



HOUSE BILL 195: Criminal Falsification of Medical Records.

2021-2022 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	May 11, 2021
Introduced by:	Rep. Pless	Prepared by:	Sarah Pilon
Analysis of:	First Edition		Staff Attorney

OVERVIEW: House Bill 195 would create an offense for a health care provider, as defined in Article 29 of Chapter 90 of the General Statutes, to knowingly and willfully destroy, alter, or falsify a medical record for certain purposes.

CURRENT LAW: Chapter 90 of the General Statutes governs Medicine and Allied Occupations. Article 29 pertains to Medical Records, and includes the following definitions:

- *Health Care Provider* – any person who is licensed or certified to practice a health profession or occupation under Chapter 90, Chapter 90B, Chapter 90C of the General Statutes and a representative or agent of a health care provider. G.S. 90-410(1). This would include, but not be limited to, any of the following health care providers:
 - Chapter 90 – licensed and certified professionals practicing in medicine, dentistry, optometry, osteopathy, chiropractic, nursing, podiatry, psychology, physical therapy, occupational therapy, or speech and language pathology and audiology, etc.
 - Chapter 90B – certified master social worker, social work manager, social worker, licensed clinical social worker, social worker associate.
 - Chapter 90C – licensed recreational therapist and recreational therapy assistant.
 - Chapter 131E – Emergency Medical Services professionals, licensed health care facilities, and licensed general hospitals.
 - Chapter 122C – licensed facilities for the mentally ill, developmentally disabled, and substance abusers.
- *Medical Record* – personal information that relates to an individual's physical or mental condition, medical history, or medical treatment, excluding X rays and fetal monitor records. G.S. 90-410(2).

BILL ANALYSIS: House Bill 195 would create a criminal offense for a health care provider to knowingly and willfully destroy, alter, or falsify a medical record for the following purposes:

- Concealing the commission of an error by the health care provider in providing medical service that caused injury to or the death of a patient.
 - Violation of this offense would be a Class H felony, punishable by an absolute minimum of 4 months community punishment and an absolute maximum of 39 months active punishment, depending on the prior record level.
- Unlawfully obtaining money or any other thing of value.

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Legislative Analysis
Division
919-733-2578

House Bill 195

Page 2

- Violation of this offense would be a Class I felony, punishable by an absolute minimum of 3 months community punishment and an absolute maximum of 25 months active punishment, depending on the prior record level.
- Concealing any material fact not otherwise covered as it relates to a potential claim or cause of action.
 - Violation of this offense would be a Class A1 misdemeanor, punishable by an absolute minimum of one day of community punishment and an absolute maximum of 150 days active punishment, depending on the prior record level.

This bill would not affect any civil remedies available for actions punishable under the section as enacted by this bill.

EFFECTIVE DATE: The bill would become effective December 1, 2021 and apply to offenses committed on or after that date.

**Theresa Matula. Legislative Analyst, substantially contributed to this summary.*