by the Board under this Article. For purposes of
22 this subdivision, the term "drug diversion" means transferring controlled
23 substances or prescriptions for controlled substances to any of the following:

24 a. The licensee for personal use.

25 b. The licensee's immediate family member, including a spouse, parent,
26 child, sibling, and any stepfamily member or in-law coextensive with
27 the preceding identified relatives.

28 c. Any other person living in the same residence as the licensee.

29 d. Any person with whom the licensee is having a sexual relationship.

30 e. Any individual unless for a legitimate medical purpose by an
31 individual practitioner acting in the usual course of his professional
32 practice.

33 (b) For persons issued a license to practice by the Board under this Article, failure to
34 report under this section shall constitute unprofessional conduct and shall be grounds for
35 discipline under G.S. 90-121.2.

36 (c) Any person who reports under this section in good faith and without fraud or malice
37 shall be immune from civil liability. Reports made in bad faith, fraudulently, or maliciously shall
38 constitute unprofessional conduct and shall be grounds for discipline under G.S. 90-121.2.

39 (d) Reports under this section shall be made to the Board by one of the following
40 methods:

41 (1) Certified mail and obtaining a delivery receipt.

42 (2) A designated delivery service authorized by G.S. 1A-1, Rule 4(j), and
43 obtaining a delivery receipt.

44 (3) Emailing the Board at their public email address found on the Board's website
45 and confirming receipt by the Board via return email."

46 **SECTION 5.1.(f)** G.S. 90-127.3 reads as rewritten:

47 **"§ 90-127.3. Copy of prescription furnished on request.**

48 All persons licensed or registered under this Chapter shall upon request give each patient
49 having received an eye examination a copy of ~~his~~ the patient's ~~spectacle prescription.~~
50 prescription, consistent with Federal Trade Commission rules and guidelines. No person, firm or
51 corporation licensed or registered under Article 17 of this Chapter shall fill a prescription or

1 dispense lenses, other than spectacle lenses, unless the prescription specifically states on its face
 2 that the prescriber intends it to be for contact lenses and includes the type and specifications of
 3 the contact lenses being prescribed. The prescriber shall state the expiration date on the face of
 4 every prescription, and the expiration date shall be no earlier than 365 days after the examination
 5 date.

6 Any person, firm or corporation that dispenses contact lenses on the prescription of a
 7 practitioner licensed under Articles 1 or 6 of this Chapter shall, at the time of delivery of the
 8 lenses, inform the recipient both orally and in writing that ~~he~~ the recipient return to the prescriber
 9 for insertion of the lens, instruction on lens insertion and care, and to ascertain the accuracy and
 10 suitability of the prescribed lens. The statement shall also state that if the recipient does not return
 11 to the prescriber after delivery of the lens for the purposes stated above, the prescriber shall not
 12 be responsible for any damages or injury resulting from the prescribed lens, except that this
 13 sentence does not apply if the dispenser and the prescriber are the same person.

14 Prescriptions filled pursuant to this section shall be kept on file by the prescriber and the
 15 person filling the prescription for at least 24 months after the prescription is filled."

16 **SECTION 5.1.(g)** Article 6 of Chapter 90 of the General Statutes is amended by
 17 adding a new section to read:

18 **"§ 90-127.4. Dispensing optometrists.**

19 (a) An optometrist shall register under this section and with the North Carolina Board of
 20 Pharmacy to dispense certain drugs. A registered dispensing optometrist shall not compound
 21 medications or dispense controlled substances. A registered dispensing optometrist shall only
 22 dispense legend or prescription drugs to their own patients.

23 (b) In order to dispense certain drugs consistent with this section, the dispensing
 24 optometrist shall pay the dispensing fee to the North Carolina Board of Pharmacy as set forth in
 25 G.S. 90-85.24 and comply with the dispensing registration process as set forth in G.S. 90-85.26B.
 26 The optometrist shall register with both the North Carolina Board of Pharmacy and the Board
 27 and comply with all rules governing dispensing of drugs in accordance with this section.

28 (c) Drugs dispensed under this section shall only be for the diagnosis and treatment of
 29 abnormal conditions of the eye and its adnexa."

30 **SECTION 5.2.(a)** Article 4A of Chapter 90 of the General Statutes is amended by
 31 adding a new section to read:

32 **"§ 90-85.26B. Registration of dispensing optometrists.**

33 Each dispensing optometrist who dispenses prescription drugs, for a fee or other charge, shall
 34 annually register with the Board on the form provided by the Board and with the licensing board
 35 having jurisdiction over the dispensing optometrist. Such dispensing shall comply in all respects
 36 with the relevant laws and regulations that apply to pharmacists governing the distribution of
 37 drugs, including packaging, labeling, and record keeping. Authority and responsibility for
 38 disciplining dispensing optometrists who fail to comply with the provisions of this section are
 39 vested in the licensing board having jurisdiction over the dispensing optometrist."

40 **SECTION 5.2.(b)** G.S. 90-85.24 reads as rewritten:

41 **"§ 90-85.24. Fees collectible by Board.**

42 (a) The Board of Pharmacy shall be entitled to charge and collect not more than the
 43 following fees:

44 ...

45 (9) For annual registration as a dispensing physician under G.S. 90-85.21(b),
 46 seventy-five dollars (\$75.00);

47 (10) For reinstatement of registration as a dispensing physician, seventy-five
 48 dollars (\$75.00);

49 ...

50 (19) For reinstatement of a registration to dispense devices, deliver medical
 51 equipment, or both, two hundred dollars (~~\$200.00~~);(\$200.00);

1 (20) For annual registration as a dispensing optometrist under G.S. 90-127.4,
2 seventy-five dollars (\$75.00);

3 (21) For reinstatement of registration as a dispensing optometrist under
4 G.S. 90-127.4, seventy-five dollars (\$75.00).

5 "

6 **SECTION 5.3.** The North Carolina State Board of Examiners in Optometry and the
7 North Carolina Board of Pharmacy shall adopt rules to implement the provisions of this Part.

8 **SECTION 5.4.** Section 5.3 of this Part is effective when it becomes law. The
9 remainder of this Part becomes effective October 1, 2023.

10 11 **PART VII. DEVELOP PLAN TO TRANSITION THE NURSE AIDE I EDUCATION** 12 **AND TRAINING PROGRAM TO THE BOARD OF NURSING**

13 **SECTION 7.1.(a)** The North Carolina Board of Nursing and the North Carolina
14 Department of Health and Human Services, Division of Health Service Regulation, shall develop
15 a plan to relocate the Nurse Aide I education and training program to the Board of Nursing. The
16 relocation plan shall ensure a seamless transition and ensure the program continues to meet
17 federal requirements. This transfer will allow the Board of Nursing to provide oversight of all
18 nurse aide programs, regardless of nurse aide title, as individuals in these positions collaborate
19 with nurses and other health care providers to deliver care across all health care settings.

20 **SECTION 7.1.(b)** The Department of Health and Human Services shall continue to
21 maintain the registries as required by Article 15 of Chapter 131E of the General Statutes.

22 **SECTION 7.1.(c)** On or before February 1, 2024, the Department of Health and
23 Human Services and the Board of Nursing shall provide a report to the Joint Legislative
24 Oversight Committee on Health and Human Services that shall contain a relocation plan, a
25 transition time line, and recommendations for statutory changes necessary to transition the Nurse
26 Aide I education and training program from the Department to the Board of Nursing.

27 28 **PART VIII. PROTECT HEALTH CARE WORKERS FROM VIOLENCE**

29 **SECTION 8.1.(a)** Article 5 of Chapter 131E of the General Statutes is amended by
30 adding a new Part to read:

31 "Part 3A. Hospital Violence Protection Act.

32 **"§ 131E-88. Law enforcement officers required in emergency departments.**

33 (a) As used in this Part, "law enforcement officer" means (i) a sworn law enforcement
34 officer, a special police officer as defined in subdivision (b)(3) of G.S. 74E-6, or a campus police
35 officer as defined in Chapter 74G of the General Statutes who is duly authorized to carry a firearm
36 or (ii) an armed security guard with a valid firearm registration permit issued pursuant to
37 G.S. 74C-13.

38 (b) Each hospital licensed under this Article that has an emergency department shall
39 conduct a security risk assessment and develop a security plan.

40 (c) A hospital with an emergency department that meets the criteria in subdivision (1) of
41 this subsection and determines in accordance with subdivision (2) of this subsection that a
42 different level of security is necessary and appropriate is not required to have at least one law
43 enforcement officer present in the emergency department or on the hospital campus at all times
44 as part of its security plan.

45 (1) The hospital is not an academic medical center teaching hospital, as defined
46 by the State Medical Facilities Plan, and the hospital is located in a county
47 with less than 300,000 residents based on the 2020 census.

48 (2) The hospital in good faith determines that a different level of security is
49 necessary and appropriate for any of its emergency departments based upon
50 findings in the security risk assessment required under subsection (b) of this
51 section.

1 (d) A hospital with an emergency department that meets the criteria of subdivision (c)(1)
2 of this section and determines in accordance with subdivision (c)(2) of this section that a different
3 level of security is necessary and appropriate based on the security risk assessment required by
4 subsection (b) of this section shall develop a security plan and shall allow the Department of
5 Health and Human Services access to the security risk assessment and the security plan. The
6 hospital shall allow the following entities access to the security plan and notify these entities of
7 the hospital's determination that at least one law enforcement officer is not required to be present
8 in the emergency department or on the hospital campus at all times:

9 (1) County emergency management director.

10 (2) County sheriff.

11 (3) Municipal police chief, if applicable.

12 (e) A hospital with an emergency department that does not meet the criteria in
13 subdivision (c)(1) of this section shall use the results of the security assessment in subsection (b)
14 of this section to develop and implement a security plan with protocols to ensure that at least one
15 law enforcement officer is present at all times in the emergency department or on the same
16 campus as the emergency department. The hospital shall allow the Department of Health and
17 Human Services access to the security risk assessment and the security plan. The security plan
18 required by this subsection shall include all of the following components:

19 (1) Training for law enforcement officers employed by the hospital that is
20 appropriate for the populations served by the emergency department.

21 (2) Training for law enforcement officers employed by the hospital that is based
22 on a trauma-informed approach to identifying and safely addressing situations
23 involving patients, family members, or other persons who pose a risk of harm
24 to themselves or others due to mental illness or substance use disorder or who
25 are experiencing a mental health crisis.

26 (3) Safety protocols based on all of the following:

27 a. Standards established by a nationally recognized organization
28 approved by the Department that has experience educating and
29 certifying professionals involved in managing and directing security
30 and safety programs in health care facilities.

31 b. The results of a security risk assessment of the emergency department.

32 c. Risks for the emergency department identified in consultation with the
33 emergency department's medical director and nurse leadership, law
34 enforcement officers employed by the hospital, and a local law
35 enforcement representative. These identified risks shall take into
36 consideration the hospital's trauma level designation, overall patient
37 volume, volume of psychiatric and forensic patients, incidents of
38 violence against staff and level of injuries sustained from such
39 violence, and prevalence of crime in the community.

40 (4) Safety protocols that include the presence of at least one law enforcement
41 officer in the emergency department, or on the same campus as the emergency
42 department, at all times.

43 (5) Training requirements for law enforcement officers employed by the hospital
44 in the potential use of and response to weapons, defensive tactics,
45 de-escalation techniques, appropriate patient intervention activities, crisis
46 intervention, and trauma-informed approaches.

47 (f) The Department shall have access to all security plans for hospitals with an
48 emergency department and shall maintain a list of those hospitals with a security plan developed
49 in accordance with this section.

1 (g) Every hospital with an emergency department shall provide appropriate hospital
2 workplace violence prevention program training, education, and resources to staff, practitioners,
3 and non-law enforcement officer security personnel.

4 (h) The following are not public records as defined by Chapter 132 of the General
5 Statutes:

6 (1) A hospital security risk assessment, regardless of who has custody of the
7 security risk assessment.

8 (2) A hospital security plan, regardless of who has custody of the security plan.

9 **"§ 131E-88.2. Reports.**

10 (a) Annually by September 1, the Department of Health and Human Services, Division
11 of Health Service Regulation, shall collect the following data from hospitals for the preceding
12 calendar year: (i) the number of assaults occurring in the hospital or on hospital grounds that
13 required the involvement of law enforcement, whether the assaults involved hospital personnel,
14 and how those assaults were pursued by the hospital and processed by the judicial system, (ii)
15 the number and impact of incidences where patient behavioral health and substance use issues
16 resulted in violence in the hospital and the number that occurred specifically in the emergency
17 department, and (iii) the number of workplace violence incidences occurring at the hospital that
18 were reported as required by accrediting agencies, the Occupational Safety and Health
19 Administration, and other entities.

20 (b) The Department of Health and Human Services shall examine data from those
21 hospitals with emergency departments that developed security plans under G.S. 131E-88.

22 (c) The Department of Health and Human Services shall compile the information
23 required by subsections (a) and (b) of this section, including any recommendations to decrease
24 the incidences of violence in hospitals and to decrease assaults on hospital personnel, and report
25 to the Joint Legislative Oversight Committee on Health and Human Services annually by
26 December 1."

27 **SECTION 8.1.(b)** Article 5 of Chapter 131E of the General Statutes, as amended by
28 this section, is further amended to add the following section to read:

29 **"§ 131E-88.3. Report by the Administrative Office of the Courts.**

30 (a) Annually by September 1, the Administrative Office of the Courts shall report to the
31 Department of Health and Human Services, Division of Health Service Regulation, the number
32 of persons charged and convicted during the preceding calendar year of a crime under
33 G.S. 14-34.6.

34 (b) The Department shall include the information provided in subsection (a) of this
35 section in the report required by G.S. 131E-88.2(c)."

36 **SECTION 8.1.(c)** Section 8.1(b) of this act is effective October 1, 2024, and the first
37 report is due October 1, 2025. Section 8.1(b) of this act expires October 30, 2030.

38 **SECTION 8.1.(d)** By October 1, 2023, the Department of Health and Human
39 Services shall notify all hospitals licensed under Article 5 of Chapter 131E of the General Statutes
40 about the requirements of Part 3A of Article 5 of Chapter 131E of the General Statutes, including
41 the reporting requirements required by G.S. 131E-88.2(a), as enacted by this section.

42 **SECTION 8.1.(e)** The first reports under G.S. 131E-88.2(a) and (b), as enacted by
43 this section, are due on or before September 1, 2025. The first report required by
44 G.S. 131E-88.2(c), as enacted by this section, is due on or before December 1, 2025.

45 **SECTION 8.1.(f)** Section 8.1(d) of this act is effective when it becomes law. The
46 remainder of this section becomes effective October 1, 2024.

47 **SECTION 8.2.(a)** G.S. 95-260 reads as rewritten:

48 **"§ 95-260. Definitions.**

49 The following definitions apply in this Article:

50 (1) Civil no-contact order. – An order granted under this Article, which includes
51 a remedy authorized by G.S. 95-264.

- 1 (2) Employer. – Any person or entity that employs one or more employees.
2 Employer also includes the State of North Carolina and its political
3 subdivisions.
- 4 (2a) Hospital. – As defined in G.S. 131E-76.
- 5 (3) Unlawful conduct. – Unlawful conduct means the commission of one or more
6 of the following acts upon an employee, but does not include acts of
7 self-defense or defense of others:
- 8 a. Attempting to cause bodily injury or intentionally causing bodily
9 injury.
- 10 b. Willfully, and on more than one occasion, following, being in the
11 presence of, or otherwise harassing, as defined in G.S. 14-277.3A,
12 without legal purpose and with the intent to place the employee in
13 reasonable fear for the employee's safety.
- 14 c. Willfully threatening, orally, in writing, or by any other means, to
15 physically injure the employee in a manner and under circumstances
16 that would cause a reasonable person to believe that the threat is likely
17 to be carried out and that actually causes the employee to believe that
18 the threat will be carried out."

19 **SECTION 8.2.(b)** G.S. 95-269 reads as rewritten:

20 **"§ 95-269. Violation of valid order.**

21 AExcept as provided in G.S. 95-269A, a violation of an order entered pursuant to this Article
22 is punishable as contempt of court."

23 **SECTION 8.2.(c)** Article 23 of Chapter 95 of the General Statutes is amended by
24 adding a new section to read:

25 **"§ 95-269A. Violation of order issued upon request of a hospital.**

26 (a) Except as provided in subsection (h) of this section or as otherwise provided by law,
27 a person who knowingly violates a valid protective order issued upon the request of a hospital
28 pursuant to this Article shall be guilty of a Class A1 misdemeanor.

29 (b) A law enforcement officer shall arrest and take a person into custody, with or without
30 a warrant or other process, if the officer has probable cause to believe that the person knowingly
31 has violated a valid protective order issued upon the request of a hospital pursuant to this Article.

32 (c) Unless covered under some other provision of law providing greater punishment, a
33 person who commits a felony at a time when the person knows the behavior is prohibited by a
34 valid protective order as provided in subsection (a) of this section shall be guilty of a felony one
35 class higher than the principal felony described in the charging document. This subsection shall
36 not apply to convictions of a Class A or B1 felony or to convictions of the offenses set forth in
37 subsection (e) or subsection (f) of this section.

38 (d) An indictment or information that charges a person with committing felonious
39 conduct as described in subsection (c) of this section shall also allege that the person knowingly
40 violated a valid protective order as described in subsection (a) of this section in the course of the
41 conduct constituting the underlying felony. In order for a person to be punished as described in
42 subsection (c) of this section, a finding shall be made that the person knowingly violated the
43 protective order in the course of conduct constituting the underlying felony.

44 (e) Unless covered under some other provision of law providing greater punishment, any
45 person who knowingly violates a valid protective order as provided in subsection (a) of this
46 section, after having been previously convicted of two offenses under this Article, shall be guilty
47 of a Class H felony.

48 (f) Unless covered under some other provision of law providing greater punishment, any
49 person who, while in possession of a deadly weapon on or about his or her person or within close
50 proximity to his or her person, knowingly violates a valid protective order as provided in

1 subsection (a) of this section by failing to stay away from a place, or a person, as so directed
2 under the terms of the order, shall be guilty of a Class H felony.

3 (g) For the purposes of this section, the term "valid protective order" shall include an
4 emergency or ex parte order entered under this Article.

5 (h) It shall not be a violation of a protective order issued upon the request of a hospital
6 pursuant to this Article for any person subject to the protective order to enter that hospital seeking
7 treatment for an emergency medical condition, as defined in 42 U.S.C. § 1395dd(e)(1)."

8 **SECTION 8.2.(d)** This section becomes effective December 1, 2023, and applies to
9 offenses committed on or after that date.

10 **SECTION 8.3.(a)** G.S. 14-34.6 reads as rewritten:

11 "**§ 14-34.6. Assault or affray on a firefighter, an emergency medical technician, medical
12 responder, and hospital personnel.**

13 (a) A person is guilty of a Class I felony if the person commits an assault or affray causing
14 physical injury on any of the following persons who are discharging or attempting to discharge
15 their official duties:

16 (1) An emergency medical technician or other emergency health care provider.

17 (2) A medical responder.

18 (3) ~~Hospital personnel and employee, licensed healthcare health care providers
19 who are providing or attempting to provide health care services to a
20 patient-provider, or individual under contract to provide services at a hospital.~~

21 (4) Repealed by Session Laws 2011-356, s. 2, effective December 1, 2011, and
22 applicable to offenses committed on or after that date.

23 (5) A firefighter.

24 (6) Hospital security personnel.

25 (b) Unless a person's conduct is covered under some other provision of law providing
26 greater punishment, a person is guilty of a Class ~~G-F~~ felony if the person violates subsection (a)
27 of this section and (i) inflicts serious bodily injury or (ii) uses a deadly weapon other than a
28 firearm.

29 (c) Unless a person's conduct is covered under some other provision of law providing
30 greater punishment, a person is guilty of a Class ~~E-D~~ felony if the person violates subsection (a)
31 of this section and uses a firearm."

32 **SECTION 8.3.(b)** G.S. 14-16.6(c) reads as rewritten:

33 "(c) Any person who commits an offense under subsection (a) and inflicts serious bodily
34 injury to any legislative officer, executive officer, or court officer, shall be punished as a Class ~~F~~
35 E felon."

36 **SECTION 8.3.(c)** G.S. 14-16.10(1) reads as rewritten:

37 "(1) Court officer. – Magistrate, clerk of superior court, acting clerk, assistant or
38 deputy clerk, judge, or justice of the General Court of Justice; district attorney,
39 assistant district attorney, or any other attorney designated by the district
40 attorney to act for the State or on behalf of the district attorney; public
41 defender or assistant defender; court reporter; juvenile court counselor as
42 defined in G.S. 7B-1501(18a); any attorney or other individual employed ~~by~~
43 by, contracted by, or acting on behalf of ~~the a county department of social~~
44 services in proceedings pursuant to Subchapter I of Chapter 7B of the General
45 Statutes; services, as defined in G.S. 108A-24; any attorney or other
46 individual appointed pursuant to G.S. 7B-601 or G.S. 7B-1108 or employed
47 by the Guardian ad Litem Services Division of the Administrative Office of
48 the Courts."

49 **SECTION 8.3.(d)** This section becomes effective December 1, 2023, and applies to
50 offenses committed on or after that date.

51 **SECTION 8.4.(a)** G.S. 15A-1340.16 reads as rewritten:

1 **"§ 15A-1340.16. Aggravated and mitigated sentences.**

2 (a) Generally, Burden of Proof. – The court shall consider evidence of aggravating or
3 mitigating factors present in the offense that make an aggravated or mitigated sentence
4 appropriate, but the decision to depart from the presumptive range is in the discretion of the court.
5 The State bears the burden of proving beyond a reasonable doubt that an aggravating factor exists,
6 and the offender bears the burden of proving by a preponderance of the evidence that a mitigating
7 factor exists.

8 ...

9 (d) Aggravating Factors. – The following are aggravating factors:

- 10 (1) The defendant induced others to participate in the commission of the offense
11 or occupied a position of leadership or dominance of other participants.
- 12 (2) The defendant joined with more than one other person in committing the
13 offense and was not charged with committing a conspiracy.
- 14 (2a) The offense was committed for the benefit of, or at the direction of, any
15 criminal gang as defined by G.S. 14-50.16A(1), with the specific intent to
16 promote, further, or assist in any criminal conduct by gang members, and the
17 defendant was not charged with committing a conspiracy.
- 18 (3) The offense was committed for the purpose of avoiding or preventing a lawful
19 arrest or effecting an escape from custody.
- 20 (4) The defendant was hired or paid to commit the offense.
- 21 (5) The offense was committed to disrupt or hinder the lawful exercise of any
22 governmental function or the enforcement of laws.
- 23 (6) The offense was committed against or proximately caused serious injury to a
24 present or former law enforcement officer, employee of the Department of
25 Public Safety or the Department of Adult Correction, jailer, fireman,
26 emergency medical technician, ambulance attendant, social worker, justice or
27 judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror,
28 or witness against the defendant, while engaged in the performance of that
29 person's official duties or because of the exercise of that person's official
30 duties.
- 31 (6a) The offense was committed against or proximately caused serious harm as
32 defined in G.S. 14-163.1 or death to a law enforcement agency animal, an
33 assistance animal, or a search and rescue animal as defined in G.S. 14-163.1,
34 while engaged in the performance of the animal's official duties.
- 35 (7) The offense was especially heinous, atrocious, or cruel.
- 36 (8) The defendant knowingly created a great risk of death to more than one person
37 by means of a weapon or device which would normally be hazardous to the
38 lives of more than one person.
- 39 (9) The defendant held public elected or appointed office or public employment
40 at the time of the offense and the offense directly related to the conduct of the
41 office or employment.
- 42 (9a) The defendant is a firefighter or rescue squad worker, and the offense is
43 directly related to service as a firefighter or rescue squad worker.
- 44 (10) The defendant was armed with or used a deadly weapon at the time of the
45 crime.
- 46 (10a) The defendant committed the offense on the property of a hospital as defined
47 in G.S. 131E-76.
- 48 (11) The victim was very young, or very old, or mentally or physically infirm, or
49 handicapped.
- 50 (12) The defendant committed the offense while on pretrial release on another
51 charge.

- 1 (12a) The defendant has, during the 10-year period prior to the commission of the
2 offense for which the defendant is being sentenced, been found by a court of
3 this State to be in willful violation of the conditions of probation imposed
4 pursuant to a suspended sentence or been found by the Post-Release
5 Supervision and Parole Commission to be in willful violation of a condition
6 of parole or post-release supervision imposed pursuant to release from
7 incarceration.
- 8 (13) The defendant involved a person under the age of 16 in the commission of the
9 crime.
- 10 (13a) The defendant committed an offense and knew or reasonably should have
11 known that a person under the age of 18 who was not involved in the
12 commission of the offense was in a position to see or hear the offense.
- 13 (14) The offense involved an attempted or actual taking of property of great
14 monetary value or damage causing great monetary loss, or the offense
15 involved an unusually large quantity of contraband.
- 16 (15) The defendant took advantage of a position of trust or confidence, including a
17 domestic relationship, to commit the offense.
- 18 (16) The offense involved the sale or delivery of a controlled substance to a minor.
- 19 (16a) The offense is the manufacture of methamphetamine and was committed
20 where a person under the age of 18 lives, was present, or was otherwise
21 endangered by exposure to the drug, its ingredients, its by-products, or its
22 waste.
- 23 (16b) The offense is the manufacture of methamphetamine and was committed in a
24 dwelling that is one of four or more contiguous dwellings.
- 25 (17) The offense for which the defendant stands convicted was committed against
26 a victim because of the victim's race, color, religion, nationality, or country of
27 origin.
- 28 (18) The defendant does not support the defendant's family.
- 29 (18a) The defendant has previously been adjudicated delinquent for an offense that
30 would be a Class A, B1, B2, C, D, or E felony if committed by an adult.
- 31 (19) The serious injury inflicted upon the victim is permanent and debilitating.
- 32 (19a) The offense is a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12
33 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) and involved
34 multiple victims.
- 35 (19b) The offense is a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12
36 (involuntary servitude), or G.S. 14-43.13 (sexual servitude), and the victim
37 suffered serious injury as a result of the offense.
- 38 (20) Any other aggravating factor reasonably related to the purposes of sentencing.
39 Evidence necessary to prove an element of the offense shall not be used to prove any factor
40 in aggravation, and the same item of evidence shall not be used to prove more than one factor in
41 aggravation. Evidence necessary to establish that an enhanced sentence is required under
42 G.S. 15A-1340.16A may not be used to prove any factor in aggravation.

43 The judge shall not consider as an aggravating factor the fact that the defendant exercised the
44 right to a jury trial.

45 Notwithstanding the provisions of subsection (a1) of this section, the determination that an
46 aggravating factor under G.S. 15A-1340.16(d)(18a) is present in a case shall be made by the
47 court, and not by the jury. That determination shall be made in the sentencing hearing.

48 (e) Mitigating Factors. – The following are mitigating factors:

- 49 (1) The defendant committed the offense under duress, coercion, threat, or
50 compulsion that was insufficient to constitute a defense but significantly
51 reduced the defendant's culpability.

- 1 (2) The defendant was a passive participant or played a minor role in the
- 2 commission of the offense.
- 3 (3) The defendant was suffering from a mental or physical condition that was
- 4 insufficient to constitute a defense but significantly reduced the defendant's
- 5 culpability for the offense.
- 6 (4) The defendant's age, immaturity, or limited mental capacity at the time of
- 7 commission of the offense significantly reduced the defendant's culpability
- 8 for the offense.
- 9 (5) The defendant has made substantial or full restitution to the victim.
- 10 (6) The victim was more than 16 years of age and was a voluntary participant in
- 11 the defendant's conduct or consented to it.
- 12 (7) The defendant aided in the apprehension of another felon or testified truthfully
- 13 on behalf of the prosecution in another prosecution of a felony.
- 14 (8) The defendant acted under strong provocation, or the relationship between the
- 15 defendant and the victim was otherwise extenuating.
- 16 (9) The defendant could not reasonably foresee that the defendant's conduct
- 17 would cause or threaten serious bodily harm or fear, or the defendant exercised
- 18 caution to avoid such consequences.
- 19 (10) The defendant reasonably believed that the defendant's conduct was legal.
- 20 (11) Prior to arrest or at an early stage of the criminal process, the defendant
- 21 voluntarily acknowledged wrongdoing in connection with the offense to a law
- 22 enforcement officer.
- 23 (12) The defendant has been a person of good character or has had a good
- 24 reputation in the community in which the defendant lives.
- 25 (13) The defendant is a minor and has reliable supervision available.
- 26 (14) The defendant has been honorably discharged from the Armed Forces of the
- 27 United States.
- 28 (15) The defendant has accepted responsibility for the defendant's criminal
- 29 conduct.
- 30 (16) The defendant has entered and is currently involved in or has successfully
- 31 completed either (i) a drug treatment program, (ii) an alcohol treatment
- 32 program, or (iii) a mental, behavioral, or medical health-related treatment
- 33 program, subsequent to arrest and prior to trial.
- 34 (17) The defendant supports the defendant's family.
- 35 (18) The defendant has a support system in the community.
- 36 (19) The defendant has a positive employment history or is gainfully employed.
- 37 (20) The defendant has a good treatment prognosis, and a workable treatment plan
- 38 is available.
- 39 (21) Any other mitigating factor reasonably related to the purposes of sentences.

40"

41 **SECTION 8.4.(b)** This section becomes effective December 1, 2023, and applies to
 42 offenses committed on or after that date.

43
 44 **PART IX. MODERNIZE AND EXPAND PHYSICIAN-PHARMACIST**
 45 **COLLABORATIVE PRACTICE**

46 **SECTION 9.1.(a)** G.S. 90-18(c)(3a) reads as rewritten:

47 "(3a) The provision of ~~drug therapy management by a licensed pharmacist engaged~~
 48 ~~in the practice of pharmacy pursuant to an agreement that is physician,~~
 49 ~~pharmacist, patient, and disease specific when health care services by a~~
 50 licensed pharmacist under a collaborative practice agreement with one or
 51 more physicians shall be performed in accordance with rules and rules

1 developed by a joint subcommittee of the North Carolina Medical Board and
2 the North Carolina Board of Pharmacy and approved by both Boards. ~~Drug~~
3 ~~therapy management shall be defined as: (i) the implementation of~~
4 ~~predetermined drug therapy which includes diagnosis and product selection~~
5 ~~by the patient's physician; (ii) modification of prescribed drug dosages, dosage~~
6 ~~forms, and dosage schedules; and (iii) ordering tests; (i), (ii), and (iii) shall be~~
7 ~~pursuant to an agreement that is physician, pharmacist, patient, and disease~~
8 ~~specific. For the purposes of this subdivision, "health care services" means~~
9 ~~medical tasks, acts, or functions authorized through a written agreement by a~~
10 ~~physician and delegated to a pharmacist for the purpose of providing drug~~
11 ~~therapy, disease, or population health management for patients."~~

12 **SECTION 9.1.(b)** G.S. 90-18.4 reads as rewritten:

13 **"§ 90-18.4. Limitations on clinical pharmacist practitioners.**

14 (a) Any pharmacist who is approved under the provisions of G.S. 90-18(c)(3a) to perform
15 medical acts, tasks, and functions may use the title "clinical pharmacist practitioner". Any other
16 person who uses the title in any form or holds himself or herself out to be a clinical pharmacist
17 practitioner or to be so licensed shall be deemed to be in violation of this Article.

18 (b) Clinical pharmacist practitioners are authorized ~~to implement predetermined drug~~
19 ~~therapy, which includes diagnosis and product selection by the patient's physician, modify~~
20 ~~prescribed drug dosages, dosage forms, and dosage schedules, and to order laboratory tests~~
21 ~~pursuant to a drug therapy management agreement that is physician, pharmacist, patient, and~~
22 ~~disease specific by physicians to provide health care services in accordance with~~
23 G.S. 90-18(c)(3a) and subsection (e) of this section under the following conditions:

- 24 (1) The North Carolina Medical Board and the North Carolina Board of Pharmacy
25 have adopted rules developed by a joint subcommittee governing the approval
26 of individual clinical pharmacist practitioners to practice ~~drug therapy~~
27 management health care services with such limitations that the Boards
28 determine to be in the best interest of patient health and safety.
- 29 (2) The clinical pharmacist practitioner has current approval from both Boards.
- 30 (3) The North Carolina Medical Board has assigned an identification number to
31 the clinical pharmacist practitioner which is shown on written prescriptions
32 written by the clinical pharmacist practitioner.
- 33 (4) ~~The drug therapy management agreement prohibits the substitution of a~~
34 ~~chemically dissimilar drug product by the pharmacist for the product~~
35 ~~prescribed by the physician without the explicit consent of the physician and~~
36 ~~includes a policy for periodic review by the physician of the drugs modified~~
37 ~~pursuant to the agreement or changed with the consent of the physician.~~

38 (c) ~~Clinical pharmacist practitioners in hospitals and other health facilities that have an~~
39 ~~established pharmacy and therapeutics committee or similar group that determines the~~
40 ~~prescription drug formulary or other list of drugs to be utilized in the facility and determines~~
41 ~~procedures to be followed when considering a drug for inclusion on the formulary and procedures~~
42 ~~to acquire a nonformulary drug for a patient may order medications and tests under the following~~
43 ~~conditions:~~

- 44 (1) ~~The North Carolina Medical Board and the North Carolina Board of Pharmacy~~
45 ~~have adopted rules governing the approval of individual clinical pharmacist~~
46 ~~practitioners to order medications and tests with such limitations as the Boards~~
47 ~~determine to be in the best interest of patient health and safety.~~
- 48 (2) ~~The clinical pharmacist practitioner has current approval from both Boards.~~
- 49 (3) ~~The supervising physician has provided to the clinical pharmacist practitioner~~
50 ~~written instructions for ordering, changing, or substituting drugs, or ordering~~
51 ~~tests with provision for review of the order by the physician within a~~

1 reasonable time, as determined by the Boards, after the medication or tests are
2 ordered.

- 3 (4) ~~The hospital or health facility has adopted a written policy, approved by the~~
4 ~~medical staff after consultation with nursing administrators, concerning the~~
5 ~~ordering of medications and tests, including procedures for verification of the~~
6 ~~clinical pharmacist practitioner's orders by nurses and other facility employees~~
7 ~~and such other procedures that are in the best interest of patient health and~~
8 ~~safety.~~

9 ~~(5)(c1) Any drug therapy order written by a clinical pharmacist practitioner or order for~~
10 ~~medications or tests—medications, tests, or devices shall be deemed to have been authorized by~~
11 ~~the physician approved by the Boards as the supervisor of the clinical pharmacist practitioner and~~
12 ~~the supervising physician shall be responsible for authorizing the prescription order.~~

13 (c2) Institutional and group practices may implement a site-specific, multi-provider
14 collaborative practice agreement for the care of their patients. The institution or group practice
15 must develop a policy for oversight, and the clinical pharmacist practitioners engaged in the
16 agreement must be evaluated by an appointed supervising physician.

17 (d) ~~Any registered nurse or nurse, licensed practical nurse—nurse, or pharmacist who~~
18 ~~receives a drug therapy—therapy, laboratory test, or device order from a clinical pharmacist~~
19 ~~practitioner for medications or tests—is authorized to perform that order in the same manner as if~~
20 ~~the order was received from a licensed physician.~~

21 (e) The following requirements apply to clinical pharmacist practitioners and supervising
22 physicians engaging in collaborative practice:

23 (1) A clinical pharmacist practitioner shall have a site-specific supervising
24 physician.

25 (2) The supervising physician shall conduct periodic review and evaluation of the
26 health care services provided by the clinical pharmacist practitioner.

27 (3) A physician may collaborate with any number of clinical pharmacist
28 practitioners, but, when acting as the supervising physician, they shall
29 supervise as many clinical pharmacist practitioners as the supervising
30 physician deems can be safely and effectively supervised.

31 (4) Health care services delegated by a supervising physician, such as initiating,
32 changing, or discontinuing drugs, or ordering tests or devices, to assist with
33 drug therapy, disease, or population health management, must be included in
34 the written agreement between the supervising physician and the clinical
35 pharmacist practitioner.

36 (5) A supervising physician may include a "statement of authorization" in the
37 written agreement to allow the clinical pharmacist practitioner to conduct drug
38 substitutions within the same therapeutic class or for biosimilar medications
39 based upon the health plan's drug formulary for a patient. The clinical
40 pharmacist practitioner shall document and notify the patient's physician of
41 any substitutions made.

42 (6) Supervising physicians may add other advanced practice providers that they
43 supervise to their collaborative practice agreement with a clinical pharmacist
44 practitioner. The evaluation and supervision of the clinical pharmacist
45 practitioner shall remain with the supervising physician.

46 (f) The health care setting location for the provision of health care services by the clinical
47 pharmacist practitioner may be fully or partially embedded for a site-specific practice. The setting
48 location shall be determined by the supervising physician and included in the site-specific
49 collaborative practice agreement."

50 **SECTION 9.1.(c)** G.S. 90-85.3(b2) reads as rewritten:

1 "(b2) "Clinical pharmacist practitioner" means a licensed pharmacist who meets the
2 guidelines and criteria for such title established by the joint subcommittee of the North Carolina
3 Medical Board and the North Carolina Board of Pharmacy and is authorized to ~~enter into~~ perform
4 medical acts, tasks, and functions for drug therapy—therapy, disease, or population health
5 management agreements with physicians in accordance with the provisions of G.S. 90-18.4."

6 **SECTION 9.2.(a)** Part 7 of Article 50 of Chapter 58 of the General Statutes is
7 amended by adding a new section to read:

8 **"§ 58-50-296. Reimbursement and coverage of services provided by pharmacists.**

9 (a) For the purposes of this section, the following definitions apply:

10 (1) Health care services. – Any of the following health or medical procedures or
11 services rendered by a health care provider:

12 a. Testing, diagnosis, or treatment of a health condition, illness, injury,
13 or disease. This includes testing, diagnosis, or treatment rendered by a
14 pharmacist acting within the pharmacist's scope of practice.

15 b. Dispensing of drugs, medical devices, medical appliances, or medical
16 goods for the treatment of a health condition, illness, injury, or disease.

17 c. Administration of a vaccine or medication.

18 (2) Pharmacist. – An individual licensed to practice pharmacy under Article 4A
19 of Chapter 90 of the General Statutes.

20 (b) Health benefit plans offered by insurers in this State shall cover services provided by
21 a pharmacist if all of the following conditions are met:

22 (1) The service or procedure was performed within the pharmacist's licensed
23 lawful scope of practice.

24 (2) The health benefit plan would have covered the services if the service or
25 procedure had been performed by another health care provider.

26 (c) Insurers offering a health benefit plan in this State that delegates credentialing
27 agreements to contracted health care facilities shall accept credentialing for pharmacists
28 employed or contracted with those facilities.

29 (d) Services Outside Provider Networks. – No insurer shall penalize an insured or subject
30 an insured to the out-of-network benefit levels offered under the insured's approved health benefit
31 plan unless contracting health care providers able to meet health needs of the insured are
32 reasonably available to the insured without unreasonable delay.

33 (e) The participation of a pharmacy in a drug benefit provider network of an insurer
34 offering a health benefit plan in this State shall not satisfy any requirement that insurers offering
35 health benefit plans include pharmacists in medical benefit provider networks.

36 (f) This section shall also apply to the following:

37 (1) Agents of an insurer offering a health benefit plan in this State.

38 (2) Third-party administrators, as defined under G.S. 58-56-2."

39 **SECTION 9.2.(b)** This section becomes effective October 1, 2023, and applies to
40 contracts entered into, renewed, or amended on or after that date.

41 **SECTION 9.3.** The North Carolina Medical Board and the North Carolina Board of
42 Pharmacy shall adopt temporary rules to implement the provisions of Section 9.1 of this act.

43
44 **PART X. EXTEND FLEXIBILITY FOR AMBULANCE TRANSPORT PROVIDED**
45 **UNDER EXPIRING FEDERAL PUBLIC HEALTH EMERGENCY DECLARATION**

46 **SECTION 10.1.(a)** G.S. 131E-158 reads as rewritten:

47 **"§ 131E-158. Credentialed personnel required; temporary waiver of requirements during**
48 **an emergency.**

49 (a) Every ambulance when transporting a patient shall be occupied at a minimum by all
50 of the following:

- 1 (1) At least one emergency medical technician who shall be responsible for the
2 medical aspects of the mission prior to arrival at the medical facility, assuming
3 no other individual with higher credentials is available.
- 4 (2) One emergency medical responder who is responsible for the operation of the
5 vehicle and rendering assistance to the emergency medical technician.

6 An ambulance owned and operated by a licensed health care facility that is used solely to
7 transport sick or infirm patients with known nonemergency medical conditions between facilities
8 or between a residence and a facility for scheduled medical appointments is exempt from the
9 requirements of this subsection.

10 (a1) In the event of a declaration of a state of emergency by the Governor in accordance
11 with Article 1 of Chapter 166A of the General Statutes, a declaration of a national emergency by
12 the President of the United States, a declaration of a public health emergency by the Secretary of
13 the United States Department of Health and Human Services, or a determination by the North
14 Carolina Office of Emergency Medical Services of the existence of an emergency that poses a
15 risk to the health or safety of patients, the North Carolina Office of Emergency Medical Services
16 may temporarily waive the requirements of subsection (a) of this section and allow ambulances
17 to transport patients with a minimum of the following:

- 18 (1) At least one emergency medical technician who shall be responsible for all
19 the medical aspects of the mission prior to arrival at the medical facility.
- 20 (2) A noncredentialed, licensed driver who has been screened in accordance with
21 protocols approved by the EMS system and the North Carolina Office of
22 Emergency Medical Services, and who shall be responsible for the operation
23 of the vehicle. A noncredentialed, licensed driver shall be responsible only for
24 operation of the vehicle and shall not be responsible for any medical aspects
25 of the mission or any patient care.

26 (a2) The North Carolina Office of Emergency Medical Services shall continue the
27 emergency waiver flexibilities permitted under subdivisions (1) and (2) of subsection (a1) of this
28 section for 12 months following the expiration of the Public Health Emergency.

29 (b) The Commission shall adopt rules setting forth exemptions to the requirements stated
30 in subsection (a) of this section applicable to situations where exemptions are considered by the
31 Commission to be in the public interest."

32 **SECTION 10.1.(b)** This Part is effective when it becomes law and expires May 11,
33 2024.

34 **PART XI. EFFECTIVE DATE**

35 **SECTION 11.** Except as otherwise provided, this act is effective when it becomes
36 law.
37