

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SESSION LAW 2023-129
HOUSE BILL 125**

AN ACT TO ALLOW MILITARY RELOCATION LICENSES FOR PHYSICIAN AND PHYSICIAN ASSISTANT SERVICEMEMBERS AND SPOUSES; 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 EVALUATE FEDERAL REQUIREMENTS AND, IF APPROPRIATE, DEVELOP A PLAN TO TRANSITION THE NURSE AIDE I EDUCATION AND TRAINING PROGRAM TO THE BOARD OF NURSING; TO PROTECT HEALTH CARE WORKERS FROM VIOLENCE BY REQUIRING CERTAIN HOSPITALS TO HAVE LAW ENFORCEMENT OFFICERS IN EMERGENCY DEPARTMENTS; TO INCREASE THE PUNISHMENT FOR ASSAULT AGAINST CERTAIN PERSONNEL; TO EXTEND FLEXIBILITY FOR AMBULANCE TRANSPORT PROVIDED UNDER THE EXPIRING FEDERAL PUBLIC HEALTH EMERGENCY DECLARATION; TO UPDATE GENERAL STATUTES GOVERNING THE PRACTICE OF AUDIOLOGY TO BETTER REFLECT THE CHANGES IN EDUCATION, EXPERIENCE, AND PRACTICE OF THE PROFESSION TO ENHANCE THE HEALTH AND WELFARE OF NC CITIZENS; TO ADJUST MEDICAID REIMBURSEMENT FOR DENTAL PROCEDURES PERFORMED IN AMBULATORY CENTERS; AND TO UPDATE THE DEFINITION OF A BAR IN THE SANITATION STATUTES.

The General Assembly of North Carolina enacts:

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

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

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

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

- (1) Is a servicemember of the United States Armed Forces or a spouse of a servicemember of the United States Armed Forces.
- (2) Resides in this State pursuant to military orders for military service.
- (3) Holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent or otherwise exceed the requirements for licensure in this State.
- (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.
- (5) Has actively practiced medicine an average of 20 hours per week during the two years immediately preceding relocation in this State.



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

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

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

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

"§ 90-13.1. License fees.

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

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

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

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

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

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

SECTION 1.1.(c) This section becomes effective February 1, 2024.

PART III. OVER-THE-COUNTER HEARING AID MODIFICATIONS

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

"§ 93D-1. Definitions.

For the purposes of this Chapter:

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

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

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

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

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

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

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

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

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

- (1) Fitting—Ordering the use of, authorizing, fitting, and selling prescription hearing aids, as defined by the United States Food and Drug Administration in 21 C.F.R. § 801, without requiring a consumer to first obtain an order or authorization from another healthcare provider.
- (2) Eliciting patient histories.
- (3) Performing hearing evaluations.
- (4) Administering and interpreting tests of human hearing.
- (5) Referring, as appropriate, for cochlear implant evaluation or other clinical, rehabilitative, or medical intervention.
- (6) Determining candidacy for hearing aids, tinnitus management devices, and other assistive listening devices.
- (7) Providing hearing aid, tinnitus management device, and assistive device recommendations and selection.
- (8) Performing hearing aid fittings, programming, and adjustments.
- (9) Assessing hearing aid efficacy utilizing appropriate fitting verification methodology.
- (10) Performing hearing aid repairs.
- (11) Administering cerumen management in the course of examining ears.
- (12) Making ear impressions, and preparing, designing, and modifying ear molds.
- (13) Providing counseling and rehabilitation services related to hearing aids.
- (14) Providing supervision and in-service training for apprentices in fitting and selling hearing aids.
- (15), (16) Repealed by Session Laws 2014-115, s. 42.3(a), effective August 11, 2014."

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

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

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

PART IV. BEHAVIOR ANALYST CREDENTIALING MODIFICATION

SECTION 4.1. G.S. 90-732 reads as rewritten:

"§ 90-732. Definitions.

The following definitions apply in this Article:

- (1) Behavior analysis. – The design, implementation, and evaluation of systematic instructional and environmental modifications to produce significant personal or interpersonal improvements in human behavior.
- (2) Behavior technician. – A paraprofessional who delivers applied behavior analysis services and who practices under the close, ongoing supervision of a

licensed behavior analyst, licensed assistant behavior analyst, or other professional licensed under this Chapter or Chapter 90B of the General Statutes, so long as the services of the licensed professional are within the scope of practice of the license possessed by that licensed professional, and 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.

...."

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 State by mailing the notice to the last address of record with the Board of each such optometrist.....~~300.00~~500.00
- (2a) Each provisional license.....300.00
- (2b) Each renewal of a provisional license.....100.00
- ~~(3) Each certificate of license to a resident optometrist desiring to change to another state or territory.....300.00~~
- ~~(4) Each license issued to a practitioner of another state or territory to practice in this State.....350.00~~
- ~~(5) Each license to resume practice issued to an optometrist who has retired from the practice of optometry or who has removed from and returned to this State.....350.00~~
- (6) Each application for registration as an optometric assistant or renewal thereof 100.00
- (7) Each application for registration as an optometric technician or renewal thereof 100.00
- (8) Each duplicate license or application for a branch office license or renewal thereof for each branch office 100.00-200.00."

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

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

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

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

...
 (a1) The Board may, in its discretion, order an applicant or licensee to submit to a mental or physical examination by physicians or physician assistants, or other appropriate licensed

health care providers, designated by the Board during the pendency of the licensing application, or before or after charges may be presented against the applicant or licensee. The results of the examination shall be admissible in evidence in a hearing before the Board in accordance with the provisions of this Article. An adjudication of mental incompetency in any court of competent jurisdiction or a determination of mental incompetency by other lawful means shall be conclusive proof of unfitness to practice optometry, unless or until that applicant or licensee is subsequently lawfully declared mentally competent. An adjudication or determination of mental incompetency shall constitute good cause for the issuance of an order by the Board that the licensee immediately cease practice and surrender their license to the Board. Failure to comply with an order under this subsection may be considered unprofessional conduct.

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

...."

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

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

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

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

...

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

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

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

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

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

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

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

- (1) Sexual misconduct of any person licensed by the Board under this Article with a patient. Patient consent or initiation of acts or contact by a patient shall not constitute affirmative defenses to sexual misconduct. For purposes of this subdivision, the term "sexual misconduct" means vaginal intercourse or any sexual act or sexual contact or touching as described in G.S. 14-17.20. Sexual misconduct shall not include any act or contact that is for an accepted medical purpose.
- (2) Fraudulent prescribing, drug diversion, or theft of any controlled substances by another person licensed by the Board under this Article. For purposes of this subdivision, the term "drug diversion" means transferring controlled substances or prescriptions for controlled substances to any of the following:
 - a. The licensee for personal use.
 - b. The licensee's immediate family member, including a spouse, parent, child, sibling, and any stepfamily member or in-law coextensive with the preceding identified relatives.
 - c. Any other person living in the same residence as the licensee.
 - d. Any person with whom the licensee is having a sexual relationship.
 - e. Any individual unless for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.

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

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

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

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

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

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

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

every prescription, and the expiration date shall be no earlier than 365 days after the examination date.

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

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

SECTION 5.2. Article 6 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-127.4. Dispensing optometrists.

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

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

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

SECTION 5.3.(a) Article 4A of Chapter 90 of the General Statutes is amended by adding a new section to read:

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

Each dispensing optometrist who dispenses prescription drugs, for a fee or other charge, shall annually register with the Board on the form provided by the Board and with the licensing board having jurisdiction over the dispensing optometrist. Such dispensing shall comply in all respects with the relevant laws and regulations that apply to pharmacists governing the distribution of drugs, including packaging, labeling, and record keeping. Authority and responsibility for disciplining dispensing optometrists who fail to comply with the provisions of this section are vested in the Board and the licensing board having jurisdiction over the dispensing optometrist. The Board may discipline a dispensing optometrist's registration. The licensing board having jurisdiction over the dispensing optometrist may discipline the optometrist's license to practice optometry."

SECTION 5.3.(b) G.S. 90-85.24 reads as rewritten:

"§ 90-85.24. Fees collectible by Board.

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

- ...
- (9) For annual registration as a dispensing physician under G.S. 90-85.21(b), seventy-five dollars (\$75.00);
- (10) For reinstatement of registration as a dispensing physician, seventy-five dollars (\$75.00);
- ...
- (19) For reinstatement of a registration to dispense devices, deliver medical equipment, or both, two hundred dollars (~~(\$200.00)~~);

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

...."

SECTION 5.4. The North Carolina State Board of Examiners in Optometry and the North Carolina Board of Pharmacy shall adopt rules to implement the provisions of this Part.

SECTION 5.5. Section 5.1 of this act becomes effective October 1, 2023. Section 5.2 and Section 5.3 of this act become effective March 1, 2024.

PART VII. EVALUATE FEDERAL REQUIREMENTS AND, IF APPROPRIATE, DEVELOP PLAN TO TRANSITION THE NURSE AIDE I EDUCATION AND TRAINING PROGRAM TO THE BOARD OF NURSING

SECTION 7.1.(a) The North Carolina Board of Nursing and the North Carolina Department of Health and Human Services, Division of Health Service Regulation, shall evaluate the federal requirements applicable to the Nurse Aide I education and training program and, to the extent consistent with the applicable federal requirements, develop a plan for the Board of Nursing to assume responsibility for and provide oversight of all nurse aide programs, regardless of nurse aide title, as individuals in these positions collaborate with nurses and other health care providers to deliver care across all health care settings.

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

SECTION 7.1.(c) On or before September 1, 2024, the Department of Health and Human Services and the Board of Nursing shall provide a report to the Joint Legislative Oversight Committee on Health and Human Services that shall contain the evaluation of the federal requirements applicable to the Nurse Aide I education and training program and, to the extent consistent with the applicable federal requirements, a plan for the Board of Nursing to assume responsibility for it, a transition time line, and recommendations for statutory changes necessary to transition the Nurse Aide I education and training program from the Department to the Board of Nursing, if appropriate.

PART VIII. PROTECT HEALTH CARE WORKERS FROM VIOLENCE

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

"Part 3A. Hospital Violence Protection Act.

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

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

(b) Each hospital licensed under this Article that has an emergency department shall conduct a security risk assessment and develop and implement a security plan with protocols to ensure that at least one law enforcement officer is present at all times, except when temporarily required to leave in connection with the discharge of their duties, in the emergency department or on the same campus as the emergency department, unless subsection (c) of this section applies. The security plan required by this section shall include all of the following components:

- (1) Training for law enforcement officers employed or contracted by the hospital that is appropriate for the populations served by the emergency department.
- (2) Training for law enforcement officers employed or contracted by the hospital that is based on a trauma-informed approach to identifying and safely addressing situations involving patients, family members, or other persons

who pose a risk of harm to themselves or others due to mental illness or substance use disorder or who are experiencing a mental health crisis.

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

a. Standards established by a nationally recognized organization that has experience educating and certifying professionals involved in managing and directing security and safety programs in healthcare facilities. The Department of Health and Human Services shall solicit names of nationally recognized organizations from the North Carolina Sheriffs' Association, the North Carolina Association of Chiefs of Police, the North Carolina Emergency Management Association, and the North Carolina Healthcare Association.

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

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

(4) Safety protocols that include the presence of at least one law enforcement officer in the emergency department, or on the same campus as the emergency department, at all times, unless an exemption is approved under subsection (c) of this section.

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

(c) A hospital is not required to have at least one law enforcement officer present in the emergency department or on the hospital campus at all times if the hospital in good faith determines that a different level of security is necessary and appropriate for any of its emergency departments based upon findings in the security risk assessment required under sub-subdivision (b)(3)b. of this section. A hospital that determines that a different level of security is necessary and appropriate shall include the basis for that determination in its security risk assessment, and the security plan must include the following:

(1) The signature of the county sheriff.

(2) The signature of the municipal police chief, if applicable.

(3) The approval and signature of the county emergency management director.

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

(e) The Department of Health and Human Services shall have access to all security plans for hospitals with an emergency department and shall maintain a list of those hospitals with a security plan developed in accordance with this section.

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

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

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

"§ 131E-88.2. Reports.

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

(b) The Department of Health and Human Services shall compile the information required by subsection (a) of this section and shall share that data with the North Carolina Sheriffs' Association, the North Carolina Association of Chiefs of Police, and the North Carolina Emergency Management Association. The Department shall request these organizations examine the data and make recommendations to the Department to decrease the incidences of violence in hospitals and to decrease assaults on hospital personnel.

(c) The Department shall compile the information required by subsections (a) and (b) of this section and report findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services annually by December 1."

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

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

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

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

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

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

SECTION 8.1.(e) The first data collection under G.S. 131E-88.2(a), as enacted by this section, shall occur on or before September 1, 2025. The first report required by G.S. 131E-88.2(c), as enacted by this section, is due on or before December 1, 2025.

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

SECTION 8.2.(a) G.S. 14-34.6 reads as rewritten:

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

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

- (1) An emergency medical technician or other emergency health care provider.
- (2) A medical responder.
- (3) Hospital personnel and employee, medical practice employee, licensed healthcare providers who are providing or attempting to provide health care services to a patient, health care provider, or individual under contract to provide services at a hospital or medical practice.

- (4) Repealed by Session Laws 2011-356, s. 2, effective December 1, 2011, and applicable to offenses committed on or after that date.
- (5) A firefighter.
- (6) Hospital security personnel.

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

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

SECTION 8.2.(b) G.S. 14-16.6(c) reads as rewritten:

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

SECTION 8.2.(c) G.S. 14-16.10(1) reads as rewritten:

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

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

SECTION 8.3.(a) G.S. 15A-1340.16 reads as rewritten:

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

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

...

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

- (1) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.
- (2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.
- (2a) The offense was committed for the benefit of, or at the direction of, any criminal gang as defined by G.S. 14-50.16A(1), with the specific intent to promote, further, or assist in any criminal conduct by gang members, and the defendant was not charged with committing a conspiracy.
- (3) The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- (4) The defendant was hired or paid to commit the offense.

- (5) The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- (6) The offense was committed against or proximately caused serious injury to a present or former law enforcement officer, employee of the Department of Public Safety or the Department of Adult Correction, jailer, fireman, emergency medical technician, ambulance attendant, social worker, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of that person's official duties or because of the exercise of that person's official duties.
- (6a) The offense was committed against or proximately caused serious harm as defined in G.S. 14-163.1 or death to a law enforcement agency animal, an assistance animal, or a search and rescue animal as defined in G.S. 14-163.1, while engaged in the performance of the animal's official duties.
- (7) The offense was especially heinous, atrocious, or cruel.
- (8) The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- (9) The defendant held public elected or appointed office or public employment at the time of the offense and the offense directly related to the conduct of the office or employment.
- (9a) The defendant is a firefighter or rescue squad worker, and the offense is directly related to service as a firefighter or rescue squad worker.
- (10) The defendant was armed with or used a deadly weapon at the time of the crime.
- (10a) The defendant committed the offense on the property of a hospital as defined in G.S. 131E-76.
- (10b) The defendant committed the offense on the property of a medical practice which is defined as a professional corporation organized under or subject to Chapter 55B of the General Statutes and registered with the North Carolina Medical Board.
- (11) The victim was very young, or very old, or mentally or physically infirm, or handicapped.
- (12) The defendant committed the offense while on pretrial release on another charge.
- (12a) The defendant has, during the 10-year period prior to the commission of the offense for which the defendant is being sentenced, been found by a court of this State to be in willful violation of the conditions of probation imposed pursuant to a suspended sentence or been found by the Post-Release Supervision and Parole Commission to be in willful violation of a condition of parole or post-release supervision imposed pursuant to release from incarceration.
- (13) The defendant involved a person under the age of 16 in the commission of the crime.
- (13a) The defendant committed an offense and knew or reasonably should have known that a person under the age of 18 who was not involved in the commission of the offense was in a position to see or hear the offense.
- (14) The offense involved an attempted or actual taking of property of great monetary value or damage causing great monetary loss, or the offense involved an unusually large quantity of contraband.

- (15) The defendant took advantage of a position of trust or confidence, including a domestic relationship, to commit the offense.
- (16) The offense involved the sale or delivery of a controlled substance to a minor.
- (16a) The offense is the manufacture of methamphetamine and was committed where a person under the age of 18 lives, was present, or was otherwise endangered by exposure to the drug, its ingredients, its by-products, or its waste.
- (16b) The offense is the manufacture of methamphetamine and was committed in a dwelling that is one of four or more contiguous dwellings.
- (17) The offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.
- (18) The defendant does not support the defendant's family.
- (18a) The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.
- (19) The serious injury inflicted upon the victim is permanent and debilitating.
- (19a) The offense is a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) and involved multiple victims.
- (19b) The offense is a violation of G.S. 14-43.11 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude), and the victim suffered serious injury as a result of the offense.
- (20) Any other aggravating factor reasonably related to the purposes of sentencing.

Evidence necessary to prove an element of the offense shall not be used to prove any factor in aggravation, and the same item of evidence shall not be used to prove more than one factor in aggravation. Evidence necessary to establish that an enhanced sentence is required under G.S. 15A-1340.16A may not be used to prove any factor in aggravation.

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

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

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

- (1) The defendant committed the offense under duress, coercion, threat, or compulsion that was insufficient to constitute a defense but significantly reduced the defendant's culpability.
- (2) The defendant was a passive participant or played a minor role in the commission of the offense.
- (3) The defendant was suffering from a mental or physical condition that was insufficient to constitute a defense but significantly reduced the defendant's culpability for the offense.
- (4) The defendant's age, immaturity, or limited mental capacity at the time of commission of the offense significantly reduced the defendant's culpability for the offense.
- (5) The defendant has made substantial or full restitution to the victim.
- (6) The victim was more than 16 years of age and was a voluntary participant in the defendant's conduct or consented to it.
- (7) The defendant aided in the apprehension of another felon or testified truthfully on behalf of the prosecution in another prosecution of a felony.
- (8) The defendant acted under strong provocation, or the relationship between the defendant and the victim was otherwise extenuating.

- (9) The defendant could not reasonably foresee that the defendant's conduct would cause or threaten serious bodily harm or fear, or the defendant exercised caution to avoid such consequences.
- (10) The defendant reasonably believed that the defendant's conduct was legal.
- (11) Prior to arrest or at an early stage of the criminal process, the defendant voluntarily acknowledged wrongdoing in connection with the offense to a law enforcement officer.
- (12) The defendant has been a person of good character or has had a good reputation in the community in which the defendant lives.
- (13) The defendant is a minor and has reliable supervision available.
- (14) The defendant has been honorably discharged from the Armed Forces of the United States.
- (15) The defendant has accepted responsibility for the defendant's criminal conduct.
- (16) The defendant has entered and is currently involved in or has successfully completed either (i) a drug treatment program, (ii) an alcohol treatment program, or (iii) a mental, behavioral, or medical health-related treatment program, subsequent to arrest and prior to trial.
- (17) The defendant supports the defendant's family.
- (18) The defendant has a support system in the community.
- (19) The defendant has a positive employment history or is gainfully employed.
- (20) The defendant has a good treatment prognosis, and a workable treatment plan is available.
- (21) Any other mitigating factor reasonably related to the purposes of sentences.

...."

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

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

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

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

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

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

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

(a1) In the event of a declaration of a state of emergency by the Governor in accordance with Article 1 of Chapter 166A of the General Statutes, a declaration of a national emergency by the President of the United States, a declaration of a public health emergency by the Secretary of the United States Department of Health and Human Services, or a determination by the North Carolina Office of Emergency Medical Services of the existence of an emergency that poses a risk to the health or safety of patients, the North Carolina Office of Emergency Medical Services

may temporarily waive the requirements of subsection (a) of this section and allow ambulances to transport patients with a minimum of the following:

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

(a2) The flexibilities permitted under subdivisions (1) and (2) of subsection (a1) of this section shall apply to Non-Emergency Medical Transportation (NEMT) services through May 11, 2024. The Department of Health and Human Services, Division of Health Service Regulation, shall work with NEMT stakeholders to develop a permanent plan regarding staffing as included in the waiver.

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

SECTION 10.1.(b) This section is effective when it becomes law and expires May 11, 2024.

PART XII. UPDATE GENERAL STATUTES GOVERNING THE PRACTICE OF AUDIOLOGY TO BETTER REFLECT THE CHANGES IN EDUCATION, EXPERIENCE, AND PRACTICE OF THE PROFESSION TO ENHANCE THE HEALTH AND WELFARE OF NC CITIZENS

SECTION 12.1.(a) G.S. 90-292 reads as rewritten:

"§ 90-292. Declaration of policy.

It is declared to be a policy of the State of North Carolina that, in order to safeguard the public health, safety, and welfare; to protect the public from being misled by incompetent, unqualified, unscrupulous, and unauthorized persons and from unprofessional conduct on the part of qualified speech and language pathologists and audiologists and to help assure the availability of the highest possible quality speech and language pathology and audiology services to the communicatively handicapped people of this State, it is necessary to provide regulatory authority over persons offering speech and language pathology and audiology services to the public."

SECTION 12.1.(b) G.S. 90-293 reads as rewritten:

"§ 90-293. Definitions.

As used in this Article, unless the context otherwise requires:

- (1) "Audiologist" means any Audiologist. – Any person who engages is qualified by education, training, and clinical experience and is licensed under this Article to engage in the practice of audiology. The audiologist is an independent hearing health care practitioner providing services in hospitals, clinics, schools, private practices, and other settings in which audiologic services are relevant. A person is deemed to be or to hold himself or herself out as being an audiologist if he or she offers services to the public under any title incorporating the terms of "audiology," "audiologist," "audiological," "audiological consultant," "hearing aid audiologist," "hearing clinic," "hearing clinician," "hearing therapist," "hearing specialist," "hearing aid clinician," or any variation, synonym, coinage, or similar title or description of service-service that expresses, employs, or implies these terms, names, or functions.

- (2) ~~"Board" means the Board.~~ – The Board of Examiners for Speech and Language Pathologists and Audiologists.
- (3) ~~"License" means a License.~~ – A license issued by the Board under the provisions of this Article, including a temporary license.
- (3a) Over-the-counter hearing aid. – As defined in 21 C.F.R. § 800.30(b).
- (4) ~~"Person" means an Person.~~ – Any individual, organization, association, partnership, company, trust, or corporate body, except that only individuals can be licensed under this Article. Any reference in this Article to a "licensed person" shall mean a natural, individual person.
- (5) ~~"Speech and language pathologist" means any Speech and language pathologist.~~ – Any person who represents himself or herself to the public by title or by description of services, methods, or procedures as one who evaluates, examines, instructs, counsels, or treats persons suffering from conditions or disorders affecting speech and language or swallowing. A person is deemed to be a speech and language pathologist if the person offers such services under any title incorporating the words "speech pathology," "speech pathologist," "speech correction," "speech correctionist," "speech therapy," "speech therapist," "speech clinic," "speech clinician," "language pathologist," "language therapist," "logopedist," "communication disorders," "communicologist," "voice therapist," "voice pathologist," or any similar title or description of service.
- (6) ~~"The practice of audiology" means the The practice of audiology.~~ – The application of principles, methods, and procedures of measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, or rehabilitation related to hearing and vestibular disorders for the purpose of identifying, preventing, ameliorating, or modifying such disorders and conditions in individuals or groups of individuals. For the purpose of this subdivision, the words "habilitation" and "rehabilitation" shall include auditory training, speech reading, aural rehabilitation, hearing aid use evaluation and recommendations, and fabrication of earmolds and similar accessories for clinical testing purposes. not including non-auditory and non-vestibular testing, writing prescriptions for pharmaceutical agents or surgery. Areas of audiology practice include the following, delivered to people across the life span:
- a. Performing basic health screenings consistent with audiology training by an accredited institution and continuing education. Screenings that indicate the possibility of medical or other conditions that are outside the scope of practice of an audiologist must be referred to appropriate health care providers for further evaluation or management.
 - b. Eliciting patient histories, including the review of present and past illnesses, current symptoms, reviewing appropriate audiologic test results, obtaining or reviewing separately obtained history, reviewing the outcome of procedures, and documentation of clinical information in the electronic health record or other records.
 - c. Preventing hearing loss by designing, implementing, and coordinating industrial, school, and community-based hearing conservation programs (i) by educational outreach, including screening, to the public, schools, and other health care professionals and governmental entities and (ii) by counseling and treating those at risk for hearing loss with behavioral or nutritional modification strategies related to

- noise-induced hearing loss prevention or with active or passive hearing protection devices.
- d. Identifying dysfunction of hearing, balance, and other auditory-related systems by developing and overseeing hearing and balance-related screening programs for persons of all ages, including newborn and school screening programs.
 - e. Conducting audiological examination and audiologic diagnosis and treatment, as authorized in this subdivision, of hearing and vestibular disorders revealed through the administration of behavioral, psychoacoustic, electrophysiologic tests of the peripheral and central auditory and vestibular systems using standardized test procedures, including audiometry, tympanometry, acoustic reflex, or other immittance measures, otoacoustic emissions, auditory evoked potentials, video and electronystagmography, and other tests of human equilibrium and tests of central auditory function using calibrated instrumentation leading to the diagnosis of auditory and vestibular dysfunction abnormality.
 - f. Assessing the candidacy of persons with hearing loss for cochlear implants, auditory brainstem implants, middle ear implantable hearing aids, fully implantable hearing aids, bone-anchored hearing aids, and post-surgery audiologic testing, follow-up assessment, and nonmedical management.
 - g. Offering audiologic decision making for treatment for persons with impairment of auditory function utilizing amplification or other hearing impairment assistive devices, or auditory training.
 - h. Ordering the use of, selecting, fitting, evaluating, and dispensing hearing aids and other amplification or hearing-assistive or hearing-protective systems and audiologic rehabilitation to optimize use. The sale of an over-the-counter hearing aid is solely a financial transaction and, without additional services, does not constitute treatment by an audiologist.
 - i. Fitting and mapping of cochlear implants and audiologic rehabilitation to optimize device use.
 - j. Fitting of middle ear implantable hearing aids, fully implantable hearing aids and bone-anchored hearing aids, and audiologic rehabilitation to optimize device use.
 - k. Conducting otoscopic examinations, removing cerumen obstructions, and taking ear canal impressions. The use of a microscope is allowed as part of audiological practice but shall not be used when cerumen is impacted to the point that it would require the use of anesthesia in conjunction with microscopes or micro instrumentation.
 - l. Providing audiologic examination, audiological decision making, and audiological treatment of persons with tinnitus, including determining candidacy, treatment selection and provision, and providing ongoing management, using techniques, including biofeedback, masking, sound enrichment, hearing aids and other devices, education, counseling, or other relevant tinnitus therapies.
 - m. Counseling on the psychosocial aspects of hearing loss and the use of amplification systems.
 - n. Providing aural habilitation and rehabilitation across the life span, including the provision of counseling related to appropriate devices,

such as amplification, cochlear implants, bone-anchored hearing aids, other assistive listening devices, which may include auditory, auditory-visual, and visual training, communication strategies training, and counseling related to psychosocial consequences of hearing loss.

- o. Administering of electrophysiologic examination of neural function related to the auditory or vestibular system, including sensory and motor-evoked potentials, preoperative and postoperative evaluation of neural function, neurophysiologic intraoperative monitoring of the central nervous system, and cranial nerve function. An audiologist shall not perform neurophysiologic intraoperative monitoring except upon delegation from and under the supervision of a physician and the audiologist shall be qualified to perform those procedures.
 - p. Referring persons with auditory and vestibular dysfunction abnormalities to an appropriate physician for medical evaluation when indicated based upon audiologic and vestibular test results.
 - q. Participating as members of a team to implement goals for treatment of balance disorders, including habituation exercises, retraining exercises and adaptation techniques, and providing assessment and treatment of Benign Paroxysmal Positional Vertigo (BPPV) using canalith positioning maneuvers or other appropriate techniques for assessment and treatment.
 - r. Communication with the patient, family, or caregivers, whether through face-to-face or non-face-to-face electronic means.
 - s. Providing audiologic treatment services for infants and children with hearing impairment and their families in accordance with G.S. 90-294A.
- (7) ~~"The practice of speech and language pathology" means the pathology. –~~ The application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, counseling, treating, instruction, habilitation, or rehabilitation related to the development and disorders of speech, voice, language, communication, cognitive-communication, and swallowing for the purpose of identifying, preventing, ameliorating, or modifying such disorders.
- ...
- (9) ~~"Accredited college or university" means an university. –~~ An institution of higher learning accredited by the Southern Association of Colleges and Universities, or accredited by a similarly recognized association of another locale."

SECTION 12.1.(c) G.S. 90-294 reads as rewritten:

"§ 90-294. License required; Article not applicable to certain activities.

- ...
- (c1) The provisions of this Article do not apply to:
- (1) The activities, services, and use of an official title by a person employed by an agency of the federal government and solely in connection with such employment.
 - (1a) The selling of over-the-counter hearing aids, as defined in this Article.
 - (2) The activities and services of a student or trainee in speech and language pathology or audiology pursuing a course of study in an accredited college or university, or working in a training center program approved by the Board, if these activities and services constitute a part of the person's course of

~~study-study and that student or trainee is not registered with the Board as an assistant under G.S. 90-298.1.~~

- (3) ~~Individuals—The fitting and selling of hearing aids by individuals licensed under Chapter 93D of the General Statutes.~~

...

~~(e) This Article shall not be construed to prevent any person licensed in this State under Chapter 93D of the General Statutes of North Carolina from the practice of fitting and selling hearing aids.~~

(f) The provisions of this Article do not apply to registered nurses and licensed practical nurses or other certified technicians trained to perform audiometric screening tests and whose work is under the supervision of a physician, consulting physician, or licensed ~~audiologist~~ audiologist, unless he or she is registered with the Board as an assistant under G.S. 90-298.1.

...

(i) Nothing in this Article shall apply to a licensed physical therapy or occupational therapy practitioner providing evaluation and treatment of swallowing disorders, ~~eognitive/communication~~ cognitive-communication deficits, and balance functions within the context of his or her licensed practice.

(j) The provisions of this Article do not apply to the selling of over-the-counter hearing aids as defined in G.S. 90-293. The sale of an over-the-counter hearing aid is solely a financial transaction and without additional services does not constitute treatment by an audiologist."

SECTION 12.1.(d) Article 22 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-294A. Treatment of minors.

(a) Audiologists licensed under this Article may treat minors by administering nonmedical audiologic services to minors of all ages with hearing impairment, from birth to less than 18 years of age. Only individuals licensed to practice medicine under Article 1 of this Chapter or working under the supervision of an individual licensed to practice medicine under Article 1 of this Chapter or a person licensed under this Article shall make an assessment of a minor for hearing impairment treatment or manage hearing rehabilitative services of a minor for hearing impairment.

(b) Audiologists licensed under this Article may provide clinical treatment, home intervention, family support, case management, and other audiologic services, including audiologic identification, assessment, audiologic diagnosis, and treatment programs to minors of all ages.

(c) Audiologists may participate in the development of Individualized Education Programs and Individual Family Service Plans; consult in matters pertaining to classroom acoustics, assistive listening systems, hearing aids, communication, and psychosocial effects of hearing loss; and maintain classroom assistive systems and students' personal hearing aids. The audiologist may administer hearing screening programs in schools and train and supervise non-audiologists performing hearing screening in an educational setting.

(d) Over-the-counter hearing aids are not appropriate for individuals under 18 years of age and do not apply to this section."

SECTION 12.1.(e) G.S. 90-295(a) reads as rewritten:

"(a) To be eligible for permanent licensure by the Board as a speech and language pathologist, the applicant must:

...

- (3) Submit evidence of the completion of a minimum of 400 clock hours of supervised, direct clinical experience with individuals who present a variety of communication disorders. This experience must have been obtained within the training institution or in one of its cooperating ~~programs in the following~~

areas: (i) ~~Speech—Adult (20 diagnostic and 20 therapeutic); Children (20 diagnostic and 20 therapeutic); and (ii) Language—Adult (20 diagnostic and 20 therapeutic); Children (20 diagnostic and 20 therapeutic).~~ programs. Each new applicant must submit a verified clinical clock hour summary sheet signed by the clinic or program director, in addition to completion of the license application.

- (4) Present written evidence of nine months of full-time professional experience in which ~~bona fide~~ clinical work has been accomplished in speech and language pathology. The professional work must have been supervised by a speech and language pathologist who is State-licensed or certified by the American Speech-Language-Hearing Association. This experience must follow the completion of the requirements listed in subdivisions (1), (2) and (3). Full time is defined as at least nine months in a calendar year and a minimum of 30 hours per week. Half time is defined as at least 18 months in two calendar years and a minimum of 20 hours per week. The supervision must be performed by a person who holds a valid license under this Article, or certificate of clinical competence from the American Speech-Language-Hearing Association, in speech and language pathology.

...."

SECTION 12.1.(f) G.S. 90-298.1 reads as rewritten:

"§ 90-298.1. Registered assistant.

A licensed speech and language pathologist or a licensed audiologist may register with the Board an assistant who works under the licensee's supervision if all of the following requirements are met:

- (1) The assistant meets the qualifications for registered assistants adopted by the Board.
- (2) The licensee who supervises the assistant pays the registration fee set by the Board.
- (3) The registration fee must be remitted to the Board by the supervisor, assistant, or employer before the assistant can be registered.

A registration of an assistant must be renewed annually. To renew the registration of an assistant, the licensee who supervises the assistant must submit an application for renewal and pay the renewal fee. An initial or renewal fee for registering an assistant may not exceed the renewal license fee set under G.S. 90-305."

SECTION 12.1.(g) G.S. 90-299 reads as rewritten:

"§ 90-299. Licensee to notify Board of place of practice.

(a) A person who holds a license or registration with the Board shall notify the Board in writing of the address of the place or places where he or she engages or intends to engage in the practice of speech and language pathology or audiology.

(b) The Board shall keep a record of the places of practice of ~~licensees~~ licensees and registered assistants.

(c) Any notice required to be given by the Board to a licensee or registered assistant may be given by mailing it to him or her at the address of the last place of practice of which he or she has notified the Board."

SECTION 12.1.(h) G.S. 90-301 reads as rewritten:

"§ 90-301. Grounds for ~~suspension or revocation~~ suspension, revocation, or denial of license, license or registration.

Any person licensed or registered under this Article may have his or her license or registration revoked or suspended for a fixed period by the Board or may have his or her application for license or registration denied by the Board under the provisions of North Carolina General Statutes, Chapter 150B, for any of the following causes:

- (1) His or her license or registration has been secured by fraud or deceit practiced upon the Board.
- (2) Fraud or deceit in connection with his or her services rendered as an audiologist or speech and language pathologist.
- (3) Unethical or immoral conduct as defined in this Article or in a code of ethics adopted by the Board.
- (4) Violation of any lawful order, rule or regulation rendered or adopted by the Board.
- (5) Failure to exercise a reasonable degree of professional skill and care in the delivery of professional services.
- (6) Any violation of the provisions of this Article.
- (7) Failure to exercise good moral conduct as defined in rules adopted by the Board or in a code of moral conduct adopted by the Board."

SECTION 12.1.(i) G.S. 90-303 reads as rewritten:

"§ 90-303. Board of Examiners for speech and language pathology and audiology; qualifications, appointment and terms of members; vacancies; meetings, etc.

...
 (c) ~~The initial Board shall have members appointed for terms of one year, two years, three years, four years, and five years. All board members serving on June 30, 1981, shall be eligible to complete their respective terms. No member appointed to a term on or after July 1, 1981, shall serve more than two complete consecutive three-year terms.~~

...."

SECTION 12.1.(j) G.S. 90-304 reads as rewritten:

"§ 90-304. Powers and duties of Board.

(a) The powers and duties of the Board are as follows:

- (1) To administer, coordinate, and enforce the provisions of this Article, establish fees, evaluate the qualifications of applicants, supervise the examination of applicants, and issue subpoenas, examine witnesses, and administer oaths, and investigate persons engaging in practices which violate the provisions of this Article.
- (2) To conduct hearings and keep records and minutes as necessary to an orderly dispatch of business.
- (3) To adopt responsible rules including rules that establish ethical standards of practice and require continuing professional education and to amend or repeal the same.
- (4) To ~~issue annually~~ provide a list stating the names of persons currently licensed under the provisions of this ~~Article~~ Article on the Board's website.
- (5) To employ such personnel as determined by its needs and budget.
- (6) To adopt seals by which it shall authenticate their proceedings, copies of the proceedings, records and the acts of the Board, and licenses.
- (7) To bring an action to restrain or enjoin violations of this Article in addition to and not in lieu of criminal prosecution or proceedings to revoke or suspend licenses issued under this Article.

(b) The Board shall not adopt or enforce any rule or regulation which prohibits advertising except for false or misleading advertising."

SECTION 12.1.(k) G.S. 90-305 reads as rewritten:

"§ 90-305. Fees.

Persons subject to licensure or registration under this Article shall pay fees to the Board not to exceed the following:

- (1) Application fee\$30.00
- (2) Examination fee30.00

- (3) Initial license fee100.00
- (4) Renewal license fee.....100.00
- (5) Temporary license.....40.00
- (6) Delinquency fee25.00."

SECTION 12.1.(I) G.S. 90-306 reads as rewritten:

"§ 90-306. Penalty for violation.

Any person, partnership, or corporation ~~who or which~~ that willfully violates the provisions of this Article shall be guilty of a Class 2 misdemeanor."

SECTION 12.2. The Board of Examiners for Speech and Language Pathologists and Audiologists may adopt temporary rules to implement the provisions of this Part.

SECTION 12.3. Section 12.1 of this act becomes effective January 1, 2024.

PART XV. ADJUST MEDICAID REIMBURSEMENT FOR DENTAL PROCEDURES PERFORMED IN AMBULATORY CENTERS

SECTION 15. All of the following shall apply to the new Healthcare Common Procedure Coding System (HCPCS) procedure code G0330, which was adopted by the Department of Health and Human Services, Division of Health Benefits (DHB), as of January 1, 2023, and incorporated into the Medicaid Clinical Coverage Policy 4A: Dental Services:

- (1) DHB shall not reimburse ambulatory surgical centers based solely on the length of the procedure. As of July 1, 2023, DHB shall reimburse ambulatory surgical centers so that services billed under procedure code G0330 are reimbursed at ninety-five percent (95%) of the total payment rate listed on the Medicare Part B Hospital Outpatient Prospective Payment System (OPPS), in effect as of January 1, 2023. Starting January 1, 2024, and each year thereafter, DHB shall update these rates annually so that services are reimbursed at ninety-five percent (95%) of the Medicare Part B OPPS payment rate, in effect as of January 1, for that procedure code.
- (2) Because services billed under procedure code G0330 are surgical procedures and not traditional dental procedures, all standard benefit plans and BH IDD tailored plans shall be required to cover these procedures.

PART XVI. AMEND THE DEFINITION OF A BAR IN THE SANITATION STATUTES

SECTION 16.(a) G.S. 130A-247(1) reads as rewritten:

- "(1) "Bar" is as defined in G.S. 18B-1000(1); means an establishment with a permit to sell alcoholic beverages pursuant to subdivision (1), (3), (5), or (10) of G.S. 18B-1001 and that does not prepare or serve food as defined in this Part other than beverage garnishes, ice, or food that does not require time or temperature control for safety as set out in G.S. 130A-248(a) and rules adopted to implement that section and that is in an unopened original commercial package, except for food used as a beverage garnish."

SECTION 16.(b) G.S. 130A-250(4a) reads as rewritten:

- "(4a) ~~Bars.~~ Bars as defined in G.S. 130A-247(1)."

PART XVII. EFFECTIVE DATE

SECTION 17. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of September, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 4:00 p.m. this 29th day of September, 2023