

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-PCS40493-SHF-33

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



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

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

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

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

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

20 "**§ 90-13.1. License fees.**

21 (a) Each applicant for a license to practice medicine and surgery in this State under ~~either~~
22 ~~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
23 Carolina Medical Board an application fee of four hundred dollars (\$400.00).

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

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

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

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

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

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

36 **PART II. INTERNATIONALLY-TRAINED HOSPITAL PHYSICIAN EMPLOYEE** 37 **LICENSE**

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

40 "**§ 90-12.03. Internationally-trained hospital physician employee license.**

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

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

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
5 States-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.

29
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.....300.00500.00
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 ~~change 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 thereof100.00
14 (7) Each application for registration as an optometric technician
15 or renewal thereof100.00
16 (8) ~~Each duplicate license or application for a branch office license or renewal~~
17 ~~thereof for each branch office100.00200.00."~~

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

19 "§ 90-121.2. Rules and regulations; discipline, suspension, revocation and regrant of
20 certificate.

21 (a) The Board shall have the power to make, adopt, and promulgate such rules and
22 regulations, including rules of ethics, as may be necessary and proper for the regulation of the
23 practice of the profession of optometry and for the performance of its duties. The Board shall
24 have jurisdiction and power to hear and determine all complaints, allegations, charges of
25 malpractice, corrupt or unprofessional conduct, and of the violation of the rules and regulations,
26 including rules of ethics, made against any optometrist licensed to practice in North Carolina.
27 The Board shall also have the power and authority to: (i) refuse to issue a license to practice
28 optometry; (ii) refuse to issue a certificate of renewal of a license to practice optometry; (iii)
29 revoke or suspend a license to practice optometry; and (iv) invoke such other disciplinary
30 measures, censure, or probative terms against a licensee as it deems fit and proper; in any instance
31 or instances in which the Board is satisfied that such applicant or ~~licensee~~:licensee meets any of
32 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 ~~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~~);

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 healthcare providers to deliver care across all healthcare 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 **SECTION 7.1.(d)** This section is effective when it becomes law.
19

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

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

23 "Part 3A. Hospital Violence Protection Act.

24 **"§ 131E-88. Law enforcement officers required in emergency departments.**

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

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

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

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

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

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

1 (1) County emergency management director.

2 (2) County sheriff.

3 (3) Municipal police chief, if applicable.

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

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

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

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

19 a. Standards established by a nationally recognized organization
20 approved by the Department that has experience educating and
21 certifying professionals involved in managing and directing security
22 and safety programs in healthcare facilities.

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

24 c. Risks for the emergency department identified in consultation with the
25 emergency department's medical director and nurse leadership, law
26 enforcement officers employed by the hospital, and a local law
27 enforcement representative. These identified risks shall take into
28 consideration the hospital's trauma level designation, overall patient
29 volume, volume of psychiatric and forensic patients, incidents of
30 violence against staff and level of injuries sustained from such
31 violence, and prevalence of crime in the community.

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

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

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

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

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

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

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

50 **"§ 131E-88.2. Reports.**

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

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

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

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

20 "**§ 131E-88.3. Report by the Administrative Office of the Courts.**

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

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

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

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

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

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

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

39 "**§ 95-260. Definitions.**

40 The following definitions apply in this Article:

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

43 (2) Employer. – Any person or entity that employs one or more employees.
44 Employer also includes the State of North Carolina and its political
45 subdivisions.

46 (2a) Hospital. – As defined in G.S. 131E-76.

47 (3) Unlawful conduct. – Unlawful conduct means the commission of one or more
48 of the following acts upon an employee, but does not include acts of
49 self-defense or defense of others:

50 a. Attempting to cause bodily injury or intentionally causing bodily
51 injury.

- 1 b. Willfully, and on more than one occasion, following, being in the
2 presence of, or otherwise harassing, as defined in G.S. 14-277.3A,
3 without legal purpose and with the intent to place the employee in
4 reasonable fear for the employee's safety.
- 5 c. Willfully threatening, orally, in writing, or by any other means, to
6 physically injure the employee in a manner and under circumstances
7 that would cause a reasonable person to believe that the threat is likely
8 to be carried out and that actually causes the employee to believe that
9 the threat will be carried out."

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

11 "**§ 95-269. Violation of valid order.**

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

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

16 "**§ 95-269A. Violation of order issued upon request of a hospital.**

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

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

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

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

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

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

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

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

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

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

1 **"§ 14-34.6. Assault or affray on a firefighter, an emergency medical technician, medical**
 2 **responder, and hospital personnel.**

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

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

7 (2) A medical responder.

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

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

13 (5) A firefighter.

14 (6) Hospital security personnel.

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

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

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

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

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

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

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

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

42 **"§ 15A-1340.16. Aggravated and mitigated sentences.**

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

49 ...

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

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

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