

**Repeal Nat 201 through Nat 202, effective 3-9-05 (Document #8300), as follows:**

~~PART Nat 201 DEFINITIONS~~

~~— Nat 201.01 Definitions. The following terms shall have the following meanings:~~

~~— (a) “Appearance” means a written notification to the board that a party, an intervenor or the representative of a party or intervenor intends to actively participate in a hearing.~~

~~— (b) “Board” means “board” as defined in RSA 328 E:2, III, namely, “the naturopathic board of examiners established under RSA 328 E:7.”~~

~~— (c) “Contested case” means “contested case” as defined in RSA 541 A:1, IV, namely, “a proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after notice and an opportunity for hearing”.~~

~~— (d) “Declaratory ruling” means “declaratory ruling” as defined in RSA 541 A:1, V, namely, “an agency ruling as to the specific applicability of any statutory provision or of any rule or order of the agency”.~~

~~— (e) “Hearing” means “adjudicative proceeding” as defined by RSA 541 A:1, I, namely, “the procedure to be followed in contested cases, as set forth in RSA 541 A:31 through RSA 541 A:36”.~~

~~— (f) “Intervenor” means a person without the status of a party but participating in a hearing to the extent permitted by the presiding officer acting pursuant to RSA 541 A:32.~~

~~— (g) “Motion” means a request to the presiding officer for an order or ruling directing some act to be done in favor of the proponent of the motion, which request includes a statement of reasons for the request and any applicable law supporting the request.~~

~~— (h) “Order” means “order” as defined in RSA 541 A:1, XI, namely, “the whole or part of an agency's final disposition of a matter, other than a rule, but does not include an agency's decision to initiate, postpone, investigate or process any matter, or to issue a complaint or citation”.~~

~~— (i) “Party” means “party” as defined by RSA 541 A:1, XII, namely, “each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party”.~~

~~— (j) “Person” means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than the committee.~~

~~— (k) “Presiding officer” means presiding officer as defined in RSA 541 A:1, XIV, namely, “that individual to whom the agency has delegated the authority to preside over a proceeding, if any; otherwise it shall mean the head of the agency”.~~

~~— (l) “Proof by a preponderance of the evidence” means a demonstration by admissible evidence that a fact or legal conclusion is more probable than not to be true.~~

~~— (m) “Public comment hearing” means a hearing held pursuant to RSA 541 A:11.~~

~~— (n) “Rulemaking petition” means a petition made pursuant to RSA 541 A:4, I.~~

~~PART Nat 202 DISPUTE RESOLUTION~~

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~~Nat 202.01 Principles of Dispute Resolution. The board shall resolve by agreement or decision after hearing all disputes, including disputes about disciplinary and other non-criminal matters, within the scope of RSA 328-E and its administrative rules.~~

~~— Nat 202.02 Construction of Rules. Nat 204-212 shall be construed to secure the just, accurate and efficient resolution of all disputes.~~

~~— Nat 202.03 Right to A Hearing. Any person having a dispute with the board shall be entitled to a hearing of the dispute if:~~

~~— (a) The legal rights, duties or privileges of that person will be determined in the course of deciding the outcome of the dispute; and~~

~~— (b) Constitutional, statutory or case law requires the board to hold a hearing before determination of those rights, duties or privileges.~~

**Repeal Nat 203, effective 11-26-20 (Document #13139), as follows:**

~~PART Nat 203 COMPLAINTS OF MISCONDUCT~~

~~— Nat 203.01 Procedures for Submission and Processing of Complaints of Misconduct by Licensees.~~

~~— (a) Persons wishing to complain of licensee misconduct shall submit to the board a written complaint including the information described in (b) below, using mail or any electronic means for which the board is able to maintain security.~~

~~— (b) The complaint shall include:~~

~~(1) The name and address of the complainant;~~

~~(2) If the complaint is made on behalf of another person, the name of that person and the relationship of that person to the complainant;~~

~~(3) The date of the complaint;~~

~~(4) The name of the licensee complained against;~~

~~(5) If known, the business address and telephone number of the licensee complained against;~~

~~(6) A detailed description of the treatment, action or event complained about;~~

~~(7) The beginning and ending dates of the treatment, action or event being complained about; and~~

~~(8) As attachments, copies, but not originals, of any documents which relate to the complaint, including the record release form relevant to the complaint.~~

~~— (c) Within 90 calendar days the board shall review the complaint and, if necessary, request additional information to decide whether to dismiss the complaint or to begin an investigation of the allegations in the complaint.~~

~~— (d) The board shall mail a copy of any complaint it has not dismissed to the licensee complained against.~~

Text added to existing rule shown in ***bold italic***  
Text deleted from existing rule shown in [~~strike through~~]

~~— (e) The licensee shall respond in writing to stated misconduct allegations by responding to each allegation within 30 days. Failure to respond shall be deemed misconduct.~~

~~— (f) The board shall dismiss the complaint in a written notice to the complainant when:~~

~~(1) The board has no authority to regulate the actions or omissions complained about; or~~

~~(2) There is nothing in the complaint to suggest that the actions or omissions complained of may have constituted misconduct under RSA 328-E, the rules or any order of the board, or any statute within the authority of the board to enforce.~~

**Repeal Nat 204 through Nat 211, effective 3-9-05 (Document #8300), as follows:**

~~PART Nat 204 CONDUCT OF HEARINGS; PRESIDING OFFICER; WAIVER OF RULES~~

~~— Nat. 204.01 Conduct of Hearings.~~

~~— (a) Hearings shall be conducted by a presiding officer designated by the board.~~

~~— (b) If they are present, board members shall have the opportunity to question witnesses, parties, intervenors and representatives of parties and intervenors, subject to the presiding officer's direction as to the time at which the questioning takes place.~~

~~— Nat 204.02 Presiding Officer. The presiding officer shall as necessary:~~

~~— (a) Regulate and control the course of the hearing;~~

~~— (b) Facilitate settlement of the dispute which is the subject of the hearing;~~

~~— (c) Administer oaths and affirmations;~~

~~— (d) Request the issuance by the board of subpoenas to compel the attendance of witnesses or the production of papers and records;~~

~~— (e) Receive relevant evidence and exclude irrelevant, immaterial or unduly repetitious evidence;~~

~~— (f) Rule on procedural requests at the request of a party or intervenor or on the presiding officer's own motion;~~

~~— (g) Question anyone who testifies;~~

~~— (h) Cause a complete record of the hearing to be made, as specified in RSA 541-A:31, VII; and~~

~~— (i) Take any other action consistent with applicable statutes, rules and case law necessary to conduct the hearing and complete the record in a fair and timely manner.~~

~~Nat 204.03 Withdrawal of Presiding Officer.~~

~~— (a) Upon his or her own initiative or upon the motion of any party or intervenor, the presiding officer shall withdraw from any hearing for good cause.~~

~~— (b) Good cause shall exist if the presiding officer:~~

- ~~(1) Has a direct interest in the outcome of the hearing, including but not limited to, a financial or family relationship with any party or intervenor;~~
  - ~~(2) Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of the case; or~~
  - ~~(3) Personally believes that he or she cannot fairly judge the facts of the case.~~
- ~~— (c) Mere knowledge of the issues or acquaintance with any party, intervenor or witness shall not constitute good cause for withdrawal.~~

~~Nat 204.04 Waiver or Suspension of Rules by Presiding Officer. The presiding officer, upon the motion of any party or intervenor or on the initiative of the presiding officer, shall upon reasonable notice to affected persons suspend or waive any requirement or limitation imposed by this chapter when the suspension or waiver:~~

- ~~— (a) Appears to be lawful; and~~
- ~~— (b) Is more likely to promote the just, accurate and efficient resolution of the pending dispute than would adherence to a particular rule or procedure.~~

#### ~~PART Nat 205 FORMAT, SUBMISSION AND DELIVERY OF HEARING DOCUMENTS~~

~~— Nat 205.01 Format of Hearing Documents.~~

- ~~— (a) All correspondence, pleadings, motions or other documents relating to a hearing and submitted to the board shall:~~
  - ~~(1) Include the title and docket number of the case, if known;~~
  - ~~(2) Be typewritten or clearly printed on durable paper 8 1/2 by 11 inches in size;~~
  - ~~(3) Be signed by the proponent of the document, or, if the proponent appears by a representative, by the representative; and~~
  - ~~(4) Include a statement certifying that a copy of the document has been delivered to all parties and intervenors in compliance with Nat 205.03.~~
- ~~— (b) The signature of a party or intervenor or the representative of the party or the intervenor on a document submitted to the board shall constitute certification that:~~
  - ~~(1) The signer has read the document;~~
  - ~~(2) The signer is authorized to file it;~~
  - ~~(3) To the best of the signer's knowledge, information and belief there are good and sufficient grounds to support it; and~~
  - ~~(4) The document has not been filed for purposes of delay.~~

~~— Nat 205.02 Dates of Issuance and Submission.~~

- ~~— (a) All written documents governed by this chapter shall be rebuttably presumed to have been issued on the date noted on the document.~~

~~— (b) All written documents governed by this chapter shall be rebuttably presumed to have been submitted to the board on the date of receipt evidenced by a date stamp placed on the document by or on behalf of the board in the normal course of business.~~

~~Nat 205.03 Delivery of Documents.~~

~~— (a) Copies of all motions, exhibits, memoranda, or other documents submitted by any party or intervenor shall be delivered by that party or intervenor to all other parties and intervenors.~~

~~— (b) All notices, orders, decisions or other documents issued by the presiding officer or the board shall be delivered to all parties and intervenors.~~

~~— (c) Delivery of documents described in (a) and (b) above shall be made by personal delivery or by depositing into the United States mail a copy of the document in an envelope bearing:~~

~~(1) The name of the person intended to receive the document;~~

~~(2) The full address, including zip code, last provided to the board by such person; and~~

~~(3) Prepaid first class postage.~~

~~— (d) Delivery of documents issued by the presiding officer or the board shall be by mailing them in accordance with (c) above and also by mailing them using certified mail with return receipt requested.~~

~~— (e) When a party or intervenor appears by a representative, delivery of a document to the party's or intervenor's representative at the address stated on the appearance submitted by the representative shall constitute delivery to the party or intervenor.~~

~~PART Nat 206 TIME PERIODS~~

~~Nat 206.01 Computation of Time.~~

~~— (a) Unless otherwise specified, the unit of time for time periods referenced in this chapter shall be calendar days.~~

~~— (b) Computation of any period of time referred to in this chapter shall begin with the day after the action which sets the time period in motion, and shall include the last day of the period so computed.~~

~~— (c) If the last day of the period so computed falls on a Saturday, Sunday or a legal holiday, then the time period shall be extended to include the first business day following the Saturday, Sunday or legal holiday.~~

~~PART Nat 207 MOTIONS~~

~~Nat 207.01 Motions; Objections.~~

~~— (a) Motions shall be in writing and filed with the presiding officer, unless made in response to a matter asserted for the first time at a hearing or on the basis of information which was not received in time to prepare a written motion.~~

~~— (b) Oral motions and any oral objections to such motions shall be recorded in full in the record of the hearing.~~

~~(c) If the presiding officer finds that the motion requires additional information in order to be fully and fairly considered, the presiding officer shall direct the proponent to submit the motion in writing and provide supporting information.~~

~~(d) Objections to written motions shall be submitted within 10 days of the date of the motion.~~

~~(e) Failure by an opposing party or an intervenor to object to a motion shall not in and of itself constitute grounds for granting the motion.~~

~~(f) The presiding officer shall hold a hearing on any motion when necessary to obtain information or clarify issues relating to the motion.~~

~~(g) The presiding officer shall rule upon a motion after full consideration of all objections and applicable law.~~

~~PART Nat 208 COMMENCEMENT OF THE HEARING; APPEARANCES; PRE HEARING CONFERENCE; RECORDING THE HEARING; WITNESS FEES~~

~~Nat 208.01 Commencement of The Hearing.~~

~~(a) A hearing shall be commenced by:~~

~~(1) An order of the board giving the parties the notice specified in (b) below; and~~

~~(2) In the case of a hearing related to the board's emergency suspension of a license, the notice specified in (b) below together with the order issued pursuant to Nat 208.02 (a).~~

~~(b) The hearing notice shall contain:~~

~~(1) The names and addresses of the parties;~~

~~(2) A statement of the nature of the hearing;~~

~~(3) The time and place of the hearing and of any pre hearing conference;~~

~~(4) A statement of the legal authority under which the hearing is to be held;~~

~~(5) A reference to the applicable statutes and rules;~~

~~(6) A short and plain statement of the issues presented;~~

~~(7) A statement that each party has the right to have representation by an attorney at the party's own expense;~~

~~(8) The name of the presiding officer;~~

~~(9) In the case of a disciplinary proceeding against a licensee, the statement that:~~

~~a. The licensee has the right to have the board provide a certified shorthand court reporter at the licensee's expense; and~~

~~b. The licensee's request for a certified shorthand court reporter shall be submitted in writing at least 10 days before the beginning of the hearing; and~~

~~(10) In the case of a hearing related to the board's emergency suspension of a license pursuant to Nat 208.02, a statement that the board shall provide a certified shorthand court reporter at the board's expense.~~

~~Nat 208.02 Procedure for Emergency Suspension of Licenses.~~

~~— (a) Upon a finding that public health, safety or welfare requires emergency action, the board shall immediately and prior to a hearing suspend a license by issuing a written order of suspension incorporating the finding.~~

~~— (b) The board shall commence a hearing no later than 10 working days after the issuance of an order pursuant to (a).~~

~~— (c) Unless the 10 day deadline in (b) is expressly waived by the licensee, the failure of the board to meet the deadline shall result in the automatic vacating of the order of license suspension.~~

~~— (d) After the vacating of the order pursuant to (c) above, the board shall not again suspend the license on the basis of the same conduct which formed the basis for the vacated order without giving the licensee prior notice and the opportunity for a hearing.~~

~~— (e) The recording of a hearing on the emergency suspension of a license shall be made by a certified shorthand court reporter provided and paid for by the board.~~

~~Nat 208.03 Appearances.~~

~~— (a) An appearance shall be filed by:~~

~~(1) Each party or the party's representative, if any; and~~

~~(2) Each intervenor or the intervenor's representative, if any.~~

~~— (b) The appearance shall contain the following information:~~

~~(1) The docket number assigned by the board or a brief identification of the case;~~

~~(2) The daytime address and telephone number of the person filing the appearance; and~~

~~(3) If applicable, the daytime address and telephone number of the party or intervenor represented by the person filing the appearance.~~

~~Nat 208.04 Prehearing Conference.~~

~~— (a) A prehearing conference shall be scheduled on the request of any party or intervenor or on the initiative of the presiding officer if the presiding officer determines that to do so would facilitate the proceedings or encourage resolution of the dispute.~~

~~— (b) Such prehearing conference shall include one or more of the following:~~

~~(1) Offers of settlement;~~

~~(2) Simplification of the issues;~~

~~(3) Stipulations or admissions as to issues of fact or proof;~~

~~(4) Limitations on the number of witnesses;~~

- ~~(5) Changes to standard hearing procedures;~~
- ~~(6) Consolidation of examination of witnesses; and~~
- ~~(7) Any other matters which advance the efficiency of the proceedings.~~

~~Nat 208.05 Recording the Hearing.~~

~~— (a) Except in the circumstances described in (b) below, the presiding officer shall record the hearing electronically or any by any other method that will provide a verbatim record.~~

~~— (b) A hearing on the immediate suspension of a license pursuant to RSA 541 A:30, III shall be recorded by a certified shorthand court reporter provided by the board.~~

~~— (c) If any person requests a transcript of the recording of a hearing, the board shall:~~

- ~~(1) Cause a transcript to be prepared; and~~
- ~~(2) Upon receipt of payment for the cost of the transcription, provide a copy of the transcript to the person making the request.~~

~~— Nat 208.06 Witness Fees. Witnesses summoned to appear at a hearing shall be paid the same fees as witnesses summoned to appear before the superior court.~~

~~PART Nat 209 INTERVENTION; ROLES OF COMPLAINANTS AND BOARD STAFF~~

~~Nat 209.01 Intervention Procedure.~~

~~— (a) Petitions for intervention shall:~~

- ~~(1) Describe in writing the petitioner's interest in the subject matter of the proceedings;~~
- ~~(2) Be submitted to the presiding officer; and~~
- ~~(3) Be mailed in copy form to all parties identified in the notice commencing the hearing.~~

~~— (b) A petition for intervention shall be granted by the presiding officer if the petitioner complied with (a) above at least 3 days before the hearing and the presiding officer determines that:~~

- ~~(1) The petition states facts demonstrating that the petitioner's rights, duties, privileges, immunities or other substantial interests might be affected by the proceedings or the petitioner qualifies as an intervenor under law; and~~
- ~~(2) The intervention sought would not impair the interests of justice and the orderly and prompt conduct of the proceedings.~~

~~— (c) The presiding officer shall grant a petition for intervention at any time if:~~

- ~~(1) The petitioner complied with (a) above; and~~
- ~~(2) The presiding officer determines that the intervention sought would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings.~~

~~Nat 209.02 Effect of Intervention.~~



~~— (a) Approval of intervention by the presiding officer shall apply only to the proceeding in which the petition for intervention was granted.~~

~~— (b) Notwithstanding the provisions of this chapter, an intervenor's right to participate in an adjudicative proceeding shall be subject to any limitations or conditions imposed by the presiding officer pursuant to RSA 541-A:32, III.~~

~~— (c) An intervenor shall take the proceedings as he or she finds them and no portion of the proceeding shall be repeated because of the fact of intervention.~~

~~— Nat 209.03 Rights of an Intervenor. Notwithstanding the provisions of this chapter, an intervenor's right to participate in the proceeding shall be subject to any limitations or conditions imposed by the presiding officer pursuant to RSA 541-A:32, III.~~

~~— Nat 209.04 Role of Complainants and Board Staff.~~

~~— (a) Complainants alleging misconduct by a licensee may petition to intervene in the disciplinary hearings arising from their complaints.~~

~~— (b) Unless called as witnesses, board staff shall have no role in any hearing.~~

#### ~~PART Nat 210 CONTINUANCES AND FAILURE TO ATTEND HEARING~~

~~— Nat 210.01 Continuances.~~

~~— (a) Any party or intervenor may make an oral or written motion that a hearing be delayed or continued to a later date or time.~~

~~— (b) A motion for a delay or a continuance shall be granted if the presiding officer determines that there is good cause to do so.~~

~~— (c) Good cause shall include:~~

~~(1) The unavailability of parties, intervenors, representatives of parties or intervenors, or witnesses necessary to conduct the hearing;~~

~~(2) The likelihood that a settlement will make the hearing or its continuation unnecessary; and~~

~~(3) Any other circumstances that demonstrate that a delay or continuance would assist in resolving the case fairly.~~

~~— (d) If the later date, time and place are known when the hearing is being delayed or continued, the information shall be stated on the record. If the later date, time and place are not known at that time, the presiding officer shall as soon as practicable issue a written scheduling order stating the date, time and place of the delayed or continued hearing.~~

~~Nat 210.02 Failure of a Party to Attend or Participate in the Hearing.~~

~~— (a) A party shall be in default if the party:~~

~~(1) Has the overall burden of proof;~~

~~(2) Has been given notice in accordance with Nat 208.01; and~~

~~(3) Fails to attend the hearing.~~

~~— (b) If a party is in default under (a) above, the case shall be dismissed.~~

~~— (c) If a party who does not have the overall burden of proof fails to attend the hearing after having been given notice in accordance with Nat 208.01, the testimony and evidence of any other parties or intervenors shall be received and evaluated.~~

~~— (d) If a party who has the overall burden of proof attends the hearing but fails to participate by presenting evidence or argument, a decision shall be entered against that party.~~

~~— (e) The board shall not dismiss the case under (b) above if the failure to attend results from circumstances that are beyond the control of the party.~~

#### ~~PART Nat 211 REQUESTS FOR INFORMATION AND DOCUMENTS~~

##### ~~Nat 211.01 Voluntary Production of Information.~~

~~— (a) Each party and intervenor shall attempt in good faith to make complete and timely response to requests for the voluntary production of information and documents relevant to the hearing.~~

~~— (b) When a dispute arises concerning a request for the voluntary production of information or documents, any party or intervenor may file a motion to compel the production of the requested information or documents.~~

##### ~~Nat 211.02 Motions to Compel Production of Information and Documents.~~

~~— (a) Any party or intervenor may make a motion seeking an order for compliance with an information or document request. The motion shall be filed at least 30 days before the date scheduled for the hearing, or as soon as possible after receiving the notice of the hearing if such notice is issued less than 30 days in advance of the hearing.~~

~~— (b) The motion shall:~~

~~(1) Set forth in detail those facts which justify the request for information or documents; and~~

~~(2) List with specificity the information or documents being sought.~~

~~— (c) The presiding officer shall grant the motion if its proponent has demonstrated that an order for compliance is necessary for a full and fair presentation of evidence at the hearing.~~

~~— Nat 211.03 Mandatory Pre Hearing Disclosure of Witnesses and Exhibits. At least 5 days before the hearing the parties and intervenors shall provide to the other parties and intervenors:~~

~~— (a) A list of all witnesses to be called at the hearing together with a brief summary of their testimony;~~

~~— (b) A list of all documents and exhibits to be offered as evidence at the hearing; and~~

~~— (c) A copy of each document or exhibit.~~

**Repeal Nat 212.01 through Nat 212.07, effective 3-9-05 (Document #8300), as follows:**

#### ~~PART Nat 212 RECORD, PROOF, EVIDENCE AND DECISIONS~~

~~— Nat 212.01 Record. The record of the hearing in a contested case shall be as set forth in RSA 541-A:31, VI.~~

~~— Nat 212.02 Burden and Standard of Proof. The party or intervenor asserting a proposition shall bear the burden of proving the truth of the proposition by a preponderance of the evidence.~~

~~— Nat 212.03 Testimony; Order of Proceeding.~~

~~— (a) Any individual offering testimony, evidence or arguments shall state for the record his or her name and role in the hearing. If the individual is representing another person, the person being represented shall also be identified.~~

~~— (b) Testimony on behalf of the parties shall be offered in the following order:~~

~~(1) The testimony of the party or parties bearing the overall burden of proof and such witnesses as such party or parties may call; and~~

~~(2) Thereafter the testimony of the party or parties opposing the party who bears the overall burden of proof and such witnesses as such party or parties may call.~~

~~— (c) The testimony of intervenors shall be offered at the time directed by the presiding officer.~~

~~— Nat 212.04 Evidence.~~

~~— (a) Receipt of evidence shall be governed by the provisions of RSA 541 A:33.~~

~~— (b) All documents, materials and objects offered as exhibits shall be admitted into evidence unless excluded by the presiding officer as irrelevant, immaterial, unduly repetitious or legally privileged.~~

~~— (c) All objections to the admissibility of evidence shall be stated as early as possible in the hearing, but not later than the time when the evidence is offered.~~

~~— (d) Transcripts of testimony as well as documents, materials and objects admitted into evidence shall be public records unless the presiding officer determines that all or part of them is exempt from disclosure under RSA 91 A:5 or applicable case law.~~

~~— Nat 212.05 Proposed Findings of Fact and Rulings of Law.~~

~~— (a) Any party or intervenor may submit proposed findings of fact and rulings of law to the presiding officer before or at the hearing.~~

~~— (b) The presiding officer shall require the submission of proposed findings of fact and rulings of law and specify a deadline after the close of the hearing for their submission when:~~

~~(1) Any party or intervenor has requested such action;~~

~~(2) The presiding officer is required by Nat 212.08(c) to make findings of fact and rulings of law; or~~

~~(3) The presiding officer determines that proposed findings of fact and rulings of law would clarify the issues presented at the hearing.~~

~~— (c) In any case where proposed findings of fact and rulings of law are submitted, the decision shall include rulings on the proposals.~~

~~— Nat 212.06 Closing the Record. After the conclusion of the hearing, the record shall be closed and no additional evidence shall be received into the record except as allowed by Nat 212.07.~~

~~Nat 212.07 Reopening the Record.~~

~~— (a) If no written proposal for decision pursuant to Nat 212.08 (c) or final decision pursuant to Nat 212.08 (a) has been issued, any party or intervenor may move to reopen the record for the inclusion in the record of specified evidence.~~

~~— (b) A motion pursuant to (a) above shall be granted if:~~

~~(1) There is no objection from any other party or intervenor;~~

~~(2) The evidence sought to be included in the record was not available at the time of the hearing; and~~

~~(3) The presiding officer determines that evidence is relevant, material and non-duplicative and its inclusion in the record is necessary to a full and fair consideration of the issues to be decided.~~

~~— (c) If there is an objection from a party or intervenor to a motion made pursuant to (a) above, the hearing shall be reopened for the purpose of receiving evidence, permitting cross-examination and permitting argument on the issue of reopening the record for the admission of the specified evidence.~~

~~— (d) The presiding officer shall grant a motion made pursuant to (a) above if, after the reopened hearing described in (c) above, the hearing officer determines that the evidence:~~

~~(1) Was not available at the time of the hearing;~~

~~(2) Is relevant, material and non-duplicative; and~~

~~(3) Is necessary to a full and fair consideration of the issues to be decided.~~

~~— (e) If the presiding officer permits the reopening of the record for the admission of the specified evidence, the hearing officer shall extend the hearing reopened pursuant to (c) for the purpose of receiving evidence, permitting cross-examination and permitting argument on the substance of the evidence.~~

**Repeal Nat 212.08 through Nat 212.11, effective 11-26-20 (Document #13139), as follows:**

~~— Nat 212.08 Decision After Hearing.~~

~~— (a) The board shall make a final decision based on:~~

~~(1) A hearing attended by a quorum of the board;~~

~~(2) A written proposal for decision meeting the requirements of paragraph (c); or~~

~~(3) A hearing held pursuant to paragraph (d)(2).~~

~~— (b) A board member shall not participate in the board's decision if he or she has not personally heard all of the testimony in the case, unless the matter's disposition does not depend on the credibility of any witness and the record provides a reasonable basis for evaluating the testimony.~~

~~— (c) If a presiding officer has been delegated the authority to conduct the hearing in the absence of a quorum of the board, the presiding officer shall submit to the board a written proposal for decision containing:~~

- ~~(1) The decision proposed by the presiding officer;~~
- ~~(2) A statement of the reasons for the proposed decision; and~~
- ~~(3) Findings of fact and rulings of law necessary to the proposed decision.~~

~~— (d) If a proposal for decision submitted pursuant to paragraph (c) is adverse to a party or an intervenor, the board shall:~~

- ~~(1) Serve a copy of the proposal for decision on each party and intervenor; and~~
- ~~(2) Provide an opportunity to file objections and present briefs and oral arguments to the board.~~

~~— (e) The board shall keep a final decision on file in its records for at least 5 years following the date of the final decision or the date of the decision on any appeal, unless the director of the division of records management and archives of the department of state sets a different retention period pursuant to rules adopted under RSA 5:40.~~

~~Nat 212.09 Motion for Reconsideration or Rehearing.~~

~~— (a) An adjudicatory order of the board shall not be final until the date it is served upon the parties and intervenors pursuant to Nat 212.08.~~

~~— (b) Within 30 days after service of a final adjudicatory order of the board, any party or intervenor may file a motion for reconsideration or rehearing.~~

~~— (c) A motion for reconsideration shall:~~

- ~~(1) Include any memorandum of law the petitioner wishes to submit;~~
- ~~(2) Identify each error of fact, error of reasoning, or erroneous conclusion contained in the final order that the moving party or intervenor wishes reconsidered; and~~
- ~~(3) Concisely state the correct factual finding, correct reasoning, and correct conclusion urged by the moving party or intervenor.~~

~~— (d) The board shall grant or deny the motion, or any part thereof, on its merits, or treat the motion as a motion for reopening, and grant it pending the receipt of such additional data or additional argument as it considers necessary.~~

~~Nat 212.10 Reconsideration on the Board's Own Motion.~~

~~— (a) Within the time frame specified in Nat 212.08(b), the board shall reconsider, revise, reverse or affirm any final action on its own motion.~~

~~— (b) If reconsideration is based upon the existing record, prior notice shall not be given to the parties and intervenors. If the board believes further argument or data should be considered, an appropriate order~~

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~~providing the parties and intervenors with notice and opportunity to be heard shall be issued before any revision is made in the board's previous action.~~

~~— Nat 212.11 Stay of Board Orders.~~

~~— (a) Board actions shall be stayed only in response to a specific motion requesting a stay or by the board acting on its own motion.~~

~~— (b) A motion for stay shall be considered only if it is filed within the time period for requesting reconsideration specified by Nat 212.08(b), and shall demonstrate good cause sufficient to warrant the stay of an action by the New Hampshire superior court.~~

~~— (c) Filing a motion for reconsideration shall not stay a board order. Combining a motion for stay with a motion for reconsideration shall be permissible, however.~~

**Repeal Nat 213, effective 7-22-17 (Document #12337), as follows:**

~~PART Nat 213 SETTLEMENTS~~

~~— Nat 213.01 Settlement of Some or All Issues in a Dispute.~~

~~— (a) Any licensee who has a dispute with the board shall have the opportunity at any time to reach an agreement to settle some or all of the issues if:~~

~~(1) There is no dispute about the material facts underlying the issues to be settled; and~~

~~(2) If the dispute relates to a complaint submitted in accordance with Nat 203.01, the complainant has the opportunity to submit for the board's consideration written comment on the terms of the proposed settlement.~~

~~— (b) To be effective, an agreement to settle shall be:~~

~~(1) In writing;~~

~~(2) Signed by the licensee; and~~

~~(3) After the signing by the licensee, finalized as an order issued by the board.~~

~~— (c) The signing by the licensee of an agreement to settle shall constitute a waiver of the licensee's right to a hearing of the issues resolved by the agreement.~~

**Repeal Nat 214 through Nat 216, effective 3-9-05 (Document #8300), as follows:**

~~PART Nat 214 RULEMAKING REQUESTS~~

~~— Nat 214.01 Petitions for Rulemaking. Any person may seek the adoption, amendment or repeal of a rule by submitting to the board a petition pursuant to RSA 541-A:4 which shall contain:~~

~~— (a) The name and address of the individual petitioner or, if the request is that of an entity, the identity of the entity and the name and address of the representative authorized by the entity to file the petition;~~

~~— (b) A statement of the purpose of the petition, whether the adoption, amendment or repeal of a rule;~~

- ~~(c) If amendment or adoption of a rule is sought, the text proposed;~~
- ~~(d) If amendment or repeal of a rule is sought, identification of the current rule sought to be amended or repealed;~~
- ~~(e) Reference to the statutory provision which authorizes or supports the rulemaking petition; and~~
- ~~(f) Information or argument useful to the board when deciding whether to begin the rulemaking process.~~

~~Nat 214.02 Disposition of Petitions for Rulemaking.~~

- ~~(a) The board shall request additional information or argument from the person petitioning for rulemaking or from others if such additional information or argument is required to reach a decision.~~
- ~~(b) The board shall deny the petition for rulemaking when the adoption, amendment or repeal sought would result in:
  - ~~(1) A rule which is not within the rulemaking authority of the board;~~
  - ~~(2) Duplication of a rule or of a statutory provision;~~
  - ~~(3) Inconsistency between the existing rules and the statutory mandate of the board;~~
  - ~~(4) Inconsistency of administrative rules one with another; or~~
  - ~~(5) Excessive burden upon the board in terms of cost or a reduction in efficiency or effectiveness.~~~~

~~(c) Within 30 days of receipt of a sufficient petition the board shall dispose of it in the following manner:~~

- ~~(1) By notifying the individual or entity representative filing the petition that the petition is granted and beginning rulemaking proceedings as required by RSA 541-A:4; or~~
- ~~(2) By notifying such individual or entity representative in writing that the petition is denied and the reasons for its denial.~~

~~(d) The denial of a petition for rulemaking shall not entitle the petitioner to a hearing.~~

~~PART Nat 215 PUBLIC COMMENT HEARINGS~~

~~Nat 215.01 Purpose. The purpose of this part is to provide uniform procedures for the conduct of public comment hearings held pursuant to RSA 541-A:11.~~

~~Nat 215.02 Public Access and Participation.~~

- ~~(a) Public comment hearings shall be open to the public, and members of the public shall be entitled to testify, subject to the limitations of Nat 213.03.~~
- ~~(b) People who wish to testify shall be asked to:
  - ~~(1) Write on the speakers' list their full names and addresses; and~~~~

- ~~(2) The names and addresses of organizations, entities or other persons whom they represent, if any.~~
- ~~(c) Written comments, which may be submitted in lieu of or in addition to oral testimony, shall be accepted for 10 days after the adjournment of the hearing or after the adjournment of the postponed or continued hearing.~~

~~Nat 215.03 Limitations on Public Participation. The board's chair or other person designated by the board to preside over the hearing shall:~~

- ~~(a) Refuse to recognize for speaking or revoke the recognition of any person who:~~
- ~~(1) Speaks or acts in an abusive or disruptive manner; or~~
  - ~~(2) Refuses to keep comments relevant to the proposed rules that are the subject matter of the hearing; and~~
- ~~(b) Limit presentations on behalf of the same organization or entity to no more than 3, provided that all those representing such organization or entity may enter their names and addresses into the record as supporting the position of the organization or entity.~~

~~Nat 215.04 Media Access. Public comment hearings shall be open to print and electronic media, subject to the following limitations when such limitations are necessary to allow the hearing to go forward:~~

- ~~(a) Limitation of the number of media representatives when their number together with the number of members of the public present exceeds the capacity of the hearing room;~~
- ~~(b) Limitation on the placement of cameras to specific locations within the hearing room; or~~
- ~~(c) Prohibition of interviews conducted within the hearing room before or during the hearing.~~

~~Nat 215.05 Conduct of the Hearing.~~

- ~~(a) Public comment hearings shall be attended by a quorum of the board.~~
- ~~(b) Public comment hearings shall be presided over by the board chair or a board member knowledgeable in the subject area of the proposed rules who has been designated by the board to preside over the hearing.~~
- ~~(c) The chair or other person presiding over the hearing shall:~~
- ~~(1) Call the hearing to order;~~
  - ~~(2) Identify the proposed rules that are the subject matter of the hearing and provide copies of them upon request;~~
  - ~~(3) Cause a recording of the hearing to be made;~~
  - ~~(4) Recognize those who wish to be heard;~~
  - ~~(5) If necessary, establish limits pursuant to Nat 215.03 and Nat 215.04;~~



- ~~(6) If necessary to permit the hearing to go forward in an orderly manner, effect the removal of a person who speaks or acts in a manner that is personally abusive or otherwise disrupts the hearing;~~
- ~~(7) If necessary, postpone or move the hearing; and~~
- ~~(8) Adjourn or continue the hearing.~~
- ~~(d) The hearing shall be postponed in accordance with RSA 541 A:11, IV when:~~
  - ~~(1) The weather is so inclement that it is reasonable to conclude that people wishing to attend the hearing will be unable to do so;~~
  - ~~(2) The board chair or other person designated by the board to preside over the hearing is ill or unavoidably absent; or~~
  - ~~(3) Postponement will facilitate greater participation by the public.~~
- ~~(e) The hearing shall be moved to another location in accordance with RSA 541 A:11, V when the original location is not able to accommodate the number of people who wish to attend the hearing.~~
- ~~(f) The hearing shall be continued past the scheduled time or to another date in accordance with RSA 541 A:11, III when:~~
  - ~~(1) The time available is not sufficient to give each person who wishes to speak a reasonable opportunity to do so; or~~
  - ~~(2) The capacity of the room in which the hearing is to be held does not accommodate the number of people who wish to attend and it is not possible to move the hearing to another location.~~

#### ~~PART Nat 216 DECLARATORY RULINGS~~

- ~~Nat 216.01 Requests for Declaratory Rulings by the Board.~~
- ~~(a) Any person may request a declaratory ruling by the board if:~~
  - ~~(1) The person is directly affected by RSA 328 E or by any administrative rule implementing that statute; and~~
  - ~~(2) The legal issues presented by the request taken together with the facts presented pursuant to Nat 216.02 (a) (2) and in response to any request of the board made pursuant to Nat 216.03 (b) are not substantially the same as those of a matter pending before the board or a court of law.~~
- ~~(b) A request for a declaratory ruling shall be in an original and 6 copies containing:~~
  - ~~(1) The name, address and statement of interest of the person making the request;~~
  - ~~(2) The text of the ruling being requested;~~
  - ~~(3) The reasons for the request; and~~
  - ~~(4) The following declaration signed by the individual making the request, or the authorized representative the person making the request:~~

~~"I declare that I have examined the request for a declaratory ruling, including the accompanying documents, and state that, to the best of my knowledge and belief, the facts presented in support of the requested declaratory ruling are true, correct, and complete."~~

~~— Nat 216.02 Documents Required to Support Requests. A request for a declaratory ruling shall be accompanied by:~~

~~— (a) A statement citing the statutory law, regulatory law and orders believed to support the ruling being requested;~~

~~— (b) A statement of the facts believed to support the ruling being requested; and~~

~~— (c) Supplementary material necessary to establish or clarify the facts set forth in the statement of facts; and~~

~~— (d) Any additional material chosen by the person making the request.~~

~~Nat 216.03 Processing Requests.~~

~~— (a) Within 30 days of receiving a request for a declaratory ruling the board shall advise the person requesting it if the ruling will be delayed by the need for additional information or the complexity of the issues presented by the request.~~

~~— (b) If additional information should be needed, the board shall specify the additional information required and request that it be provided in a statement of additional information which includes the declaration specified in Nat 216.01(b)(5) and is accompanied by any material necessary to establish or clarify the facts set forth in the statement.~~

~~Nat 216.04 Issuance of Declaratory Rulings. When facts sufficient to support a declaratory ruling or to justify denial of a declaratory ruling have been established, the board shall:~~

~~— (a) Issue a written declaratory ruling which applies all relevant law to the established facts; or~~

~~— (b) Issue a written decision that the board lacks the subject matter or personal jurisdiction required for the issuance of a declaratory ruling.~~

~~— Nat 216.05 Effect of Declaratory Rulings. A declaratory ruling shall apply only to the person requesting it and shall be confined to the facts presented pursuant to Nat 216.02(a)(2) and in response to a request of the board made pursuant to Nat 216.03(b).~~

~~— Nat 216.06 Issuance and Publication of Declaratory Rulings. Declaratory rulings shall be:~~

~~— (a) Edited as necessary to comply with RSA 91 A; and~~

~~— (b) Filed on the day of issuance with the director of legislative services in accordance with RSA 541-A:16, II(b).~~

**Repeal Nat 217, effective 7-22-17 (Document #12337), as follows:**

**PART Nat 217 EXPLANATION OF ADOPTED RULES**

~~— Nat 217.01 Requests for Explanation of Adopted Rules. Any interested person may, before 30 days after final adoption of a rule, request a written explanation of that rule by making a written request to the board and including in the request:~~

~~— (a) The name and address of the person making the request; or~~

~~— (b) If the request is that of an entity, the name and address of the entity and the name and address of the representative authorized by the entity to make the request.~~

~~— Nat 217.02 Contents of Explanation. The board shall, within 90 days of receiving a request in accordance with Nat 217.01, provide a written response which:~~

~~— (a) Concisely states the meaning of the rule adopted;~~

~~— (b) Concisely states the principal reasons for and against the adoption of the rule in its final form; and~~

~~— (c) States, if the board did so, why it overruled any arguments and considerations against the rule.~~

**Repeal Nat 218, effective 11-26-20 (Document #13139), as follows:**

~~PART Nat 218 WAIVER OF SUBSTANTIVE RULES~~

~~— Nat 218.01 Petitions for Waiver.~~

~~— (a) Any interested person may request the board to waive or suspend any rule not covered by Nat 204.04 by filing an original and 6 copies of a petition which identifies the rule in question and sets forth specific facts and arguments which support the requested waiver.~~

~~— (b) Petitions for waivers of substantive rules shall address whether:~~

~~(1) Adherence to the rule would cause the petitioner hardship;~~

~~(2) The requested waiver is necessary because of any neglect or misfeasance on the part of the petitioner;~~

~~(3) Waiver of the rule would be consistent with the statutes administered by the board;~~

~~(4) Waiver of the rule would injure third persons; and~~

~~(5) Other good cause for waiving the rule exists.~~

~~— (c) If examination of the petition reveals that other persons would be substantially affected by the proposed relief, the board shall require service of the petition on each such persons and advise each that she or he may file a reply to the petition.~~

~~— (d) The petitioner shall provide further information or participate in such evidentiary or other proceedings ordered by the board as necessary to complete action on the petition.~~

~~— (e) A petition for waiver of a rule which does not contain the information required in (b) above shall be denied without further notice or hearing.~~

~~— (f) The board shall grant petitions for waiver of a rule upon finding that good cause exists to do so based on the information supplied by the petitioner pursuant to Nat 218.01(b).~~

Text added to existing rule shown in ***bold italic***  
Text deleted from existing rule shown in [~~strike through~~]

~~(g) The board shall, if good cause to do so exists, initiate waiver or suspension of a substantive rule upon its own motion by providing affected parties with notice and an opportunity to be heard, and issuing an order which finds that:~~

- ~~(1) Adherence to the rule would cause the licensee undue personal hardship;~~
- ~~(2) There is no neglect or misfeasance on the part of the licensee;~~
- ~~(3) Waiver of the rule would be consistent with the statutes administered by the board; and~~
- ~~(4) Waiver of the rule would not injure third persons.~~

**Adopt Nat 201 to read as follows:**

**PART Nat 201 PRACTICE AND PROCEDURES**

Nat 201.01 Rules of Practice and Procedure. The Plc 200 rules shall govern with regards to all procedures for:

- (a) The receipt and investigation of misconduct complaints;
- (b) The conduct of adjudicative and non-adjudicative proceedings;
- (c) Rulemaking submissions, considerations, and dispositions of rulemaking petitions;
- (d) Public comment hearings;
- (e) Declaratory rulings;
- (f) Explanation of adopted rules;
- (g) Voluntary surrender of licenses; and
- (h) Waivers.

**APPENDIX I**

<b>Rule</b>	<b>Specific State Statute the Rule Implements</b>
Nat 201 through Nat 218 (repeal)	2023, 212:24, eff. Oct. 3, 2023
Nat 201	RSA 541-A:16, I(b)-(d)