HOUSE BILL 125: North Carolina Health and Human Services Workforce Act.

2023-2024 General Assembly

Committee:		**Date:**	November 16, 2023
Introduced by:		**Prepared by:**	Theresa Matula
Analysis of:	S.L. 2023-129		Legislative Analyst

OVERVIEW: S.L. 2023-129 makes numerous changes that impact the workforce in the health and human services sector. Sections of the act include the following: allows military relocation licenses for physician and physician assistant servicemembers and spouses; modifies the hearing aid dealers and fitters laws with regard to over-the-counter hearing aids; modifies behavior analyst credentialing; makes modifications to optometry laws; requires evaluation of federal requirements and, if appropriate, requires development of a plan to transition the nurse aide I education and training program from the Department of Health and Human Services to the Board of Nursing; protects health care workers from violence; extends flexibility for ambulance transport; updates statutes governing the practice of audiology; adjusts Medicaid reimbursement for dental procedures performed in ambulatory centers; and amends the definition of a "bar" in the sanitation statutes.

The audiology portion of the act was amended by Section 2.7 of S.L. 2023-141.

This act has various effective dates. Please see full summary for more details.

BILL ANALYSIS: S.L. 2023-129, as amended by Section 2.7 of S.L. 2023-141, makes numerous changes in a range of content areas as outlined below:

- **Allows Military Relocation Licenses for Physician and Physician Assistant Servicemembers and Spouses.** – Part I creates a new statute (G.S. 90-12.02) to allow the North Carolina Medical Board to issue a military relocation license to a physician or physician assistant who is a servicemember of the United States Armed Forces or the spouse of a servicemember not otherwise actively licensed by the Board as long as specified criteria are met. This section becomes effective February 1, 2024.
- **Modifies the Hearing Aid Dealers and Fitters Laws with regard to Over-the-Counter Hearing Aids.**– Part III amends the definition section (G.S. 93D-1) that pertains to the North Carolina State Hearing Aid Dealers and Fitters Board to include a definition for an "over-the-counter hearing aid" as that term is defined by the United States Food and Drug Administration (in 21 C.F.R. § 801). It further provides that the chapter of the General Statutes for Hearing Aid Dealers and Fitters (Chapter 93) does not apply to the selling of over-the-counter hearing aids.
- **Modifies Behavior Analyst Credentialing.** - Part IV amends the definition section of the law (G.S. 90-732) to provide that the certifying entity includes the nationally accredited Qualified Behavior Analysis Credentialing Board, in addition to the nationally accredited Behavior Analyst Certification Board.
- **Makes Modifications to Optometry Laws.** – Part V amends the licensure renewal dates; increases a number of license fees; amends the criteria for being issued a license or being

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subject to discipline, suspension, or revocation of a license; and outlines incidences that must be reported to the Board, as well as clarifying the duty to report and specifying how those reports must be made. These changes became effective October 1, 2023.

This Part also authorizes an optometrist registered with the North Carolina Board of Pharmacy to dispense certain drugs and establishes the fees for a dispensing optometrist under the Board of Pharmacy. Requires the State Board of Examiners of Optometry and the Board of Pharmacy to adopt rules. These changes become effective March 1, 2024.

- **Requires Evaluation of Federal Requirements and, if appropriate, Requires Development of a Plan to Transition the Nurse Aide I Education and Training Program from the Department of Health and Human Services to the Board of Nursing.**- Part VII requires the Board of Nursing and the Division of Health Service Regulation of the Department of Health and Human Services (DHHS), to 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. The registries will continue to be maintained by DHHS.

  On or before September 1, 2024, DHHS and the Board of Nursing must report to the Joint Legislative Oversight Committee on Health and Human Services on the evaluation of the federal requirements and, to the extent consistent with the applicable federal requirements, provide 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.

- **Protect Health Care Workers from Violence.** – Part VIII contains several new laws related to protecting health care workers.

  Section 8.1 adds a new law (Part 3A to Article 5, of Chapter 131E) titled the "Hospital Violence Protection Act" as outlined below.

  - *Security Assessment and Security Plan Evaluating the Appropriateness of a Law Enforcement Officer in a Hospital Emergency Department* – This section requires each hospital licensed under the Article that has an emergency department to conduct a security risk assessment and develop and implement a security plan. Unless the exemption applies, the security plan must ensure that at least one law enforcement officer is present at all times in the emergency department or on the same campus of the emergency department, except when temporarily required to leave in connection with the discharge of their duties.

  - *Exemption to the Requirement to have a Law Enforcement Office Present* – A hospital with an emergency department 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. A hospital determining that a different level of security is necessary and appropriate must include the basis for that determination in its security risk assessment, and the security plan must include the following: the signature of the county sheriff; the signature of the municipal police chief, if applicable; and the approval and signature of the county emergency management director.

- *Violence Prevention* - Additionally, every hospital with an emergency department must provide appropriate hospital workplace violence prevention program training, education, and resources to staff, practitioners, and non-law enforcement officer security personnel.
- *Access to Security Plans* - DHHS must have access to all security plans for hospitals with an emergency department and must maintain a list of those hospitals with a security plan where the hospital has determined an exemption from the law enforcement officer requirement is appropriate. A hospital security risk assessment and a hospital security plan, regardless of who has custody of the assessment or plan, are not public records as defined by Chapter 132 of the General Statutes.
- *Reports (G.S. 131E-88.2)* –
  - Annually by October 1, the Division of Health Service Regulation, DHHS, must 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.

    DHHS must compile this information and share that data with the North Carolina Sheriffs' Association, the North Carolina Association of Chiefs of Police, and the North Carolina Emergency Management Association. Further, DHHS must request these organizations examine the data and make recommendations to DHHS to decrease the incidences of violence in hospitals and to decrease assaults on hospital personnel. The first data collection for this report must occur on or before September 1, 2025. The first report required is due on or before December 1, 2025.
  - Annually by September 1, the Administrative Office of the Courts must report to DHHS the number of persons charged and convicted during the preceding calendar year of assault or affray on a firefighter, an emergency medical technician, medical responder, and medical practice and hospital personnel (G.S. 14-34.6). This portion became effective October 1, 2024, and the first report is due October 1, 2025. This portion of the act expires October 30, 2030.
  - DHHS is required to compile the information from the above reports and report findings and recommendations to the Joint Legislative Oversight Committee on Health and Human Services annually by December 1.

    By October 1, 2023, DHHS must notify all licensed hospitals of the requirements of this Part including the reporting requirements. The notification requirement became effective September 29, 2023.

Except as otherwise provided, the Section 8.1 pertaining to the Hospital Violence Prevention Act becomes effective October 1, 2024.

- *Assault on a health care worker* – Section 8.2(a) amends the criminal statute (G.S. 14-34.6) for assaulting a firefighter, emergency medical technician, medical responder, and hospital personnel to include medical practice personnel and individuals under contract to provide services at a hospital or medical practice. A person who commits an assault or affray causing physical injury on any of the covered individuals who are discharging or attempting to discharge their official duties is guilty of a Class I felony. Unless a person's conduct is covered under some other provision of law providing greater punishment, a person is guilty of a Class F felony (previously Class G) if the person inflicts serious bodily injury or uses a deadly weapon other than a firearm. Unless a person's conduct is covered under some other provision of law providing greater punishment, a person is guilty of a Class D felony (previously Class E) if the person uses a firearm. This section became effective December 1, 2023, and applies to offenses committed on or after that date.
- *Assault on legislative officer, executive officer, or court officer* – Section 8.2(b) amends a criminal statute (G.S. 14-16.6(c)) to increase the penalty from a Class F to a Class E for inflicting serious bodily injury to a legislative officer, executive officer, or court officer. Section 8.2(c) amends another statute (G.S. 14-16.10(1)) to clarify that a "court officer" includes any attorney or other individual employed by, contracted by, or acting on behalf of a county department of social services. This section became effective December 1, 2023, and applies to offenses committed on or after that date.
- *Aggravating Factors* – Section 8.3 amends the criminal law (G.S. 15A-1340.16) pertaining to aggravated and mitigated sentences to include as an aggravating factor a defendant who commits an offense on the property of a hospital and a defendant who commits an offense on the property of a medical practice. This section became effective December 1, 2023, and applies to offenses committed on or after that date.

- **Extend Flexibility for Ambulance Transport Provided.** – Part X clarifies that the flexibilities previously enacted regarding the temporary waiver of credentialed personnel in an ambulance, continue to apply to Non-Emergency Medical Transportation (NEMT) services through May 11, 2024. The Department is required to work with NEMT stakeholders to develop a permanent plan regarding staffing as included in the waiver. This section became effective September 29, 2023, and expires May 11, 2024.
- **Audiology Updates.** – Part XII, as amended by Section 2.7 of S.L. 2023-141, modifies the statutes (Article 22 of Chapter 90) governing the practice of audiology, including modifications to reflect the new definition of over-the-counter hearing aids and. It also amends the definition of audiology to include specified responsibilities. This Part creates a new statute on the treatment of minors (G.S. 90-294A). which provides that audiologists who are supervised by a physician can assess minors for hearing impairment treatment. Other changes (G.S. 90-295) include the clinical experience needed for licensure is no longer required to be broken down into specific treatment areas, however, the amount of overall clinical experience will remain unchanged. Changes also include the fee for an audiology assistant is to be submitted to the Board prior to the assistant being registered (G.S. 90-298.1).

  The change in S.L. 2023-141 to this section clarifies that audiologists are prohibited from performing complex earwax removal which includes instances where it is impacted to the point that it requires anesthesia or micro instrumentation.

  These changes became effective January 1, 2024.

- **Adjust Medicaid Reimbursement for Dental Procedures Performed in Ambulatory Surgical Centers.** – Part XV provides that the following apply to the new Healthcare Common Procedure Coding System (HCPCS) procedure code G0330, adopted by the Department as of January 1, 2023, and incorporated into the Medicaid Clinical Coverage Policy 4A: Dental Services:
    - The Division of Health Benefits (DHB), DHHS, is not allowed to reimburse ambulatory surgical centers based solely on the length of the procedure. As of July 1, 2023, DHB must reimburse ambulatory surgical centers so that services billed under procedure code G0330 are reimbursed at 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 must update these rates annually so that services are reimbursed at 95% of the Medicare Part B OPPS payment rate, in effect as of January 1, for that procedure code.
    - Since services billed under procedure code G0330 are surgical procedures and not traditional dental procedures, all standard benefit plans and behavioral health intellectual/developmental disabilities tailored plans are required to cover these procedures.
- **Amend the Definition of a Bar in the Sanitation Statutes**. – Part XVI defines a "bar" as an establishment with a permit to sell alcoholic beverages and does not prepare or serve food other than beverage garnishes, ice or food that does not require time or temperature control.

Except as otherwise provided above, the contents of the act became effective September 29, 2023.