

Effective December 1, 2024, Plc 203.05 reads as follows:

Plc 203.05 Exercising RSA 310:10, XIV-XV or RSA 310:11, VII-VIII.

(a) In any proceeding held pursuant to RSA 310 or RSA 541-A, a board shall exercise the authority conferred by RSA 310:10, XIV and RSA 310:11, VII, both reprinted in Appendix C, if the board, by majority vote, determines that doing so would expedite the matter or otherwise serve the interests of justice, for reasons that include, but are not limited to, the number of board members that would recuse themselves due to conflicts or potential conflicts.

(b) In acting under (a), above, a board shall determine the extent to which the presiding officer shall consult or otherwise coordinate with the board.

(c) In any proceeding held pursuant to RSA 310 or RSA 541-A, if a board cannot meet quorum then the executive director shall initiate proceedings under the authority of RSA 310:10, XV and RSA 310:11, VIII, both reprinted in Appendix C.

(d) In any proceeding in which the provisions of RSA 310:10, XIV or XV or RSA 310:11, VII or VIII have been exercised, the term “board” shall mean the presiding officer.

Effective December 1, 2024, Plc 205.04 reads as follows:

Plc 205.04 Consent Orders; Review of Proposed Settlement Terms.

(a) If a disciplinary or non-disciplinary remedial proceeding is initiated and discussions between the prosecutor and the respondent result in an agreement on the facts that constitute the basis for sanction(s) and on the appropriate sanction(s), including but not limited to diversion to a treatment program, voluntary surrender, limitations on the scope of practice, or suspension, the agreement shall be written as a proposed settlement agreement and presented to the board for review and approval, as required by RSA 310:10, VIII(a).

(b) If the board has questions about the proposed settlement, such as whether the terms are appropriate or whether the respondent understands them, the board shall conduct a hearing on the proposed settlement agreement in the same manner and under the same conditions as a prehearing conference.

(c) If the board agrees with the terms of the proposed settlement agreement, the board shall:

(1) Approve the settlement agreement and issue it as a consent order, if the matter did not arise from a complaint for which consultation with the complainant is required under RSA 310:10, VIII(a); or

(2) If the matter did arise from a complaint for which consultation with the complainant is required under RSA 310:10, VIII(a), approve the settlement agreement as a provisional consent order, then proceed in accordance with (d)-(g), below.

(d) To provide the opportunity for comment required by RSA 310:10, VIII(a), if the matter resulted from a complaint for which consultation with the complainant is required under RSA 310:10, VIII(a), the board shall notify the complainant of:

(1) The terms on which the matter is proposed to be resolved; and

(2) The deadline for submitting written comments on the proposed terms, which shall be no sooner than 14 days from the date of the notice.

(e) If notice is provided to a complainant pursuant to (d), above, and no comments are received from the complainant, the consent order shall become final 30 days after issuance under (c)(2), above.

(f) If comments are received from the complainant, the presiding officer shall review the comments and:

(1) If the comments indicate the complainant's agreement with the terms or if the comments do not demonstrate potential fundamental flaws or errors in the proposed terms, approve the proposed settlement agreement, resulting in the consent order becoming final 30 days after issuance under (c)(2), above; or

(2) If the comments demonstrate potential fundamental flaws or errors in the proposed terms, present the comments to the board for review, resulting in the consent order not becoming final automatically.

(g) For purposes of this section, "fundamental flaws or errors" means mistakes of law or of material fact that, if corrected, would result in the proposed terms being unacceptable given the nature and severity of the actual underlying misconduct.

(h) After reviewing comments received pursuant to (f)(2), above, the presiding officer and board shall:

(1) Affirm the provisional consent order, resulting in the consent order becoming effective as of its confirmation, if after further review:

a. The presiding officer determines that there are no fundamental flaws or errors in the application of the law to the facts; and

b. The board determines that there are no fundamental flaws or errors in the factual findings or proposed terms; or

(2) Rescind the provisional consent order and schedule the matter for an adjudicative hearing, if after further review it is determined that there are fundamental flaws or errors in the law as applied, findings, or proposed terms.

(i) If the board to which comments are submitted pursuant to (f)(2), above, rescinds the provisional consent order as a result of the comments and schedules the matter for an adjudicative hearing, the terms of the proposed settlement agreement and provisional consent order shall not be made part of any record and the respondent shall not be bound by any terms of the proposed settlement agreement or provisional consent order.

Effective December 1, 2024, Plc 205.06 reads as follows:

Plc 205.06 Non-Disciplinary Remedial Actions.

(a) A board shall take non-disciplinary remedial action against any person licensed by it only if it finds that the person is afflicted with physical or mental disability, disease, disorder, or condition that is deemed dangerous to the public health.

(b) For purposes of this section, the following definitions shall apply:

(1) "Deemed dangerous to the public health" means that the affliction or condition causes the licensee to be incapable of behaving in conformity with accepted professional standards for the profession in which the licensee practices; and

(2) "Unacceptable threat to public health, safety, or welfare" means that the threat posed by the licensee to the life, health, or safety of individuals with whom the licensee interacts in a professional capacity is greater than the licensee's interests in retaining the licensee's license.

(c) In order to take non-disciplinary remedial action, the board shall:

- (1) Provide notice and an opportunity for an adjudicative hearing to the licensee; and
- (2) Only take the action after making an affirmative finding that:
 - a. The licensee is afflicted with a physical or mental disability, disease, disorder, or condition deemed dangerous to the public health; and
 - b. Allowing the licensee to continue to practice would create an unacceptable threat to public health, safety, or welfare.

(d) The action taken by the board shall be the least restrictive action that will address the affliction or condition and abate the threat, provided that the board shall revoke a license only if the findings required by (c)(2), above, are made based on clear and convincing evidence.

Effective December 1, 2024, Plc 206.03 reads as follows:

Plc 206.03 Presiding Officer Appointment and Authority.

(a) All hearings in any adjudicative proceeding other than a licensing proceeding shall be conducted by the presiding officer designated pursuant to RSA 310:10, IV.

(b) All hearings in any licensing proceeding shall be conducted by the presiding officer designated pursuant to RSA 310:11, III.

(c) The presiding officer shall have the authority conferred by RSA 310 and RSA 541-A to, as necessary:

- (1) Regulate and control the course of a hearing;
- (2) Facilitate an informal resolution of the subject matter of the hearing;
- (3) Administer oaths and affirmations;
- (4) For other than licensing proceedings, issue subpoenas to compel the attendance of witnesses at hearings or the production of documents as provided in RSA 310:10, V;
- (5) Receive relevant evidence at hearings and exclude irrelevant, immaterial, or unduly repetitious evidence;
- (6) Rule on procedural requests, including adjournments or continuances, at the request of a participant or on the presiding officer's own motion;
- (7) Question any individual who testifies;
- (8) Cause a complete record of any hearing, as described in RSA 541-A:31, VI, to be made; and
- (9) Take any other action consistent with applicable law necessary to conduct the hearing and complete the record in a fair and timely manner.

Effective December 1, 2024, Plc 206.06 through Plc 206.08 read as follows:

Plc 206.06 Commencement of Adjudicative Proceedings.

(a) Except for emergency proceedings initiated as provided in Plc 206.07, the OPLC shall commence an adjudicative proceeding on behalf of the board by issuing a notice of hearing to the respondent, the respondent's attorney if known, and the enforcement division, at least 15 days before the first scheduled hearing date or first prehearing conference in accordance with RSA 310:10, X and this section.

(b) The notice commencing an adjudicative proceeding shall identify the docket number assigned to the matter by the OPLC and:

- (1) Comply with RSA 541-A:31, III by including:
 - a. A statement of the time, place, and nature of the hearing;
 - b. A statement of the legal authority under which the hearing is to be held;
 - c. A reference to the particular sections of the statutes and rules involved;
 - d. A short and plain statement of the issues involved, provided that a more detailed statement of the issues shall be furnished, if requested, within not more than 20 days from receipt of the request;
 - e. A statement that each participant has the right to have an attorney present to represent the participant at the participant's expense; and
 - f. A statement that each participant has the right to have the OPLC provide a certified shorthand court reporter at the participant's expense, and that any such request be submitted in writing at least 10 days prior to the hearing;
- (2) For disciplinary hearings, identify whether the action was initiated by a written complaint or on the board's own motion, or both;
- (3) Specify the date by which, and the address to which, appearances or motions by participants shall be filed;
- (4) Specify the date and time of an initial prehearing conference if one has already been scheduled, together with the telephone number or log-in information to be used to participate in the prehearing conference;
- (5) Identify the presiding officer for the proceeding;
- (6) Identify any special procedures to be followed;
- (7) Identify any confidentiality requirements applicable to the proceeding; and
- (8) Contain such other information or attachments as are warranted by the circumstances of the case, including, but not limited to:
 - a. Orders severing issues from the proceeding or consolidating the proceeding with a different proceeding; and
 - b. Orders directing the production or exchange of documents.

(c) If the respondent signs a preliminary agreement not to practice (PANP) pending resolution of the matter, a full evidentiary hearing to determine final disciplinary action shall only be held more than 60 days after the date of the notice issued pursuant to (b), above, if:

- (1) The prosecutor and the respondent agree to delay the proceeding; or
- (2) More time is needed to obtain information that is necessary to make a final determination, provided that the hearing shall be held no later than 120 days from the date of the notice issued pursuant to (b), above, unless the information is not available within that time due to:
 - a. Reasons within the control of the respondent; or

b. The pendency of a criminal prosecution arising from the same circumstances as those on which the administrative proceeding is based.

(d) If a hearing is delayed pursuant to (c), above, the presiding officer shall schedule a prehearing conference to request a status report from the prosecutor and the respondent within 120 days of the notice issued pursuant to (b), above, and at intervals no shorter than 60 days and no longer than 90 days thereafter until a full adjudicative hearing is scheduled.

Plc 206.07 Initiation and Conduct of Emergency Proceedings.

(a) To initiate an emergency proceeding, the OPLC shall issue an order on behalf of the board that immediately suspends the respondent's license based on:

(1) A determination that there is a reasonable basis to believe that public health, safety, or welfare requires emergency action, if the action is commenced under RSA 541-A:30, III; or

(2) Such determination as is required by the practice act under which the action is commenced.

(b) If a board commences an emergency proceeding, the board shall conduct an adjudicative hearing within the time specified in the statute upon which the action is based, which for actions commenced under RSA 541-A:30, III is not later than 10 working days after the date of the board's order suspending the license, to determine whether to continue the suspension of the respondent's license pending a full adjudication of the matter.

(c) The board shall issue a notice of the date, time, and place of the hearing to determine whether to continue the suspension that:

(1) Complies with Plc 206.06(b); and

(2) Includes a statement that offers of proof may be made as provided in Plc 206.23.

(d) A respondent may request the hearing held pursuant to (b), above, to be delayed, which request shall be granted only if the respondent agrees to the emergency suspension remaining in place until the board issues its decision after the hearing held pursuant to (b), above.

(e) Except as provided in (f), below, at a hearing held pursuant to (b), above, the prosecutor shall have the burden of proof by a preponderance of the evidence that:

(1) Allowing the respondent to remain in practice pending a full adjudication of the matter poses a threat to public health, safety, or welfare, based on the nature and severity of the alleged violations from which the matter arose; and

(2) The threat to public health, safety, or welfare outweighs the respondent's interests in continuing to practice.

(f) If applicable law establishes different elements of proof, the prosecutor shall have the burden of proof by a preponderance of the evidence on each such element.

(g) The license suspension shall be continued pending a full adjudication of the matter only if the prosecutor meets the burden of proof established in (e) or (f), above, as applicable.

(h) If, as a result of the hearing held pursuant to (b), above, the board continues the license suspension pending a full adjudication of the matter, the board shall conduct a full evidentiary hearing to determine final disciplinary sanctions or non-disciplinary remedial measures within 60 days of the date of the initial emergency suspension unless extended pursuant to (i) or (j), below, provided the license shall remain suspended pending completion of the adjudication.

(i) A full evidentiary hearing to determine final disciplinary sanctions or non-disciplinary remedial measures shall only be held more than 60 days after the date of the initial emergency suspension if:

- (1) The prosecutor and the respondent agree to delay the proceeding; or
- (2) More time is needed to obtain information that is necessary to make a final determination, provided that the hearing shall be held no later than 120 days from the date of the initial emergency suspension unless the information is not available within that time due to:
 - a. Reasons within the control of the respondent; or
 - b. The pendency of a criminal prosecution arising from the same circumstances as those on which the administrative proceeding is based.

(j) If a hearing is delayed pursuant to (i), above, the presiding officer shall schedule a prehearing conference to request a status report from the prosecutor and the respondent within 120 days of the initial emergency suspension and at intervals no shorter than 60 days and no longer than 90 days thereafter until a full adjudicative hearing is scheduled.

Plc 206.08 Methods of Proceeding - Generally.

(a) If the participants agree, the proceeding shall be conducted as follows:

- (1) Where facts material to the subject matter of the proceeding are in dispute, but personal observation of the witnesses or the immediate opportunity for cross-examination of witnesses is not required, the proceeding shall, to that extent, consist of the submission of affidavits and memoranda; and
- (2) Where no facts material to the subject matter of the proceeding are in dispute the proceeding shall, to that extent, be limited to the submission of memoranda that argue the legal conclusions the participants wish the presiding officer to draw from the undisputed facts.

(b) If the participants do not agree to one of the methods of proceeding in (a), above, the matter shall proceed to an oral adjudicative hearing before the board or, if the provisions of RSA 310:10, XIV or XV have been exercised as provided in Plc 203.05, before the presiding officer.

(c) For proceedings in any of the professions for which the board is an advisory board or for which there is no board, the oral adjudicative hearing shall be conducted either by the presiding officer designated by the executive director alone or, if the executive director determines that the expertise of the advisory board members is necessary, by a panel consisting of the presiding officer and a minimum of 2 members of the relevant advisory board.

(d) For proceedings in any other professions, the oral adjudicative hearing shall be conducted in accordance with applicable law, including but not limited to RSA 541-A, RSA 310:10, and RSA 310:11 as applicable.

(e) A recording of the hearing shall be taken and preserved. If requested by a participant, the record of the proceeding shall be made by a certified shorthand court reporter at the requestor's expense, pursuant to RSA 541-A:31, VII-a.

(f) If a participant has reason to participate via electronic means, the participant shall file a motion no later than the deadline for filing a witness list, or as much in advance as possible based on the circumstances, which motion shall be granted if the presiding officer determines that:

- (1) The participant has access to equipment necessary to enable participation via electronic means; and

(2) The participant has demonstrated a compelling reason or justification, including but not limited to circumstances beyond the participant's control that impair the participant's ability to attend the hearing in person.

Effective December 1, 2024, Plc 206.30 through Plc 206.33 read as follows:

Plc 206.30 Decisions on Questions of Law, Issues of Fact, and Sanctions.

(a) As provided in RSA 310:10, IV, the presiding officer in any disciplinary or non-disciplinary remedial proceeding shall preside at the hearing, administer oaths or affirmations to witnesses, rule on questions of law and other procedural matters, and issue final orders based on factual findings of the board.

(b) As provided in RSA 310:10, VII, boards shall be the triers of fact in all disciplinary and non-disciplinary remedial proceedings and shall determine sanctions or remedial measures, if any, subject to (c), below.

(c) If the provisions of RSA 310:10, XIV or XV have been exercised as provided in Plc 203.05, the presiding officer shall, in addition to exercising the authority conferred by RSA 310 and RSA 541-A, make findings of fact, determine appropriate sanctions or actions, and accept or deny settlement agreements.

(d) A final adjudicative order shall take effect on the date it is served on the respondent and the enforcement division pursuant to Plc 206.11(b).

Plc 206.31 Request or Petition for Rehearing; Answers.

(a) For purposes of this section, "petition for rehearing" means, depending on context, either:

- (1) A request for a rehearing after a final order has been issued in a disciplinary or non-disciplinary remedial proceeding; or
- (2) A request for a rehearing after a license application has been denied after a hearing as provided in RSA 310:14, I-a and Plc 304.10.

(b) A petition for rehearing shall be filed:

- (1) Within 30 calendar days after service of a final order in a disciplinary or non-disciplinary remedial proceeding; or
- (2) Within 30 calendar days of receipt of the final decision to deny an application for licensure in a hearing held as provided in Plc 304.10.

(c) To petition for rehearing, the respondent shall:

- (1) Use the "Universal Petition for Rehearing" dated November 2024; or
- (2) Provide the information required by (d), below, in another legible format.

(d) The petition shall:

- (1) Clearly identify:
 - a. The respondent, by name and license number, and the docket number of the matter for which the petition is being filed, for rehearing in a disciplinary or non-disciplinary remedial proceeding; or

b. The applicant, by name as shown on the application, together with the profession for which the application was filed, the date of the hearing, and the date the decision was issued, for rehearing relating to licensure;

(2) Clearly state whether the petitioner is seeking to have the decision reversed or modified and, if modified, the specific modification(s) sought;

(3) Clearly identify the specific findings of fact or conclusions of law, or both, that the petitioner asserts are erroneous;

(4) Contain such argument in support of the petition as the petitioner desires to present, including an explanation of how substantial justice would be done by granting the relief requested; and

(5) For a petition for rehearing in a disciplinary or non-disciplinary remedial proceeding, be served by the petitioner on all other participants in accordance with Plc 206.11.

(e) The petitioner or petitioner's representative shall sign the petition.

(f) The signature provided pursuant to (e), above, shall constitute attestation that:

(1) The signer has read the petition for rehearing;

(2) The signer is authorized to file the petition for rehearing;

(3) To the best of the signer's knowledge, information, and belief, there are good grounds to support the petition for rehearing; and

(4) The petition for rehearing has not been filed solely or primarily for purposes of delay or harassment in any pending or contemplated administrative, civil, or criminal proceeding.

(g) No answer to a petition for rehearing shall be required, but any answer or objection filed shall be delivered to the presiding officer within 5 working days following receipt of service of the petition for rehearing.

Plc 206.32 Action on Petition for Rehearing.

(a) In a disciplinary or non-disciplinary remedial proceeding, the presiding officer shall grant a petition for rehearing if the petition was timely filed and the petitioner demonstrates by a preponderance of the evidence that:

(1) The law was applied incorrectly;

(2) The facts on which the decision is based are not supported by the record; or

(3) Another compelling reason exists to reconsider the matter, including but not limited to new material evidence becoming available or material evidence that was offered was improperly excluded.

(b) In a rehearing of a licensure decision, if the petition for rehearing was timely filed and states a rational basis for reconsideration, then:

(1) The presiding officer shall grant the petition and refer the matter to the board for reconsideration if the provisions of RSA 310:11, VII or VIII have not been exercised and the petition raises questions of fact or mixed fact and law; or

(2) The presiding officer shall grant the petition and reconsider the decision if the provisions of RSA 310:11, VII or VIII have been activated.

(c) If the petitioner does not meet the standard for granting a rehearing specified in (a) or (b), above, as applicable, the presiding officer shall deny the petition, and an order denying the petition shall be:

- (1) Served on the participants in accordance with Plc 206.11; and
- (2) Effective on the date it is served.

(d) If the presiding officer in a disciplinary or non-disciplinary remedial proceeding determines that issues of fact form the basis for part or all of the petition, the presiding officer shall:

- (1) Forward the petition and any response(s) received to the board for consideration, if the provisions of RSA 310:10, XIV or XV have not been exercised; or
- (2) Reconsider the facts and make any adjustments needed, if the provisions of RSA 310:10, XIV or XV have been exercised.

(e) A decision on reconsideration shall be issued after fully considering the petition and any responses thereto, which reconsideration shall include a hearing on the factual issues identified in the motion if the board or presiding officer, as applicable, determines a hearing to be necessary to a full consideration of the facts.

(f) A final order upon rehearing shall be:

- (1) Served on the participants in accordance with Plc 206.11; and
- (2) Effective on the date it is served.

(g) Successive petitions for rehearing by or on behalf of the same participant shall not be permitted.

(h) Pursuant to RSA 310:14, III, the filing of a petition for rehearing shall not stay any order.

APPENDIX A: STATUTES IMPLEMENTED

Rule	State Statute(s) Implemented
Plc 203.05	RSA 541-A:16, I(b); RSA 310:10, XIV & XV
Plc 205.04	RSA 541-A:16, I(b); RSA 310:10, VIII
Plc 205.06	RSA 541-A:16, I(b); RSA 310:10
Plc 206.03	RSA 541-A:16, I(b)(2); RSA 541-A:30-a; RSA 541-A:33; RSA 310:10, RSA 310:11, RSA 310:14
Plc 206.06 - Plc 206.08	RSA 541-A:16, I(b)(2); RSA 541-A:30-a; RSA 541-A:33; RSA 310:10, RSA 310:11, RSA 310:14
Plc 206.30 - Plc 206.32	RSA 541-A:16, I(b)(2); RSA 310:10

APPENDIX B: STATUTORY DEFINITIONS

RSA 541-A:1

I. “Adjudicative proceeding” means the procedure to be followed in contested cases, as set forth in RSA 541-A:31 through RSA 541-A:36.

IV. “Contested case” means 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.

RSA 21-G:36

III. "Request for application (RFA)" means an invitation to submit an offer to provide identified services to an agency where the amount of funding available and the particulars of how the services are to be provided are defined by the agency and where the selection of qualifying vendors will be according to identified criteria as provided in RSA 21-I:22-a and RSA 21-I:22-b.

IV. "Request for bid (RFB)" means an invitation to submit an offer to provide specified commodities or services to an agency at a price proposed by the bidder where selection is based on the lowest price meeting or exceeding specifications as stated in the bid.

V. "Request for proposal (RFP)" means an invitation to submit a proposal to provide specified goods or services, where the particulars of the goods or services and the price are proposed by the vendor and, for proposals meeting or exceeding specifications, selection is according to identified criteria as provided in RSA 21-I:22-a and RSA 21-I:22-b.

APPENDIX C: STATUTORY PROVISIONS

RSA 91-A:2

IV. The provisions of this paragraph allowing for less than a quorum to be physically present for meetings shall apply only to boards, committees, councils, advisory committees and like bodies of state government, not including the general court or either house thereof or any committee of either house, nor the governor and council, the composition of which is permitted by law or regulation to be drawn from individuals who may reside throughout the state of New Hampshire. This paragraph does not apply to boards, committees, councils, advisory committees, or any other components or instrumentalities of county or municipal government. For purposes of this paragraph only the boards, committees, councils, and like bodies to which this paragraph is applicable shall be referred to as "state boards."

(a) A state board covered by this paragraph may vote to allow one or more members to participate in a meeting remotely only when physical attendance at the meeting site is not reasonably practicable. Any reason that such attendance is not reasonably practicable shall be stated in the minutes of the meeting. The authority granted under this paragraph may be revoked, renewed, or modified in the same manner as it is approved.

(b) At least one-third of the total membership of the state board shall be present at the physical location of the meeting. Each member participating electronically or otherwise shall be able to contemporaneously and throughout the meeting see and hear, and be seen and heard by, the other members of the public body attending the meeting and members of the public in attendance at the meeting site. A member participating in a meeting remotely as described in this paragraph is deemed to be present for all purposes, including for determination of a quorum and voting. Each member participating remotely shall identify the persons present in the location from which the member is participating. All votes taken during such a meeting shall be by roll call vote. Members of the public shall be permitted to participate remotely in remotely held state board meetings, including testifying or asking questions as the rules and procedures of the board allow.

(c) No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

(d) In an emergency, when immediate action is imperative and the physical presence requirement is not reasonably practicable within the period of time requiring action, the minimum physical presence required under subparagraph (b) shall not apply. The determination that an emergency exists shall be made by the chair or presiding officer of the state board, and the facts upon which that determination is based shall be included in the minutes of the meeting.

(e) Any meeting held pursuant to the terms of this paragraph shall comply with all other requirements of this chapter relating to public meetings not inconsistent with this paragraph, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

310:10 Disciplinary Proceedings; Non-Disciplinary Remedial Proceedings.

I. Disciplinary proceedings shall be open to the public in accordance with RSA 91-A. All non-disciplinary remedial proceedings shall be exempt from the provisions of RSA 91-A, except that the board shall disclose any final remedial action that affects the status of a license, including any non-disciplinary restrictions imposed. The docket file for each such proceeding shall be retained in accordance with the retention policy established by the office of professional licensure and certification.

II. Boards shall conduct disciplinary and non-disciplinary remedial proceedings in accordance with procedural rules adopted by the executive director.

III. The office shall employ sufficient administrative prosecutors qualified by reason of education, competence, and relevant experience to serve as hearing counsel in all disciplinary and non-disciplinary proceedings before the boards.

IV. The office shall employ sufficient personnel qualified by reason of education, competence, and relevant experience to serve as presiding officer in all disciplinary or non-disciplinary remedial matters before the boards including disciplinary proceedings, non-disciplinary proceedings, the order of an immediate suspension of a license pursuant to RSA 310:12, IV, and unlicensed practice hearings held pursuant to RSA 310:13. The presiding officer shall have the authority to preside on such matters, to issue oaths or affirmations to witnesses, rule on questions of law and other procedural matters, and issue final orders based on factual findings of the board.

V. In disciplinary and non-disciplinary remedial proceedings, including those held pursuant to this section, RSA 310:12, IV, and RSA 310:13, the presiding officer may issue subpoenas for persons, relevant documents, and relevant materials in accordance with the following conditions:

(a) Subpoenas for persons shall not require compliance in less than 48 hours after receipt of service.

(b) Subpoenas for documents and materials shall not require compliance in fewer than 15 days after receipt of service.

(c) Service shall be made on licensees by certified mail to the address on file with the office or by hand and shall not entitle them to witness or mileage fees.

(d) Service shall be made on persons who are not licensees in accordance with the procedures and fee schedules of the superior court, and the subpoenas served on them shall be annotated "Fees Guaranteed by the New Hampshire Office of Professional Licensure and Certification."

VI. In carrying out disciplinary or non-disciplinary remedial proceedings, including those held pursuant to RSA 310:10, RSA 310:12, IV, and RSA 310:13, the presiding officer, as defined in RSA 541-A, shall have the authority to hold pre-hearing conferences, which shall be exempt from the provisions of RSA 91-A; to administer oaths and affirmations; and, to render legal opinions and make conclusions of law.

VII. Boards shall be the triers of fact in all disciplinary and non-disciplinary remedial proceedings, and shall determine sanctions, if any.

VIII. At any time before or during disciplinary or non-disciplinary remedial proceedings, complaints may be dismissed or disposed of, in whole or in part:

(a) By written settlement agreement approved by the board, provided that any complainant shall have the opportunity, before the settlement agreement has been approved by a board, to comment on the terms of the proposed settlement; or

(b) Through an order of dismissal for default, for want of jurisdiction, or failure to state a proper basis for disciplinary action.

IX. Disciplinary action taken by the board at any time, and any dispositive action taken after the issuance of a notice of public hearing, shall be reduced to writing and made available to the public. Such decisions shall not be public until they are served upon the parties, in accordance with rules adopted by the executive director.

X. Except as otherwise provided by RSA 541-A:30, the office shall furnish the respondent at least 15 days' written notice of a hearing in accordance with RSA 541-A:31, III. Such notice shall include an itemization of the issues to be heard, and, in the case of a disciplinary hearing, a statement as to whether the action has been

initiated by a written complaint or upon the board's own motion, or both. If a written complaint is involved, the notice shall provide the complainant with a reasonable opportunity to intervene as a party.

XI. Neither the office nor the boards shall have an obligation or authority to appoint attorneys or pay the fees of attorneys representing licensees or witnesses during investigations or disciplinary or non-disciplinary remedial proceedings.

XII. No civil action shall be maintained against the office or the board, or any member of the board, office, or its agents or employees, against any organization or its members, or against any other person for or by reason of any statement, report, communication, or testimony to the board or determination by the board or office in relation to proceedings under this chapter.

XIII. For matters involving individuals identified in mental health records, testimony by client or patients shall be handled with utmost regard for the privacy and protection of their identity from public disclosure.

(a) A client or patient who is not a complainant shall not be compelled to testify at a hearing.

(b) If a client or patient who is not a complainant testifies at a hearing, the identity of the individual shall be screened from the public view and knowledge, although the respondent and attorneys shall be within the view of the client patient. The board may view the client or patient. The public's access to view or information that would identify the client or patient shall be restricted. The hearing may be closed to the public for the duration of the client or patient's testimony, at the board's discretion.

(c) If a complainant client or patient requests the privacy safeguards in subparagraph (b), the presiding officer may make such accommodations.

XIV. In any proceeding held pursuant to RSA 310 or RSA 541-A, a board may direct that evidence be received solely by a presiding officer who, in addition to exercising the authority given to the presiding officer under RSA 310 and RSA 541-A, shall be charged with making findings of fact, determining appropriate sanctions or action, or denying or accepting settlement agreements.

XV. In instances where a board lacks sufficient members to meet quorum, the executive director, or designee, may initiate proceedings held pursuant to RSA 310 or RSA 541-A and direct that evidence be received solely by the presiding officer who, in addition to exercising the authority given to the presiding officer under RSA 310 and RSA 541-A, shall be charged with making findings of fact, determining appropriate sanctions or action, or denying or accepting settlement agreements.

Source: 2023, 235:8, eff. July 15, 2023. 2024, 364:4, eff. Oct. 22, 2024

310:11 Licensing Proceedings.

I. Boards shall conduct licensing proceedings in accordance with procedural rules adopted by the executive director.

II. If a license is denied following a licensing proceeding, its final decision shall be issued in accordance with RSA 541-A:35.

III. The office shall employ sufficient personnel qualified by reason of education, competence, and relevant experience to serve as presiding officer in all licensing proceedings before the boards. The presiding officer shall have the authority to preside at such hearing and to issue oaths or affirmations to witnesses, rule on questions of law and other procedural matters, and issue final orders based on factual findings of the board.

IV. Neither the office nor the boards shall have an obligation or authority to appoint or pay the fees of attorneys representing licensees, certified individuals, or witnesses during investigations or adjudicatory proceedings.

V. Licensing proceedings shall be open to the public in accordance with RSA 91-A.

VI. The presiding officer, as defined in RSA 541-A, shall have the authority to: hold pre-hearing conferences, which shall be exempt from the provisions of RSA 91-A; administer oaths and affirmations; and render legal opinions and make conclusions of law. The boards shall be the triers of fact.

VII. In any proceeding held pursuant to RSA 310 or RSA 541-A, a board may direct that evidence be received solely by a presiding officer who, in addition to exercising the authority given to the presiding officer under RSA 310 and RSA 541-A, shall be charged with making findings of fact, determining appropriate sanctions or action, or denying or accepting settlement agreements.

VIII. In instances where a board cannot meet quorum, the executive director, or designee, may initiate proceedings held pursuant to RSA 310 or RSA 541-A and direct that evidence be received solely by the presiding officer who, in addition to exercising the authority given to the presiding officer under RSA 310 and RSA 541-A, shall be charged with making findings of fact, determining appropriate sanctions or action, or denying or accepting settlement agreements.

Source: 2023, 235:8, eff. July 15, 2023. 2024, 364:5, eff. Oct. 22, 2024