

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 125
Committee Substitute Favorable 3/1/23
Senate Health Care Committee Substitute Adopted 5/31/23
PROPOSED SENATE COMMITTEE SUBSTITUTE H125-PCS30392-TG-29

Short Title: NC Health & Human Services Workforce Act.

(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.
- (3) Holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent or otherwise exceed the requirements for licensure in this State.



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1 (4) Is in good standing in the jurisdiction of licensure, has not been disciplined in
2 the last five years by any occupational licensing board, and has no pending
3 investigations by any occupational licensing board.

4 (5) Has actively practiced medicine an average of 20 hours per week during the
5 two years immediately preceding relocation in this State.

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

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

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

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

22 **"§ 90-13.1. License fees.**

23 (a) Each applicant for a license to practice medicine and surgery in this State under ~~either~~
24 ~~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
25 Carolina Medical Board an application fee of four hundred dollars (\$400.00).

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

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

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

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

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

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

37 38 **PART II. INTERNATIONALLY-TRAINED PHYSICIAN EMPLOYEE LICENSE**

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

41 **"§ 90-12.03. Internationally-trained physician employee license.**

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

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

- 1 (2) The applicant has a current and active license in good standing to practice
2 medicine in a foreign country or had such license expire no more than five
3 years prior to submission of an application to the Board.
- 4 (3) The applicant previously completed medical education at a medical school
5 listed in the World Directory of Medical Schools and meets one of the
6 following requirements:
- 7 a. The applicant has completed two years of postgraduate training in a
8 medical education program accredited by an agency with the World
9 Federation for Medical Education Recognition Status after graduation
10 from medical school.
- 11 b. The applicant has practiced medicine in the applicant's country of
12 licensure for at least 10 years after graduation.
- 13 (4) The applicant has demonstrated competency to practice medicine in at least
14 one of the following ways:
- 15 a. Successfully passing each part of an examination listed in
16 G.S. 90-10.1.
- 17 b. Successfully passing each part of a nationally recognized standard
18 medical licensing examination from a country that is a member of the
19 International Association of Medical Regulatory Authorities, that
20 meets all of the following requirements:
- 21 1. Tests for the ability to practice medicine.
- 22 2. Tests for medical knowledge, skills, and understanding of
23 clinical science essential for providing patient care, including
24 general practice, cardiology, internal medicine,
25 gastroenterology, hematology, nephrology, neurology,
26 pediatrics, psychiatry, pulmonology, obstetrics and
27 gynecology, radiology, rheumatology, urology, and surgery.
- 28 3. Tests for communication and interpersonal skills.
- 29 4. Includes an interactive testing component.
- 30 The examining body must provide verification in English directly to
31 the Board that the applicant has passed an examination meeting the
32 requirements of this sub-subdivision.
- 33 c. Receiving specialty board certification as approved by any of the
34 following:
- 35 1. The American Board of Medical Specialties.
- 36 2. The Bureau of Osteopathic Specialists of American
37 Osteopathic Association.
- 38 3. The Royal College of Physicians and Surgeons of Canada.
- 39 4. Any other specialty board recognized pursuant to rules adopted
40 by the Board.
- 41 d. Submitting to a comprehensive assessment demonstrating clinical
42 competence by a program approved by the Board.
- 43 Alternatively, the Board may waive the requirements of this subdivision and
44 issue a temporary license and require the applicant to successfully pass the
45 Special Purpose Examination (SPEX) or Post-Licensure Assessment Systems
46 within one year.
- 47 (5) The applicant has not had a license revoked, suspended, restricted, denied, or
48 otherwise acted against in any jurisdiction and is the subject of no pending
49 investigations. For purposes of this subdivision, the licensing authority's
50 acceptance of a license to practice voluntarily relinquished by a licensee or
51 relinquished by stipulation, consent order, or other settlement in response to or

1 in anticipation of the filing of administrative charges against the licensee's
2 license, or an inactivation or voluntary surrender of a license while under
3 investigation, is deemed to be an action against a license to practice.

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

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

10 (8) The applicant is proficient in English.

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

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

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

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

25 (2) Obtains any other license to practice medicine issued by the Board.

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

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

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

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

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

33 **"§ 93D-1. Definitions.**

34 For the purposes of this Chapter:

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

37 (2) ~~"Fitting and selling hearing aids" shall mean the Fitting and selling hearing~~
38 aids. – The evaluation or measurement of the powers or range of human
39 hearing by means of an audiometer or by other means and the consequent
40 selection or adaptation or sale or rental selection, adaptation, sale, rental,
41 prescription, or order for the use of hearing aids intended to compensate for
42 hearing loss including the making of an impression of the ear.

43 (3) ~~"Hearing aid" shall mean any Hearing aid.~~ – Any instrument or device
44 designed for or represented as aiding, improving or compensating for
45 defective human hearing and any parts, attachments or accessories of such an
46 instrument or device.

47 (4) ~~"Hearing Aid Specialist" shall mean a Hearing Aid Specialist.~~ – A person
48 licensed by the Board to engage in the activities within the scope of practice
49 of a hearing aid specialist in North Carolina.

50 (4a) Over-the-counter hearing aid. – As defined in 21 C.F.R. § 800.30(b).
51

- 1 (5) ~~"Registered Sponsor" shall mean a Registered Sponsor.~~ – A person with a
2 permanent license as an audiologist under Article 22 of Chapter 90 of the
3 General Statutes who is registered in accordance with G.S. 93D-3(c)(16), or a
4 licensee of the Board who has been approved as a sponsor of an apprentice."

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

6 **"§ 93D-1.1. Hearing aid specialist; scope of practice.**

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

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

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

31 **"§ 93D-2. Practice without license unlawful.**

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

38
39 **PART IV. BEHAVIOR ANALYST CREDENTIALING MODIFICATION**

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

41 **"§ 90-732. Definitions.**

42 The following definitions apply in this Article:

- 43 (1) Behavior analysis. – The design, implementation, and evaluation of
44 systematic instructional and environmental modifications to produce
45 significant personal or interpersonal improvements in human behavior.
46 (2) Behavior technician. – A paraprofessional who delivers applied behavior
47 analysis services and who practices under the close, ongoing supervision of a
48 licensed behavior analyst, licensed assistant behavior analyst, or other
49 professional licensed under this Chapter or Chapter 90B of the General
50 Statutes, so long as the services of the licensed professional are within the
51 scope of practice of the license possessed by that licensed professional, and

1 the services performed are commensurate with the licensed professional's
 2 education, training, and experience. The behavior technician does not design
 3 assessment or intervention plans or procedures but delivers services as
 4 assigned by a supervisor who is responsible for the behavior technician's
 5 work.

- 6 (3) Board. – The North Carolina Behavior Analyst Board.
- 7 (4) Certifying entity. – The nationally accredited Behavior Analyst Certification
 8 Board, Inc., or its ~~successor~~successor, or the nationally accredited Qualified
 9 Applied Behavior Analysis Credentialing Board, or its successor.

10"

11
 12 **PART V. MODIFICATIONS TO OPTOMETRY LAWS**

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

14 **"§ 90-118.10. Annual renewal of licenses.**

15 Since the laws of North Carolina now in force provided for the annual renewal of any license
 16 issued by the North Carolina State Board of Examiners in Optometry, it is hereby declared to be
 17 the policy of this State that all ~~licenses~~licenses, primary and branch, heretofore issued by the
 18 North Carolina State Board of Examiners in Optometry, or hereafter issued by said Board are
 19 subject to annual renewal and the exercise of any privilege granted by any license heretofore
 20 issued or hereafter issued by the North Carolina State Board of Examiners in Optometry is subject
 21 to the issuance on or before ~~the first day of January~~December 31 of each year of a certificate of
 22 renewal of license.

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

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

31 If the application for such renewal certificate, accompanied by the fee required by this Article,
 32 is not received by the Board before ~~January 31~~January 1 of each year, an additional fee of fifty
 33 dollars (\$50.00) shall be charged for renewal certificate. If such application accompanied by the
 34 renewal fee is not received by the Board before ~~March 31~~January 31 of each year, every person
 35 thereafter continuing to practice optometry without having applied for a certificate of renewal
 36 shall be guilty of the unauthorized practice of optometry and shall be subject to the penalties
 37 prescribed by G.S. 90-118.11. If the inactive license is not appropriately renewed by December
 38 31 of that year, that license will expire and will not be eligible for renewal.

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

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

43 **"§ 90-123. Fees.**

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

- 47 (1) Each application for general optometry ~~examination~~license ~~\$800.00~~\$1,000
- 48 (2) Each general optometry license renewal, which fee shall
 49 be annually fixed by the Board, and not later than December 15
 50 of each year written notice of the amount of the renewal fee
 51 shall be given to each optometrist licensed to practice in this

1	State by mailing the notice to the last address of record with	
2	the Board of each such optometrist.....	300.00 <u>500.00</u>
3	(2a) Each provisional license.....	300.00
4	(2b) Each renewal of a provisional license.....	100.00
5	(3) Each certificate of license to a resident optometrist desiring to	
6	exchange to another state or territory.....	300.00
7	(4) Each license issued to a practitioner of another state or	
8	territory to practice in this State.....	350.00
9	(5) Each license to resume practice issued to an optometrist who	
10	has retired from the practice of optometry or who has	
11	removed from and returned to this State.....	350.00
12	(6) Each application for registration as an optometric assistant	
13	or renewal thereof	100.00
14	(7) Each application for registration as an optometric technician	
15	or renewal thereof	100.00
16	(8) Each duplicate license or application for a branch office license or renewal	
17	thereof for each branch office	100.00 <u>200.00.</u> "

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:

- 33 ...
- 34 (7) ~~Is mentally, emotionally, or physically unfit to practice optometry or is~~
- 35 ~~afflicted with such a physical or mental disability as to be deemed dangerous~~
- 36 ~~to the health and welfare of his patients. An adjudication of mental~~
- 37 ~~incompetency in a court of competent jurisdiction or a determination thereof~~
- 38 ~~by other lawful means shall be conclusive proof of unfitness to practice~~
- 39 ~~optometry unless or until such person shall have been subsequently lawfully~~
- 40 ~~declared to be mentally competent;~~
- 41 (7a) Is unable to practice optometry with reasonable skill and safety by reason of
- 42 abuse of alcohol, drugs, chemicals, or any other type of substance, or by
- 43 reason of any physical or mental illness, abnormality, or other limiting
- 44 condition;

45 ...
46 (a1) The Board may, in its discretion, order an applicant or licensee to submit to a mental
47 or physical examination by physicians or physician assistants, or other appropriate licensed
48 health care providers, designated by the Board during the pendency of the licensing application,
49 or before or after charges may be presented against the applicant or licensee. The results of the
50 examination shall be admissible in evidence in a hearing before the Board in accordance with the
51 provisions of this Article. An adjudication of mental incompetency in any court of competent

1 jurisdiction or a determination of mental incompetency by other lawful means shall be conclusive
 2 proof of unfitness to practice optometry, unless or until that applicant or licensee is subsequently
 3 lawfully declared mentally competent. An adjudication or determination of mental incompetency
 4 shall constitute good cause for the issuance of an order by the Board that the licensee immediately
 5 cease practice and surrender their license to the Board. Failure to comply with an order under
 6 this subsection may be considered unprofessional conduct.

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

18"

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

20 "**§ 90-121.6. Reporting and publication of Duty to report judgments, awards, payments,**
 21 **and settlements.**

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

- 24 (1) All medical malpractice judgments or awards affecting or involving the
 25 optometrist.
 26 (2) All settlements in the amount of seventy-five thousand dollars (\$75,000) or
 27 more related to an incident of alleged medical malpractice affecting or
 28 involving the optometrist where the settlement occurred on or after May 1,
 29 2008.
 30 (3) All settlements in the aggregate amount of seventy-five thousand dollars
 31 (\$75,000) or more related to any one incident of alleged medical malpractice
 32 affecting or involving the optometrist not already reported pursuant to
 33 subdivision (2) of this subsection where, instead of a single payment of
 34 seventy-five thousand dollars (\$75,000) or more occurring on or after May 1,
 35 2008, there is a series of payments made to the same claimant which, in the
 36 aggregate, equal or exceed seventy-five thousand dollars (\$75,000).

37 ...

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

- 40 (1) Certified mail and obtaining a delivery receipt.
 41 (2) A designated delivery service authorized by G.S. 1A-1, Rule 4(j), and
 42 obtaining a delivery receipt.
 43 (3) Emailing the Board at their public email address found on the Board's website
 44 and confirming receipt by the Board via return email.

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

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

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

51 "**§ 90-121.7. Duty to report certain other acts or events.**

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

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

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

15 a. The licensee for personal use.

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

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

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

21 e. Any individual unless for a legitimate medical purpose by an
22 individual practitioner acting in the usual course of his professional
23 practice.

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

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

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

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

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

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

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

38 **"§ 90-127.3. Copy of prescription furnished on request.**

39 All persons licensed or registered under this Chapter shall upon request give each patient
40 having received an eye examination a copy of ~~his—the patient's spectacle prescription.~~
41 ~~prescription,~~ consistent with Federal Trade Commission rules and guidelines. No person, firm or
42 corporation licensed or registered under Article 17 of this Chapter shall fill a prescription or
43 dispense lenses, other than spectacle lenses, unless the prescription specifically states on its face
44 that the prescriber intends it to be for contact lenses and includes the type and specifications of
45 the contact lenses being prescribed. The prescriber shall state the expiration date on the face of
46 every prescription, and the expiration date shall be no earlier than 365 days after the examination
47 date.

48 Any person, firm or corporation that dispenses contact lenses on the prescription of a
49 practitioner licensed under Articles 1 or 6 of this Chapter shall, at the time of delivery of the
50 lenses, inform the recipient both orally and in writing that ~~he—the recipient~~ return to the prescriber
51 for insertion of the lens, instruction on lens insertion and care, and to ascertain the accuracy and

1 suitability of the prescribed lens. The statement shall also state that if the recipient does not return
 2 to the prescriber after delivery of the lens for the purposes stated above, the prescriber shall not
 3 be responsible for any damages or injury resulting from the prescribed lens, except that this
 4 sentence does not apply if the dispenser and the prescriber are the same person.

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

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

9 **"§ 90-127.4. Dispensing optometrists.**

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

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

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

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

23 **"§ 90-85.26B. Registration of dispensing optometrists.**

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

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

32 **"§ 90-85.24. Fees collectible by Board.**

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

35 ...

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

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

40 ...

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

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

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

47"

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

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

1
2 **PART VII. DEVELOP PLAN TO TRANSITION THE NURSE AIDE I EDUCATION**
3 **AND TRAINING PROGRAM TO THE BOARD OF NURSING**

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

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

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

18
19 **PART VIII. PROTECT HEALTH CARE WORKERS FROM VIOLENCE**

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

22 "Part 3A. Hospital Violence Protection Act.

23 **"§ 131E-88. Law enforcement officers required in emergency departments.**

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

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

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

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

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

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

51 (1) County emergency management director.

1 (2) County sheriff.
2 (3) Municipal police chief, if applicable.
3 (e) A hospital with an emergency department that does not meet the criteria in
4 subdivision (c)(1) of this section shall use the results of the security assessment in subsection (b)
5 of this section to develop and implement a security plan with protocols to ensure that at least one
6 law enforcement officer is present at all times in the emergency department or on the same
7 campus as the emergency department. The hospital shall allow the Department of Health and
8 Human Services access to the security risk assessment and the security plan. The security plan
9 required by this subsection shall include all of the following components:

10 (1) Training for law enforcement officers employed by the hospital that is
11 appropriate for the populations served by the emergency department.
12 (2) Training for law enforcement officers employed by the hospital that is based
13 on a trauma-informed approach to identifying and safely addressing situations
14 involving patients, family members, or other persons who pose a risk of harm
15 to themselves or others due to mental illness or substance use disorder or who
16 are experiencing a mental health crisis.
17 (3) Safety protocols based on all of the following:
18 a. Standards established by a nationally recognized organization
19 approved by the Department that has experience educating and
20 certifying professionals involved in managing and directing security
21 and safety programs in health care facilities.
22 b. The results of a security risk assessment of the emergency department.
23 c. Risks for the emergency department identified in consultation with the
24 emergency department's medical director and nurse leadership, law
25 enforcement officers employed by the hospital, and a local law
26 enforcement representative. These identified risks shall take into
27 consideration the hospital's trauma level designation, overall patient
28 volume, volume of psychiatric and forensic patients, incidents of
29 violence against staff and level of injuries sustained from such
30 violence, and prevalence of crime in the community.
31 (4) Safety protocols that include the presence of at least one law enforcement
32 officer in the emergency department, or on the same campus as the emergency
33 department, at all times.
34 (5) Training requirements for law enforcement officers employed by the hospital
35 in the potential use of and response to weapons, defensive tactics,
36 de-escalation techniques, appropriate patient intervention activities, crisis
37 intervention, and trauma-informed approaches.

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

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

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

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

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

49 **"§ 131E-88.2. Reports.**

50 (a) Annually by September 1, the Department of Health and Human Services, Division
51 of Health Service Regulation, shall collect the following data from hospitals for the preceding

1 calendar year: (i) the number of assaults occurring in the hospital or on hospital grounds that
2 required the involvement of law enforcement, whether the assaults involved hospital personnel,
3 and how those assaults were pursued by the hospital and processed by the judicial system, (ii)
4 the number and impact of incidences where patient behavioral health and substance use issues
5 resulted in violence in the hospital and the number that occurred specifically in the emergency
6 department, and (iii) the number of workplace violence incidences occurring at the hospital that
7 were reported as required by accrediting agencies, the Occupational Safety and Health
8 Administration, and other entities.

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

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

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

18 **"§ 131E-88.3. Report by the Administrative Office of the Courts.**

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

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

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

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

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

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

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

37 **"§ 95-260. Definitions.**

38 The following definitions apply in this Article:

- 39 (1) Civil no-contact order. – An order granted under this Article, which includes
40 a remedy authorized by G.S. 95-264.
- 41 (2) Employer. – Any person or entity that employs one or more employees.
42 Employer also includes the State of North Carolina and its political
43 subdivisions.
- 44 (2a) Hospital. – As defined in G.S. 131E-76.
- 45 (3) Unlawful conduct. – Unlawful conduct means the commission of one or more
46 of the following acts upon an employee, but does not include acts of
47 self-defense or defense of others:
- 48 a. Attempting to cause bodily injury or intentionally causing bodily
49 injury.
- 50 b. Willfully, and on more than one occasion, following, being in the
51 presence of, or otherwise harassing, as defined in G.S. 14-277.3A,

1 without legal purpose and with the intent to place the employee in
2 reasonable fear for the employee's safety.

- 3 c. Willfully threatening, orally, in writing, or by any other means, to
4 physically injure the employee in a manner and under circumstances
5 that would cause a reasonable person to believe that the threat is likely
6 to be carried out and that actually causes the employee to believe that
7 the threat will be carried out."

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

9 **"§ 95-269. Violation of valid order.**

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

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

14 **"§ 95-269A. Violation of order issued upon request of a hospital.**

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

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

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

27 (d) An indictment or information that charges a person with committing felonious
28 conduct as described in subsection (c) of this section shall also allege that the person knowingly
29 violated a valid protective order as described in subsection (a) of this section in the course of the
30 conduct constituting the underlying felony. In order for a person to be punished as described in
31 subsection (c) of this section, a finding shall be made that the person knowingly violated the
32 protective order in the course of conduct constituting the underlying felony.

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

37 (f) Unless covered under some other provision of law providing greater punishment, any
38 person who, while in possession of a deadly weapon on or about his or her person or within close
39 proximity to his or her person, knowingly violates a valid protective order as provided in
40 subsection (a) of this section by failing to stay away from a place, or a person, as so directed
41 under the terms of the order, shall be guilty of a Class H felony.

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

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

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

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

50 **"§ 14-34.6. Assault or affray on a firefighter, an emergency medical technician, medical**
51 **responder, and hospital personnel.**

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

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

5 (2) A medical responder.

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

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

11 (5) A firefighter.

12 (6) Hospital security personnel.

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

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

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

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

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

25 "(1) Court officer. – Magistrate, clerk of superior court, acting clerk, assistant or
26 deputy clerk, judge, or justice of the General Court of Justice; district attorney,
27 assistant district attorney, or any other attorney designated by the district
28 attorney to act for the State or on behalf of the district attorney; public
29 defender or assistant defender; court reporter; juvenile court counselor as
30 defined in G.S. 7B-1501(18a); any attorney or other individual employed ~~by~~
31 by, contracted by, or acting on behalf of the a county department of social
32 services in proceedings pursuant to Subchapter I of Chapter 7B of the General
33 Statutes; services, as defined in G.S. 108A-24; any attorney or other
34 individual appointed pursuant to G.S. 7B-601 or G.S. 7B-1108 or employed
35 by the Guardian ad Litem Services Division of the Administrative Office of
36 the Courts."

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

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

40 **"§ 15A-1340.16. Aggravated and mitigated sentences.**

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

47 ...

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

49 (1) The defendant induced others to participate in the commission of the offense
50 or occupied a position of leadership or dominance of other participants.

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

- 1 (13a) The defendant committed an offense and knew or reasonably should have
2 known that a person under the age of 18 who was not involved in the
3 commission of the offense was in a position to see or hear the offense.
- 4 (14) The offense involved an attempted or actual taking of property of great
5 monetary value or damage causing great monetary loss, or the offense
6 involved an unusually large quantity of contraband.
- 7 (15) The defendant took advantage of a position of trust or confidence, including a
8 domestic relationship, to commit the offense.
- 9 (16) The offense involved the sale or delivery of a controlled substance to a minor.
- 10 (16a) The offense is the manufacture of methamphetamine and was committed
11 where a person under the age of 18 lives, was present, or was otherwise
12 endangered by exposure to the drug, its ingredients, its by-products, or its
13 waste.
- 14 (16b) The offense is the manufacture of methamphetamine and was committed in a
15 dwelling that is one of four or more contiguous dwellings.
- 16 (17) The offense for which the defendant stands convicted was committed against
17 a victim because of the victim's race, color, religion, nationality, or country of
18 origin.
- 19 (18) The defendant does not support the defendant's family.
- 20 (18a) The defendant has previously been adjudicated delinquent for an offense that
21 would be a Class A, B1, B2, C, D, or E felony if committed by an adult.
- 22 (19) The serious injury inflicted upon the victim is permanent and debilitating.
- 23 (19a) The offense is a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12
24 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) and involved
25 multiple victims.
- 26 (19b) The offense is a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12
27 (involuntary servitude), or G.S. 14-43.13 (sexual servitude), and the victim
28 suffered serious injury as a result of the offense.
- 29 (20) Any other aggravating factor reasonably related to the purposes of sentencing.
30 Evidence necessary to prove an element of the offense shall not be used to prove any factor
31 in aggravation, and the same item of evidence shall not be used to prove more than one factor in
32 aggravation. Evidence necessary to establish that an enhanced sentence is required under
33 G.S. 15A-1340.16A may not be used to prove any factor in aggravation.
- 34 The judge shall not consider as an aggravating factor the fact that the defendant exercised the
35 right to a jury trial.
- 36 Notwithstanding the provisions of subsection (a1) of this section, the determination that an
37 aggravating factor under G.S. 15A-1340.16(d)(18a) is present in a case shall be made by the
38 court, and not by the jury. That determination shall be made in the sentencing hearing.
- 39 (e) Mitigating Factors. – The following are mitigating factors:
- 40 (1) The defendant committed the offense under duress, coercion, threat, or
41 compulsion that was insufficient to constitute a defense but significantly
42 reduced the defendant's culpability.
- 43 (2) The defendant was a passive participant or played a minor role in the
44 commission of the offense.
- 45 (3) The defendant was suffering from a mental or physical condition that was
46 insufficient to constitute a defense but significantly reduced the defendant's
47 culpability for the offense.
- 48 (4) The defendant's age, immaturity, or limited mental capacity at the time of
49 commission of the offense significantly reduced the defendant's culpability
50 for the offense.
- 51 (5) The defendant has made substantial or full restitution to the victim.

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

31"

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

34
 35 **PART IX. MODERNIZE AND EXPAND PHYSICIAN-PHARMACIST**
 36 **COLLABORATIVE PRACTICE**

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

38 "(3a) The provision of ~~drug therapy management by a licensed pharmacist engaged~~
 39 ~~in the practice of pharmacy pursuant to an agreement that is physician,~~
 40 ~~pharmacist, patient, and disease specific when health care services by a~~
 41 licensed pharmacist under a collaborative practice agreement with one or
 42 more physicians shall be performed in accordance with rules and rules
 43 developed by a joint subcommittee of the North Carolina Medical Board and
 44 the North Carolina Board of Pharmacy and approved by both Boards. Drug
 45 therapy management shall be defined as: (i) the implementation of
 46 predetermined drug therapy which includes diagnosis and product selection
 47 by the patient's physician; (ii) modification of prescribed drug dosages, dosage
 48 forms, and dosage schedules; and (iii) ordering tests; (i), (ii), and (iii) shall be
 49 pursuant to an agreement that is physician, pharmacist, patient, and disease
 50 specific. For the purposes of this subdivision, "health care services" means
 51 medical tasks, acts, or functions authorized through a written agreement by a

1 physician and delegated to a pharmacist for the purpose of providing drug
2 therapy, disease, or population health management for patients."

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

4 "**§ 90-18.4. Limitations on clinical pharmacist practitioners.**

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

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

15 (1) The North Carolina Medical Board and the North Carolina Board of Pharmacy
16 have adopted rules developed by a joint subcommittee governing the approval
17 of individual clinical pharmacist practitioners to practice ~~drug therapy~~
18 management health care services with such limitations that the Boards
19 determine to be in the best interest of patient health and safety.

20 (2) The clinical pharmacist practitioner has current approval from both Boards.

21 (3) The North Carolina Medical Board has assigned an identification number to
22 the clinical pharmacist practitioner which is shown on written prescriptions
23 written by the clinical pharmacist practitioner.

24 (4) ~~The drug therapy management agreement prohibits the substitution of a~~
25 ~~chemically dissimilar drug product by the pharmacist for the product~~
26 ~~prescribed by the physician without the explicit consent of the physician and~~
27 ~~includes a policy for periodic review by the physician of the drugs modified~~
28 ~~pursuant to the agreement or changed with the consent of the physician.~~

29 (e) ~~Clinical pharmacist practitioners in hospitals and other health facilities that have an~~
30 ~~established pharmacy and therapeutics committee or similar group that determines the~~
31 ~~prescription drug formulary or other list of drugs to be utilized in the facility and determines~~
32 ~~procedures to be followed when considering a drug for inclusion on the formulary and procedures~~
33 ~~to acquire a nonformulary drug for a patient may order medications and tests under the following~~
34 ~~conditions:~~

35 (1) ~~The North Carolina Medical Board and the North Carolina Board of Pharmacy~~
36 ~~have adopted rules governing the approval of individual clinical pharmacist~~
37 ~~practitioners to order medications and tests with such limitations as the Boards~~
38 ~~determine to be in the best interest of patient health and safety.~~

39 (2) ~~The clinical pharmacist practitioner has current approval from both Boards.~~

40 (3) ~~The supervising physician has provided to the clinical pharmacist practitioner~~
41 ~~written instructions for ordering, changing, or substituting drugs, or ordering~~
42 ~~tests with provision for review of the order by the physician within a~~
43 ~~reasonable time, as determined by the Boards, after the medication or tests are~~
44 ~~ordered.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (1) Health care services. – Any of the following health or medical procedures or
2 services rendered by a health care provider:
3 a. Testing, diagnosis, or treatment of a health condition, illness, injury,
4 or disease. This includes testing, diagnosis, or treatment rendered by a
5 pharmacist acting within the pharmacist's scope of practice.
6 b. Dispensing of drugs, medical devices, medical appliances, or medical
7 goods for the treatment of a health condition, illness, injury, or disease.
8 c. Administration of a vaccine or medication.
9 (2) Pharmacist. – An individual licensed to practice pharmacy under Article 4A
10 of Chapter 90 of the General Statutes.
11 (b) Health benefit plans offered by insurers in this State shall cover services provided by
12 a pharmacist if all of the following conditions are met:
13 (1) The service or procedure was performed within the pharmacist's licensed
14 lawful scope of practice.
15 (2) The health benefit plan would have covered the services if the service or
16 procedure had been performed by another health care provider.
17 (c) Insurers offering a health benefit plan in this State that delegates credentialing
18 agreements to contracted health care facilities shall accept credentialing for pharmacists
19 employed or contracted with those facilities.
20 (d) Services Outside Provider Networks. – No insurer shall penalize an insured or subject
21 an insured to the out-of-network benefit levels offered under the insured's approved health benefit
22 plan unless contracting health care providers able to meet health needs of the insured are
23 reasonably available to the insured without unreasonable delay.
24 (e) The participation of a pharmacy in a drug benefit provider network of an insurer
25 offering a health benefit plan in this State shall not satisfy any requirement that insurers offering
26 health benefit plans include pharmacists in medical benefit provider networks.
27 (f) This section shall also apply to the following:
28 (1) Agents of an insurer offering a health benefit plan in this State.
29 (2) Third-party administrators, as defined under G.S. 58-56-2."

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

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

34
35 **PART X. EXTEND FLEXIBILITY FOR AMBULANCE TRANSPORT PROVIDED**
36 **UNDER EXPIRING FEDERAL PUBLIC HEALTH EMERGENCY DECLARATION**

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

38 **"§ 131E-158. Credentialed personnel required; temporary waiver of requirements during**
39 **an emergency.**

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

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

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

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

9 (1) At least one emergency medical technician who shall be responsible for all
10 the medical aspects of the mission prior to arrival at the medical facility.

11 (2) A noncredentialed, licensed driver who has been screened in accordance with
12 protocols approved by the EMS system and the North Carolina Office of
13 Emergency Medical Services, and who shall be responsible for the operation
14 of the vehicle. A noncredentialed, licensed driver shall be responsible only for
15 operation of the vehicle and shall not be responsible for any medical aspects
16 of the mission or any patient care.

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

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

23 **SECTION 10.1.(b)** This Part is effective when it becomes law and expires May 11,
24 2024.

25 **PART XI. EFFECTIVE DATE**

26 **SECTION 11.** Except as otherwise provided, this act is effective when it becomes
27 law.
28