



STATE OF NEW HAMPSHIRE

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**FP 2025-15, Plc 200 various Revisions to OPLC Practice and Procedure
Summary of Comments on Initial Proposal with OPLC Responses
March 21, 2025**

Background

The Executive Director is proposing to adopt the recently-adopted Interim rules in Plc 200 as regular rules to establish the revised provisions as regular rules and is proposing changes to some of the Interim rules and to other rules in Plc 200, as described in the Rulemaking Notice published in the *N.H. Rulemaking Register* on January 23, 2025 as NN 2025-15.

Four individuals from the public attended the public hearing held on February 20, 2025, and three provided comments. Written comments were received from the Office of Legislative Services, Administrative rules. The comments received and the OPLC's responses are below.

Public Comments

Plc 203.02 re: filing of documents with the OPLC or a Board

Comment: *Paragraphs (e) and (f) need contact information.*

Response: A cross-reference to Plc 103.03, where the contact information is listed, has been added to each paragraph.

Plc 205.06 re: non-disciplinary remedial actions

Comment: *The language of (c)(2)a. makes it sound like the licensee is inherently dangerous, which can be stigmatizing.*

Response: The OPLC certainly did not intend to disparage anyone who is suffering from physical or mental disabilities or disorders. Language has been inserted into (a) and (c)(2)a. to clarify that the disability or disorder causes the licensee's continued practice to be deemed dangerous to the public health.

Plc 206.06 re: commencement of adjudicative proceedings

Comment: *We were told that preliminary agreements not to practice (PANP) were no longer being offered, but Plc 206.06(c) and (d) still contain language referencing them.*

Response: The OPLC had made a preliminary determination to discontinue the use of PANPs, but the final decision was not made until after this rulemaking had commenced. In any event, paragraphs (c) and (d) have been deleted from Plc 206.06; a separate rulemaking will be commenced to remove other PANP-related provisions.

Plc 206.33 re: rehearing; appeal from final decision on rehearing

Comment: "[The proposed change to paragraph (b)] **SEEMS TO IMPLY THAT THE BOARD IS MAKING THE APPEAL. DOES THAT MEAN THAT IF THE LICENSEE MAKES THE APPEAL, THEN THE SANCTION IS STAYED (STOPPED) DURING THE APPEAL; OR DOES IT MEAN THAT IF THE BOARD MAKES THE APPEAL THEN THE SANCTION ISN'T STAYED (STOPPED) DURING THE APPEAL?**

THE PREVIOUS VERSION (NOW REPEALED) OF NH RSA 331-A:28, III. "An appeal shall suspend the commission's decision, except in the case of revocation of license or accreditation."

I THINK THAT AN APPEAL SHOULD STAY (STOP) THE SANCTION DURING AN APPEAL. WHY SHOULD A LICENSEE HAVE TO TAKE A DISCIPLINARY CLASS OR PAY A DISCIPLINARY FINE DURING AN APPEAL (EXCEPT IN THE CASE OF REVOCATION)? [Bold, italics, CAPITALIZATION, and underlining in original.]

Response: Paragraph (b) has been revised to move “by the board” to follow “stayed” so it is clear that the board cannot stay sanctions during an appeal, not that if the board appeals the sanction can’t be stayed. As to whether a sanction should or should not be stayed, the prohibition against stays is in the cited statute, RSA 310:14, III. The OPLC cannot change that statutory prohibition through rulemaking.

OLS Comments

Plc 203.05 re: exercising RSA 310:10, XIV-XV or RSA 310:11, VII-VIII

Comment: “[paragraph (d) is] **Unclear:** *it is unclear what are considered "these rules", as that could mean just the section, the part, or the entire chapter. If the entire part is meant, then say "when used in Part Plc 204 [sic],".* (Bold in original.)

Response: The language has been clarified to identify “any rule that applies to the proceeding and any document issued in the proceeding”. (Note that “proceeding” is a defined term.)

Plc 206.07 re: initiation and conduct of emergency proceedings

Comment: “**Edit/Unclear:** *seems like it [(a)(1)] is missing a word. Consider ‘protecting the’ or ‘there is an unacceptable threat to the public health, safety, or welfare that requires’*” (Bold in original.)

Response: The phrase “emergency action is necessary to protect” has been inserted prior to “public health, ...” and the phrase “requires emergency action” has been deleted from after “... welfare”.

Plc 206.32 re: action on petition for rehearing

Comment: “[paragraph (i) is] **Unclear:** *the cited statute is for appealing a decision on rehearing to the supreme court, not the filing of a petition for rehearing.*” (Bold in original.)

Response: Paragraph (i) has been moved to be paragraph (d), revised to eliminate the reference to RSA 310:14, III, and clarified by inserting “automatically” so that filing a petition for rehearing will not automatically stay the order for which reconsideration is sought. Paragraphs (d) through (h) have been redesignated as (e) through (i).

Edits: Plc 205.06 AARL; Plc 205.06(a) and (c)(2)b.; Plc 206.09(b) and Plc 206.31(c)(1) [date of form]