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FP 2023-189, Plc 200 amendments Practice and Procedure
Summary of Comments on Initial Proposal with OPLC Responses
October 17, 2023

Background

The Executive Director of the Office of Professional Licensure and Certification (OPLC) is proposing to amend various sections of Plc 200 to update citations and language to reflect the recodification of the OPLC statutes as RSA 310. In addition, the amendments will clarify and correct some existing language, and will add definitions and provisions explained in more detail in the rulemaking notice published in the *NH Rulemaking Register* on August 24, 2023.

No board members, licensees, or members of the public attended the public hearing held on September 20, 2023, and no written comments were received. No comments were received from OLS/Administrative Rules.

The OPLC made the following revisions on its own initiative:

Plc 201.02: in (a), replaced “as applicable” with “that apply” near the end of the sentence.

Plc 202.04 (definition of “applicable law”): replaced “under which a profession is regulated” with “that apply to regulate a profession”.

Plc 202.05 (definition of “board”): clarified by adding “For any profession for which there is no board, the term means the executive director.”

Plc 202.10 (definition of “emergency proceeding”): replaced “an adjudicative” with “a disciplinary or non-disciplinary remedial” to clarify that licensing proceedings are not included.

Plc 202.22 (definition of “motion”): clarified by adding “The term does not include ‘petition’.”

Plc 202.31 (definition of “practice act”): deleted “the OPLC or”, because “board” now clearly includes the professions regulated by the executive director with an advisory board or with no board.

Plc 203.02: in (c), (d), and (g), changed the font color of the URLs to black (not annotated).

Plc 203.03: in (a) and (b), inserted “OPLC or” prior to “applicable board”.

Plc 204.02: in (b)(1), changed the font color of the URL to black (not annotated).

Plc 206.08: in (c), deleted “committee or advisory” in fourth and fifth lines and deleted “as applicable” from fourth line, because the term “advisory board” now already includes committees; in (d), added RSA 541-A to the list of applicable statutes and inserted a comma after RSA 310:10.

Plc 206.30: changed section heading from “Deliberations and Decisions” to “Decisions on Questions of Law, Issues of Fact, and Sanctions” to better reflect the content of the section; in (b), added “or remedial measures after “... shall determine sanctions” to more clearly include non-disciplinary remedial proceedings.

Plc 206.31: inserted “Request or” in section heading; revised remainder of section to accommodate petitions for rehearing of licensing decisions and to distinguish those proceedings from disciplinary and non-

disciplinary remedial proceedings; in (c)(1), changed date of form from “August 2023” to “September 2023”; in (d)(1), inserted “by name and license number” after “identify the respondent”.

Plc 206.32: revised section to accommodate petitions for rehearing of licensing decisions and to distinguish those proceedings from disciplinary and non-disciplinary remedial proceedings; in (f), clarified that successive petitions from the same person or party are not allowed.

Plc 206.33: changed section heading from “Stay of Orders Pending Appeal Prohibited by Statute” to “Rehearing; Appeal” to better reflect the content of the section

Plc 207.01: added “Definitions” to the section heading; in (b) intro, inserted “the executive director or” prior to “a board” because the executive director has statutory authority to adopt rules that apply beyond a single profession, such as for fees and procedures; added paragraph (c) to insert the definitions of “hybrid hearing” and “virtual hearing” that were added to RSA 5641-A:1 by Laws of 2023, 125:1 & 2 (eff. 8-29-23) plus definitions of “hybrid-like hearing” (to apply to oral public hearings that are not rulemaking hearings) and “tech support” (to identify the person who resolves problems with access).

Plc 207.02: converted the intro language to be (a) intro, and added “Subject to (b), below,”. changed (a)-(c) to (1)-(3); added new (b) to require the notice to include information needed to access a hybrid, virtual, or hybrid-like hearing and a mechanism to contact tech support if any access problems occur.

Plc 207.03: in section heading, changed “Regulatory Authority” to “Executive Director or Board” because the term “regulatory authority” is being deleted from this chapter; in (b), changed “OPLC” to “executive director”.

Plc 207.04: in the first line of (a), changed “OPLC” to “executive director”.

Plc 207.07: revised (b)(1) to account for hybrid and hybrid-type hearings; in (d), inserted “in-person or as a hybrid-type hearing” because a virtual hearing would not need to be moved, inserted “executive director or” prior to “board”, and changed “board’s website” to “OPLC’s website”; in (f)(2), inserted “For in-person or hybrid-type hearings” at the beginning of the sentence since virtual hearings are not affected by the capacity of the room.

Plc 208.02: in (a) and (b), changed “amend” to “readopt with amendments” to reflect the deletion of the ability to amend a rule without readopting it from RSA 541-A:6 (Laws of 2023, 125:3, eff. 8-29-23).

Plc 208.03: in the intro, (a), (c), and (e), made changes to reflect the deletion of the ability to amend a rule without readopting it from RSA 541-A:6 (Laws of 2023, 125:3, eff. 8-29-23).

Plc 208.05: in (a), changed “amend” to “readopt with amendments” to reflect the deletion of the ability to amend a rule without readopting it from RSA 541-A:6 (Laws of 2023, 125:3, eff. 8-29-23).

Plc 209.01: in (a), inserted language to clarify who the request for explanation should be directed to.

Plc 209.02: in (a), inserted “as applicable” after “adopted the rule” to clarify who is required to respond; in (d), inserted “prior to responding to the request” at the end of the sentence.

Plc 210.05: in (g), inserted “prior to responding to the petition” at the end of the sentence.

Plc 211.02: in (a), inserted a comma after “presiding officer”.

Plc 211.07 (second) - Plc 211.09: corrected section numbering to be Plc 211.08 - Plc 211.10.

Plc 211.0708: in the second line of (c)(3), changed “license” to “licensee”.

Plc 211.0910: inserted “prior to making a decision on the request” at the end of the sentence.