

Adopt Plc 1600 to read as follows:

CHAPTER Plc 1600 REGISTRATION OF NURSE AGENCIES

Statutory Authority: RSA 326-M:2, II; RSA 326-M:4; RSA 310:6, II

PART Plc 1601 PURPOSE AND APPLICABILITY; SENDING NOTICES AND REGISTRATIONS

Plc 1601.01 Purpose. The purpose of this chapter is to implement RSA 326-M relative to nurse agency registration, by establishing requirements for:

- (a) Registering with the office of professional licensure and certification (OPLC) as a nurse agency; and
- (b) Renewing a nurse agency registration.

Plc 1601.02 Applicability.

- (a) As stated in RSA 326-M:2, I, “[b]eginning January 1, 2024, a nurse agency seeking to do business in the state shall submit an application to the office of professional licensure and certification.”
- (b) This chapter shall apply to any nurse agency seeking to do business in New Hampshire.

Plc 1601.03 Notifications; Issuance of Registrations.

- (a) The OPLC shall send all notifications to applicants and registrants and all registrations issued pursuant to this chapter to the applicant’s or registrant’s designated email address.
- (b) All notifications and registrations sent to a designated email address for which the OPLC does not receive any indication that the email was not delivered shall be deemed to have been received by the applicant or registrant who designated the email address.

PART Plc 1602 DEFINITIONS

Plc 1602.01 “Contact information” means:

- (a) For an individual, the individual’s designated email address, home or other personal telephone number, home physical address, and home mailing address if not the same as the physical address; and
- (b) For a legal entity, the legal entity’s designated email address, telephone number, physical address, and mailing address if not the same as the physical address.

Plc 1602.02 “Cooperate” means to provide information requested by an investigator during an investigation and to answer any questions posed by the investigator in order to enable the executive director to determine compliance with RSA 326-M and Plc 1600.

Plc 1602.03 “Designated email address” means the email address provided by an applicant or registrant as the address for the OPLC to use when sending notifications and licenses.

Plc 1602.04 “Executive director” means the executive director of the OPLC or designee.

Plc 1602.05 “Health care facility” means a facility that provides medical care that is required to be administered by licensed medical personnel. The term includes, but is not limited to, hospitals, nursing homes, extended care facilities, residential care facilities, hospice houses, and clinics. The term does not include home health agencies licensed and operated under RSA 151:2-b.

Plc 1602.06 “Investigator” means an individual authorized by the executive director to conduct an investigation into allegations of potential violations by a licensee of applicable provisions in RSA 326-M or Plc 1600, or both.

Plc 1602.07 “License” means “license” as defined in RSA 541-A:1, VIII, namely “the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law.” For purposes of providing information on professional activities in other jurisdictions, the term includes license, certificate, registration, or any other form of approval required to operate as a nurse agency in that jurisdiction.

Plc 1602.08 “Licensing bureau” means the organizational unit within the OPLC’s division of licensing and board administration that is responsible for, among other duties, accepting and processing applications and issuing licenses.

Plc 1602.09 “Nurse agency” means “nurse agency” as defined in RSA 326-M:1, I, namely “any individual, firm, corporation, partnership or other legal entity that employs, assigns or refers nurses or licensed nursing assistants to a health care facility on a per diem or temporary basis for a fee. The term “nurse agency” includes an agency that employs, assigns, or refers such personnel through the use of apps or other technology based solutions or platforms. The term “nurse agency” shall not include services provided by home health agencies licensed and operated under RSA 151:2-b, any entity wholly owned by a health care facility or facilities separately licensed under RSA 151, nor shall it include any individual offering only his or her services.”

Plc 1602.10 “Person” means an individual or a legally-constituted entity, including but not limited to corporations, limited liability corporations, professional associations, and partnerships, whether general or limited.

Plc 1602.11 “Temporary” as used in the definition of “nurse agency” means fewer than 24 months.

Plc 1602.12 “Same time period or shift” as used in RSA 326-M:3, I means the same or overlapping hours on the same day(s).

Plc 1602.13 “Working day” means any Monday through Friday, excluding days on which state offices are closed in observation of holidays.

PART Plc 1603 REQUIREMENTS FOR INITIAL REGISTRATION

Plc 1603.01 Qualifications for Registration. To qualify for registration as a nurse agency, a person shall:

(a) Employ, assign, or refer nurses or licensed nursing assistants to a health care facility on a per diem or temporary basis for a fee; and

(b) Not be any of the following:

(1) A home health agency licensed and operated under RSA 151:2-b;

(2) An entity wholly owned by a health care facility or facilities separately licensed under RSA 151; or

(3) An individual offering only that individual’s services.

Plc 1603.02 Applying for Initial Registration.

(a) Any person who meets the qualifications in Plc 1603.01 and wishes to operate as nurse agency in New Hampshire shall file an application for initial registration in accordance with this section.

(b) The applicant shall submit the following to the licensing bureau:

- (1) A completed “Universal Application for Initial License” dated March 2024, together with the “Nurse Agency Registration Supplement to Universal Application for Initial License” dated March 2024, that contains the information specified in Plc 304.03 and Plc 1603.03, and is signed and attested to as specified in Plc 304.05 and Plc 1603.04;
- (2) The documentation specified in Plc 304.04, as applicable; and
- (3) The application processing and licensing fee specified in Plc 1002, provided that if no application processing and licensing fee is specified in Plc 1002, no fee shall be charged.

Plc 1603.03 Information Required for Initial Registration Application. In addition to the information required by Plc 304.03, the applicant for an initial registration as a nurse agency shall provide the following information:

(a) The estimated number of licensed medical personnel the applicant expects to have available for assignments to clients, as a range and as an average.

Plc 1603.04 Additional Attestation Required for Initial Registration Application. In addition to the attestation required by Plc 304.05, the applicant’s signature shall constitute attestation that the applicant:

(a) Has the financial resources to pay the nurses it places prior to receiving payment from the health care facility in which the nurses are placed; and

(b) Understands and shall adhere to the obligations of RSA 326-M:3, namely:

- (1) Nurse agencies shall not commit the services of a single nurse or licensed nursing assistant to more than one health care facility for the same time period or shift and cancel a commitment to a facility, or compel that facility to bid again for services already promised it;
- (2) Nurse agencies shall not recruit potential employees on the premises of a health care facility;
- (3) Nurse agencies shall not charge a health care facility a higher amount based upon the presence in that facility of a communicable virus, except in the case of a state or local declaration of a public health emergency; and
- (4) Nurse agencies shall not facilitate the placement of any licensed professional with a license that is suspended.

Plc 1603.05 Initial Review of Applications for Initial Registration; Abandonment.

(a) Within 30 days of receipt of an application for initial registration submitted pursuant to Plc 1603.02, the licensing bureau shall process the application as provided in Plc 304.06.

(b) The application shall be subject to the abandonment provisions of Plc 304.06(h).

(c) If the application is abandoned, the application processing and licensing fee shall not be refunded.

Plc 1603.06 Withdrawal of Application for Initial Registration.

(a) An applicant may withdraw the application for registration at any time prior to being notified of a decision under Plc 1603.07, by proceeding in accordance with Plc 304.07.

(b) If the application is withdrawn, the application processing and licensing fee shall not be refunded.

Plc 1603.07 Review of Complete Applications for Initial Registration; Decisions.

(a) After determining that an application is complete, the licensing bureau shall review the application to determine whether the applicant meets all criteria specified in applicable law for registration as a nurse agency.

(b) The licensing bureau shall:

- (1) Approve or deny the application within 60 days as required by RSA 541-A:29, II, as provided in (c) or (d), below; and
- (2) Promptly notify the applicant of the decision on the application in writing sent to the applicant's designated email address.

(c) The licensing bureau shall approve an application for initial registration and issue a registration if the applicant:

- (1) Meets the requirements in Plc 1603.01;
- (2) Has complied with Plc 1603.02;
- (3) Has not answered "yes" to any of the background and character questions in Plc 304.03(e) or has provided an explanation of each "yes" answer pursuant to Plc 304.04 demonstrating that similar circumstances are not likely to arise in New Hampshire; and
- (4) Has confirmed that the applicant:
 - a. Has the financial resources to pay the nurses it places prior to receiving payment from the health care facility in which the nurses are placed; and
 - b. Understands and shall adhere to the obligations of RSA 326-M:3.

(d) If the licensing bureau determines that the applicant has not demonstrated that all requirements to obtain a registration are met, then:

- (1) The licensing bureau shall deny the application; and
- (2) The notice sent pursuant to (b)(2), above, shall inform the applicant of the reason(s) for the denial and that the denial shall become final unless the applicant requests a hearing in writing within 30 days.

(e) If the application is denied, any application processing and licensing fee paid shall not be refunded.

Plc 1603.08 Initial Registrations: Issuance and Duration.

(a) Each initial registration as a nurse agency issued by the OPLC shall specify:

- (1) The name of the registrant;
- (2) The effective date of the registration; and
- (3) The registration number.

(b) Initial registrations shall:

- (1) Be valid for 2 years from the date of issuance as provided in RSA 310:8, II, provided that the timely filing of a complete renewal application shall continue the validity of the registration being renewed until final action is taken on the renewal application;

(2) Expire 2 years from the date on which the registration was issued unless a timely and complete renewal application is filed or the registration is sooner suspended or revoked in accordance with Plc 1607 or other applicable law; and

(3) Be subject to renewal.

Plc 1603.09 Challenging a Denial of Initial Registration. An applicant who wishes to challenge the denial of an application for initial registration shall do so as provided in Plc 304.10.

Plc 1603.10 Facilitated Registration for Active Duty Military and Military Spouses.

(a) An applicant for registration who is on active military duty or who is a military spouse shall apply for registration as provided in Plc 1603.02, except that no application processing and licensing fee shall be required even if one is listed in Plc 1002.

(b) Each applicant who applies for facilitated registration under this section shall be eligible to obtain a facilitated registration if the applicant meets the qualifications for registration summarized in Plc 1603.01.

(c) Any individual who obtains a facilitated registration under this section shall comply with all registration renewal requirements specified in Plc 1605 if the individual wishes to continue to conduct business in New Hampshire as nurse agency after the term of the initial registration.

PART Plc 1604 REGISTRANT OBLIGATIONS

Plc 1604.01 Registrant Obligations to Notify.

(a) Each registrant shall:

(1) Notify the licensing bureau within 10 working days when a change of name occurs; and

(2) Update the OPLC's records within 10 working days when a change of contact information occurs.

(b) Each registrant shall know, and have available in the registrant's office or other place of business, information regarding how complaints can be filed with the OPLC.

(c) Each registrant shall inform the licensing bureau within 10 working days of any of the circumstances identified in Plc 307.02(c).

Plc 1604.02 Registrant Responsibilities for Renewal. Each registrant shall:

(a) Know when the registrant's registration is due to expire; and

(b) File an application for renewal prior to the expiration of the current registration in accordance with Plc 1605 if the registrant wishes to continue to conduct business as a nurse agency in New Hampshire.

Plc 1604.03 Compliance with Legal Reporting Requirements.

(a) Each registrant that is an entity shall comply with all reporting requirements necessary to maintain good standing status with:

(1) The New Hampshire secretary of state's office; and

(2) The equivalent authority in the registrant's state of formation, if other than New Hampshire.

(b) If a registrant fails to maintain good standing in New Hampshire or in the registrant's state of formation, if other than New Hampshire, the registrant shall:

- (1) Notify the licensing bureau within 10 working days; and
- (2) Not operate as a nurse agency for compensation in New Hampshire unless and until reobtaining:
 - a. Good standing status in New Hampshire and in the registrant's state of formation if other than New Hampshire; and
 - b. Registration under RSA 326-M and Plc 1600.

PART Plc 1605 REGISTRATION RENEWAL AND REINSTATEMENT

Plc 1605.01 Eligibility for Registration Renewal. To be eligible for renewal of a nurse agency registration, a person shall:

- (a) Meet the qualifications stated in Plc 1603.01;
- (b) Have paid all administrative and civil penalties imposed, if any; and
- (c) Meet the eligibility for renewal criteria specified in Plc 308.02, as applicable.

Plc 1605.02 Notification of Pending Registration Expiration.

(a) At least 60 days prior to the expiration of a registration issued pursuant to RSA 326-M and Plc 1600, the licensing bureau shall:

- (1) Notify, in writing to the email address on file, each registrant whose registration is expiring that:
 - a. The registration is due to expire; and
 - b. Failure to file a complete and timely application for renewal shall result in the registration expiring; and

(2) Include with the written notice a copy of the application identified in Plc 1605.03 or, when the application is available on-line, a registration code, if one is necessary, to use to renew on-line.

(b) A registrant who wishes to renew a registration who does not receive an application or registration code shall contact OPLC customer support at CustomerSupport@oplc.nh.gov to obtain an application or registration code, as applicable.

(c) As provided in RSA 310:8, II and RSA 541-A:30, I, if a timely and complete renewal application has been filed then the registration shall continue as valid until final action is taken on the application for renewal.

(d) A nurse agency whose registration has expired shall not operate as a nurse agency for compensation in New Hampshire unless and until the registration has been reinstated as provided in Plc 1605.11.

Plc 1605.03 Application for Registration Renewal. A nurse agency that wishes to renew a registration shall submit the following to the licensing bureau:

(a) A completed "Universal Application to Renew License" dated March 2024, together with the "Nurse Agency Registration Supplement to Universal Application to Renew License" dated March 2024, that provides the information required by Plc 308.06 and Plc 1605.04, and is signed and attested to as required by Plc 308.08 and Plc 1605.05;

- (b) The documentation required by Plc 308.07, as applicable; and
- (c) The application processing and licensing fee specified in Plc 1002, provided that:
 - (1) An applicant applying to renew as active military or a military spouse shall not pay the application processing and licensing fee; and
 - (2) If no application processing and licensing fee is specified in Plc 1002, then no fee shall be paid.

Plc 1605.04 Information Required for Registration Renewal Application. In addition to the information required by Plc 308.06, the applicant for renewal of a nurse agency registration shall provide the following information:

(a) The estimated number of licensed medical personnel the applicant expects to have available for assignments to clients, as a range and as an average.

Plc 1605.05 Additional Attestation Required for Renewal Application. In addition to the attestation required by Plc 308.08, the applicant's signature shall constitute attestation that the applicant:

- (a) Has the financial resources to pay the nurses it places prior to receiving payment from the health care facility in which the nurses are placed; and
- (b) Understands and shall adhere to the obligations of RSA 326-M:3, namely:
 - (1) Nurse agencies shall not commit the services of a single nurse or licensed nursing assistant to more than one health care facility for the same time period or shift and cancel a commitment to a facility, or compel that facility to bid again for services already promised it;
 - (2) Nurse agencies shall not recruit potential employees on the premises of a health care facility;
 - (3) Nurse agencies shall not charge a health care facility a higher amount based upon the presence in that facility of a communicable virus, except in the case of a state or local declaration of a public health emergency; and
 - (4) Nurse agencies shall not facilitate the placement of any licensed professional with a license that is suspended.

Plc 1605.06 Initial Review of Renewal Applications. Within 30 days of receipt of an application for registration renewal submitted pursuant to Plc 1605.03, the licensing bureau shall process the application as provided in Plc 308.09.

Plc 1605.07 Withdrawal or Abandonment of Renewal Application.

- (a) An applicant may withdraw the application for registration renewal as specified in Plc 308.10 at any time prior to being notified of a decision under Plc 1605.08.
- (b) A renewal application shall be deemed to be abandoned if the applicant files an incomplete application and does not provide all information necessary to complete the application when directed to do so pursuant to Plc 308.09.
- (c) If the application is withdrawn or abandoned, then:
 - (1) The person shall not operate as a nurse agency for compensation in New Hampshire after the date of expiration, unless and until the person obtains registration reinstatement as provided in Plc 1605.11; and

(2) Any application processing and licensing fee paid with the renewal application shall not be refunded.

Plc 1605.08 Review of Complete Renewal Applications; Decisions.

(a) The licensing bureau shall review complete applications as provided in Plc 308.11 and RSA 541-A:29, II.

(b) The licensing bureau shall issue a renewal registration if the applicant:

- (1) Has submitted a renewal application in accordance with Plc 1605.03; and
- (2) Demonstrates that the applicant has met the requirements for renewal stated in:
 - a. Plc 1605.01; and
 - b. Plc 308.02.

(c) The licensing bureau shall notify the applicant of the decision on the renewal application in writing sent to the applicant's designated email address.

(d) If the licensing bureau determines that the applicant has not demonstrated that all requirements to renew a registration are met, then:

- (1) The licensing bureau shall deny the application; and
- (2) The notice sent pursuant to (c), above, shall inform the applicant of the reason(s) for the denial and that the denial shall become final in 30 days unless the applicant requests a hearing in writing within 30 days.

(e) If the application is denied, any registration renewal application processing and licensing fee paid with the renewal application shall not be refunded.

Plc 1605.09 Renewal Registrations: Issuance and Duration.

(a) Each renewal registration to operate as a nurse agency issued by the OPLC shall specify:

- (1) The name of the registrant;
- (2) The effective dates of the registration; and
- (3) The registration number.

(b) Registrations shall:

- (1) Be valid for 2 years from the date of issuance, provided that the timely filing of a complete renewal application shall continue the validity of the registration being renewed until final action is taken on the renewal application;
- (2) Expire 2 years from the date on which the registration was issued unless a timely and complete renewal application is filed or the registration is sooner suspended or revoked pursuant to Plc 1607 or other applicable law; and
- (3) Be subject to renewal biennially.

Plc 1605.10 Challenging a Denial of Registration Renewal. An applicant who wishes to challenge the denial of an application for registration renewal shall do so as provided in Plc 308.12.

Plc 1605.11 Reinstatement of a Registration After Expiration. The procedures in Plc 312 shall govern the reinstatement of a registration after expiration.

Plc 1605.12 Reinstatement of a Registration Previously Suspended or Revoked. The procedures in Plc 312 shall govern the reinstatement of a registration after suspension or revocation.

PART Plc 1606 ETHICAL AND PROFESSIONAL STANDARDS

Plc 1606.01 Applicability.

(a) The standards in this part shall apply to each person who applies to be registered under RSA 326-M or who is registered under RSA 326-M.

(b) Violations of these standards shall constitute unprofessional conduct that subjects the violator to disciplinary proceedings pursuant to Plc 1607 and other applicable law.

Plc 1606.02 Statutory Mandates. All nurse agencies shall adhere to the standards established in RSA 326-M:3 for contracts between nurse agencies and health care facilities, as summarized below:

(a) Nurse agencies shall not commit the services of a single nurse or licensed nursing assistant to more than one health care facility for the same time period or shift and cancel a commitment to a facility, or compel that facility to bid again for services already promised it;

(b) Nurse agencies shall not recruit potential employees on the premises of a health care facility;

(c) Nurse agencies shall not charge a health care facility a higher amount based upon the presence in that facility of a communicable virus, except in the case of a state or local declaration of a public health emergency; and

(d) Nurse agencies shall not place any medical professional whose license is suspended.

Plc 1606.03 Professional Obligations. Each person subject to this chapter shall:

(a) Comply with RSA 326-M, Plc 307.04 relative to obligations of persons subject to these rules, and Plc 1600;

(b) Comply with any disciplinary or remedial orders issued by the executive director within the time periods specified;

(c) Interact with colleagues and clients with honesty and integrity;

(d) Not misrepresent professional qualifications or credentials of any employee or contracted medical personnel;

(e) Cooperate with inspections and with lawful investigations by the executive director;

(f) Treat all individuals with whom the person interacts in a professional capacity with respect and civility;

(g) Maintain sexual boundaries by:

(1) Refraining from any behavior that exploits the practitioner-patient relationship in a sexual way; and

(2) Avoiding any behavior that is sexual or sexually demeaning, or that could be reasonably interpreted as such, even when initiated by or consented to by the patient or a colleague;

(h) Not engage in hazing or sexual, verbal, or physical harassment of any individual when interacting in a professional capacity; and

(i) Not discriminate based on age, sex, gender identity, race, creed, color, marital status, familial status, physical or mental disability, or national origin.

PART Plc 1607 PROCEDURES; DISCIPLINARY PROCEEDINGS

Plc 1607.01 Rules of Practice and Procedure.

(a) The rules in Plc 200 and Plc 310 shall govern:

- (1) The receipt of misconduct complaints and the investigation thereof; and
- (2) The conduct of disciplinary hearings.

(b) The rules in Plc 200 shall govern:

- (1) The conduct of all other adjudicative and non-adjudicative proceedings;
- (2) Waivers of rules;
- (3) Voluntary surrender of licenses; and
- (4) Any other procedures not included in this chapter.

Plc 1607.02 Procedures for Disciplinary and Non-Disciplinary Remedial Proceedings and Imposing License Conditions. The procedures in Plc 311 shall govern disciplinary and non-disciplinary remedial proceedings and imposing license conditions.

Plc 1607.03 Rehearings and Appeals.

(a) As provided in RSA 310:14, I:

- (1) Any person who has been denied a registration under this chapter shall have the right to a rehearing; and
- (2) Requests for a rehearing shall be made within 30 days of receipt of the original final decision.

(b) Pursuant to RSA 310:14, II, any person who has been disciplined shall have the right to petition in writing for a rehearing within 30 days of receipt of the original final decision.

(c) Petitions or requests for rehearing shall be made in the form of a motion as provided in Plc 206.12.

(d) Pursuant to RSA 310:14, III:

- (1) Appeals from a decision on rehearing shall be by appeal to the supreme court pursuant to RSA 541; and
- (2) No sanction shall be stayed during an appeal.

APPENDIX A: STATE STATUTES IMPLEMENTED

| Rule | State Statute(s) Implemented |
|---|--|
| Plc 1600 (see below for additional/specific provisions) | RSA 326-M |
| Plc 1603 | RSA 310:4, II(c); RSA 310:8, I; RSA 326-M:2, I |
| Plc 1604 | RSA 310:9 |
| Plc 1605 | RSA 310:8, II-IV; RSA 326-M:2, I |
| Plc 1606 | RSA 326-M:3 |
| Plc 1607 | RSA 310:4, II(d); RSA 310:9; RSA 310:10 |