

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 125
Committee Substitute Favorable 3/1/23
PROPOSED SENATE COMMITTEE SUBSTITUTE H125-CSSHf-33 [v.2]
05/23/2023 03:39:27 PM

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 SERVICE MEMBERS AND SPOUSES; TO ALLOW THE
GRANTING OF AN INTERNATIONALLY-TRAINED HOSPITAL 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 EXTEND FLEXIBILITY FOR
AMBULANCE TRANSPORT PROVIDED UNDER THE EXPIRING FEDERAL PUBLIC
HEALTH EMERGENCY DECLARATION; TO DEVELOP A PLAN TO TRANSITION
THE NURSE AIDE I EDUCATION AND TRAINING PROGRAM TO THE BOARD OF
NURSING; AND TO PROTECT HEALTHCARE 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, AND TO INCREASE THE
PUNISHMENT FOR ASSAULT WITH A FIREARM AGAINST CERTAIN
PERSONNEL.

The General Assembly of North Carolina enacts:

**PART I. MILITARY RELOCATION LICENSE FOR PHYSICIAN AND PHYSICIAN
ASSISTANT SERVICE MEMBERS 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
service members 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 service member of the United States Armed Forces or a spouse of a service
member 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 service member separates from military service. The license holder
12 shall notify the Board within 15 days of the issuance of new military orders requiring relocation
13 to another state, within 15 days of the expiration of military orders, or within 15 days of
14 separation from military service. The Board shall retain jurisdiction over the holder of the
15 inactive license.

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

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

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

23 **"§ 90-13.1. License fees.**

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

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

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

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

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

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

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

38
39 **PART II. INTERNATIONALLY-TRAINED HOSPITAL PHYSICIAN EMPLOYEE**
40 **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 hospital physician employee license.**

44 (a) The Board may issue an "internationally-trained hospital physician employee license"
45 to practice medicine and surgery to a physician who has met all of the following:

46 (1) The applicant has been offered employment as a physician in a full-time
47 capacity at a hospital that is located in North Carolina, licensed by the State
48 of North Carolina, and accredited by the Joint Commission.

49 (2) The applicant is presently licensed to practice medicine in a foreign country
50 or had such license expire no more than five years prior to submission of an
51 application to the Board.

- 1 (3) The applicant previously completed medical school and postgraduate training
 2 that are substantially similar to the requirements for licensure under
 3 G.S. 90-9.1 or G.S. 90-9.2.
 4 (4) The applicant meets the requirements for licensure, other than a United States-
 5 based residency.
 6 (5) The applicant is not subject to a disciplinary order or other action by any
 7 medical licensing agency in any state or other jurisdiction.
 8 (6) The applicant has practiced medicine for at least five years.
 9 (7) The applicant is proficient in English.
 10 (8) The applicant is legally authorized to work in the United States.

11 (b) The holder of the internationally-trained hospital physician employee license issued
 12 under this section shall not practice medicine or surgery outside the confines of the North
 13 Carolina hospital or its affiliates. The holder of the internationally-trained hospital physician
 14 employee license practicing medicine or surgery beyond the limitations of the license shall be
 15 guilty of a Class 3 misdemeanor and, upon conviction, shall be fined not more than five hundred
 16 dollars (\$500.00) for each offense. The Board, at its discretion, may revoke the special license
 17 after due notice is given to the holder of the certified hospital physician employee license.

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

- 20 (1) Ceases to be employed in a full-time capacity by a North Carolina hospital.
 21 (2) Obtains any other license to practice medicine issued by the Board. The Board
 22 shall retain jurisdiction over the holder of the inactive license."

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

27 **SECTION 2.1.(c)** Section 2.1(b) of this act is effective when it becomes law. The
 28 remainder of this section becomes effective October 1, 2023.

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

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

32 **"§ 93D-1. Definitions.**

33 For the purposes of this Chapter:

- 34 (1) ~~"Board" shall mean the Board.~~ – The North Carolina State Hearing Aid
 35 Dealers and Fitters Board.
 36 (2) ~~"Fitting and selling hearing aids" shall mean the Fitting and selling hearing~~
 37 aids. – The evaluation or measurement of the powers or range of human
 38 hearing by means of an audiometer or by other means and the consequent
 39 selection or adaptation or sale or rental selection, adaptation, sale, rental,
 40 prescription, or order for the use of hearing aids intended to compensate for
 41 hearing loss including the making of an impression of the ear.
 42 (3) ~~"Hearing aid" shall mean any Hearing aid. – Any instrument or device~~
 43 designed for or represented as aiding, improving or compensating for
 44 defective human hearing and any parts, attachments or accessories of such an
 45 instrument or device.
 46 (4) ~~"Hearing Aid Specialist" shall mean a Hearing Aid Specialist. – A person~~
 47 licensed by the Board to engage in the activities within the scope of practice
 48 of a hearing aid specialist in North Carolina.
 49 (4a) Over-the-counter hearing aid. – As defined in 21 C.F.R. § 800.30(b).
 50 (5) ~~"Registered Sponsor" shall mean a Registered Sponsor. – A person with a~~
 51 permanent license as an audiologist under Article 22 of Chapter 90 of the

1 General Statutes who is registered in accordance with G.S. 93D-3(c)(16), or a
2 licensee of the Board who has been approved as a sponsor of an apprentice."

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

4 **"§ 93D-1.1. Hearing aid specialist; scope of practice.**

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

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

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

29 **"§ 93D-2. Practice without license unlawful.**

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

36 **SECTION 3.1.(d)** This section is effective when it becomes law.
37

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

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

40 **"§ 90-732. Definitions.**

41 The following definitions apply in this Article:

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

education, training, and experience. The behavior technician does not design assessment or intervention plans or procedures but delivers services as assigned by a supervisor who is responsible for the behavior technician's work.

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

...."

SECTION 4.1.(b) This section is effective when it becomes law.

PART V. MODIFICATIONS TO OPTOMETRY LAWS

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

"§ 90-118.10. Annual renewal of licenses.

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

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

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

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

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

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

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 healthcare 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 the patient's ~~his~~ 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 the recipient ~~he~~ 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
 2 return to the prescriber after delivery of the lens for the purposes stated above, the prescriber
 3 shall not be responsible for any damages or injury resulting from the prescribed lens, except that
 4 this 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~~);
- 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 VI. EXTEND FLEXIBILITY FOR AMBULANCE TRANSPORT PROVIDED**
3 **UNDER EXPIRING FEDERAL PUBLIC HEALTH EMERGENCY DECLARATION**

4 **SECTION 6.1.(a)** G.S. 131E-158 reads as rewritten:

5 **"§ 131E-158. Credentialed personnel required; temporary waiver of requirements during**
6 **an emergency.**

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

9 (1) At least one emergency medical technician who shall be responsible for the
10 medical aspects of the mission prior to arrival at the medical facility, assuming
11 no other individual with higher credentials is available.

12 (2) One emergency medical responder who is responsible for the operation of the
13 vehicle and rendering assistance to the emergency medical technician.

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

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

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

28 (2) A noncredentialed, licensed driver who has been screened in accordance with
29 protocols approved by the EMS system and the North Carolina Office of
30 Emergency Medical Services, and who shall be responsible for the operation
31 of the vehicle. A noncredentialed, licensed driver shall be responsible only for
32 operation of the vehicle and shall not be responsible for any medical aspects
33 of the mission or any patient care.

34 (a2) The North Carolina Office of Emergency Medical Services shall continue the
35 emergency waiver flexibilities permitted under subdivisions (1) and (2) of subsection (a1) of this
36 section for 12 months following the expiration of the public health emergency.

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

40 **SECTION 6.1.(b)** This section is effective when it becomes law and expires May
41 11, 2024.

42
43 **PART VII. DEVELOP PLAN TO TRANSITION THE NURSE AIDE I EDUCATION**
44 **AND TRAINING PROGRAM TO THE BOARD OF NURSING**

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

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

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

8 **SECTION 7.1.(d)** This section is effective when it becomes law.
9

10 **PART VIII. PROTECT HEALTHCARE WORKERS FROM VIOLENCE**

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

13 "Part 3A. Hospital Violence Protection Act.

14 **"§ 131E-88. Law enforcement officers required in emergency departments.**

15 (a) As used in this Part, "law enforcement officer" means (i) a sworn law enforcement
16 officer, (ii) a special police officer, as defined in subdivision (b)(3) of G.S. 74E-6, or (iii) a
17 campus police officer, in accordance with Chapter 74G of the General Statutes, who is duly
18 authorized to carry a concealed weapon.

19 (b) Each hospital licensed under this Article that has an emergency department shall
20 conduct a security risk assessment and develop and implement a security plan with protocols to
21 ensure that at least one law enforcement officer is present at all times in the emergency
22 department or on the same campus as the emergency department, unless the hospital has
23 requested and received approval of a waiver from the Department of Health and Human Services,
24 Division of Health Service Regulation, in accordance with subsections (c) and (d) of this section.

25 The security plan required by this section shall include all of the following components:

- 26 (1) Training for law enforcement officers employed by the hospital that is
27 appropriate for the populations served by the emergency department.
28 (2) Training for law enforcement officers employed by the hospital that is based
29 on a trauma-informed approach to identifying and safely addressing situations
30 involving patients, family members, or other persons who pose a risk of harm
31 to themselves or others due to mental illness or substance use disorder or who
32 are experiencing a mental health crisis.
33 (3) Safety protocols based on all of the following:
34 a. Standards established by a nationally recognized organization
35 approved by the Department that has experience educating and
36 certifying professionals involved in managing and directing security
37 and safety programs in healthcare facilities.
38 b. The results of a security risk assessment of the emergency department.
39 c. Risks for the emergency department identified in consultation with the
40 emergency department's medical director and nurse leadership, law
41 enforcement officers employed by the hospital, and a local law
42 enforcement representative. These identified risks shall take into
43 consideration the hospital's trauma level designation, overall patient
44 volume, volume of psychiatric and forensic patients, incidents of
45 violence against staff and level of injuries sustained from such
46 violence, and prevalence of crime in the community.
47 (4) Safety protocols that include the presence of at least one law enforcement
48 officer in the emergency department, or on the same campus as the emergency
49 department, at all times, unless an exemption is approved under subsections
50 (c) and (d) of this section.

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

5 (c) A hospital with an emergency department may make a request to the Department of
6 Health and Human Services for a waiver from the requirement to have at least one law
7 enforcement officer present in the emergency department or on the hospital campus at all times
8 if both of the following criteria apply:

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

12 (2) The hospital in good faith determines that a different level of security is
13 necessary and appropriate for any of its emergency departments based upon
14 findings in the security risk assessment required under sub-subdivision
15 (b)(3)b. of this section. A hospital that determines that a different level of
16 security is necessary and appropriate based on a security risk assessment shall
17 include the basis for that determination in the request for an exemption from
18 the Department.

19 (d) A hospital with an emergency department that meets both criteria in subsection (c) of
20 this section may make a request to the Department of Health and Human Services, Division of
21 Health Service Regulation, for a waiver from the requirement to have at least one law
22 enforcement officer present in the emergency department or on the hospital campus. The
23 following elements shall be included in the waiver request:

24 (1) Justification for the waiver request based on the criteria in subsection (c) of
25 this section, including the findings of the security risk assessment.

26 (2) Documentation indicating the county sheriff, and municipal police chief if
27 applicable, have been provided a copy of the security risk assessment and that
28 the hospital has determined that it is not necessary to have at least one law
29 enforcement officer present in the emergency department or on the hospital
30 campus.

31 (e) The Department of Health and Human Services, Division of Health Service
32 Regulation, shall review waiver requests made under subsections (c) and (d) of this section and
33 approve the waiver as appropriate. The Department shall maintain a list of those hospitals with
34 emergency departments that have received a waiver approval and those that will have at least one
35 law enforcement officer present in the emergency department or on the hospital campus.

36 (f) Every hospital with an emergency department shall provide appropriate hospital
37 workplace violence prevention program training, education, and resources to staff, practitioners,
38 and non-law enforcement officer security personnel.

39 **"§ 131E-88.2. Report.**

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

44 (b) Annually by September 1, the Department of Health and Human Services, Division
45 of Health Service Regulation, shall collect the following data from hospitals for the preceding
46 calendar year: (i) the number of assaults occurring in the hospital or on hospital grounds that
47 required the involvement of law enforcement, whether the assaults involved hospital personnel,
48 and how those assaults were pursued by the hospital and processed by the judicial system, (ii)
49 the number and impact of incidences where patient behavioral health and substance use issues
50 resulted in violence in the hospital and the number that occurred specifically in the emergency
51 department, and (iii) the number of workplace violence incidences occurring at the hospital that

1 were reported as required by accrediting agencies, the Occupational Safety and Health
2 Administration, and other entities.

3 (c) The Department of Health and Human Services shall examine data from those
4 hospitals with emergency departments that have at least one law enforcement officer present in
5 the emergency department or on the hospital campus under G.S. 131E-88(b) and those that have
6 requested and have been approved for a waiver under G.S. 131E-88(c) through (d).

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

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

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

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

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

22 **"§ 95-260. Definitions.**

23 The following definitions apply in this Article:

- 24 (1) Civil no-contact order. – An order granted under this Article, which includes
25 a remedy authorized by G.S. 95-264.
- 26 (2) Employer. – Any person or entity that employs one or more employees.
27 Employer also includes the State of North Carolina and its political
28 subdivisions.
- 29 (2a) Hospital. – As defined in G.S. 131E-76.
- 30 (3) Unlawful conduct. – Unlawful conduct means the commission of one or more
31 of the following acts upon an employee, but does not include acts of
32 self-defense or defense of others:
- 33 a. Attempting to cause bodily injury or intentionally causing bodily
34 injury.
- 35 b. Willfully, and on more than one occasion, following, being in the
36 presence of, or otherwise harassing, as defined in G.S. 14-277.3A,
37 without legal purpose and with the intent to place the employee in
38 reasonable fear for the employee's safety.
- 39 c. Willfully threatening, orally, in writing, or by any other means, to
40 physically injure the employee in a manner and under circumstances
41 that would cause a reasonable person to believe that the threat is likely
42 to be carried out and that actually causes the employee to believe that
43 the threat will be carried out."

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

45 **"§ 95-269. Violation of valid order.**

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

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

50 **"§ 95-269A. Violation of order issued upon request of a hospital.**

1 (a) Except as otherwise provided by law, a person who knowingly violates a valid
2 protective order issued upon the request of a hospital pursuant to this Article shall be guilty of a
3 Class A1 misdemeanor.

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

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

13 (d) An indictment or information that charges a person with committing felonious
14 conduct as described in subsection (c) of this section shall also allege that the person knowingly
15 violated a valid protective order as described in subsection (a) of this section in the course of the
16 conduct constituting the underlying felony. In order for a person to be punished as described in
17 subsection (c) of this section, a finding shall be made that the person knowingly violated the
18 protective order in the course of conduct constituting the underlying felony.

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

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

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

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

32 **SECTION 8.3.(a)** G.S. 14-34.5 reads as rewritten:

33 "~~§ 14-34.5. Assault with a firearm on a law enforcement, probation, or parole officer, or~~
34 ~~on a member of the North Carolina National Guard, or on a person employed at~~
35 ~~a State or local detention facility.~~certain law enforcement, National Guard,
36 emergency responder, and hospital personnel.

37 (a) ~~Any person who commits an assault with a firearm upon a law enforcement officer,~~
38 ~~probation officer, or parole officer while the officer is in the performance of his or her duties is~~
39 ~~guilty of a Class D felony.~~

40 (a1) ~~Any person who commits an assault with a firearm upon a member of the North~~
41 ~~Carolina National Guard while the member is in the performance of his or her duties is guilty of~~
42 ~~a Class E felony.~~

43 (b) ~~Anyone who commits an assault with a firearm upon a person who is employed at a~~
44 ~~detention facility operated under the jurisdiction of the State or a local government while the~~
45 ~~employee is in the performance of the employee's duties is guilty of a Class D felony.~~any of the
46 following persons who are in the performance of their duties is guilty of a Class B1 felony:

47 (1) A law enforcement officer.

48 (2) A probation officer.

49 (3) A parole officer.

50 (4) A member of the North Carolina National Guard.

- 1 (5) An employee of a detention facility operated under the jurisdiction of the State
 2 or a local government.
 3 (6) An emergency medical technician or other emergency healthcare provider.
 4 (7) A medical responder.
 5 (8) A hospital employee, licensed healthcare provider, or individual under
 6 contract to provide services at a hospital, including hospital security
 7 personnel.
 8 (9) A firefighter.
 9 (10) A telecommunicator employed by a law enforcement agency."

10 **SECTION 8.3.(b)** 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 providers who are~~
 19 ~~providing or attempting to provide health care services to a patient, provider,~~
 20 ~~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 felony if the person violates subsection (a) of
 27 this section and (i) inflicts serious bodily injury or (ii) uses a deadly weapon other than a firearm.

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

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

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

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

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

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

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

51 "**§ 15A-1340.16. Aggravated and mitigated sentences.**

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

7 ...

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

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

45 **SECTION 9.1.** Except as otherwise provided, this act is effective when it becomes
46 law.