

HB 409-FN - VERSION ADOPTED BY BOTH BODIES

14Feb2023... 0353h  
05/18/2023 1921s  
29Jun2023... 2206CofC  
29Jun2023... 2254EBA

2023 SESSION

23-0534  
09/05

HOUSE BILL **409-FN**

AN ACT relative to the organization of the office of professional licensure and certification.

SPONSORS: Rep. Pauer, Hills. 36; Rep. Bailey, Straf. 2; Rep. Rung, Hills. 12; Rep. Jeudy, Hills. 23; Rep. Kofalt, Hills. 32

COMMITTEE: Executive Departments and Administration

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AMENDED ANALYSIS

This bill reorganizes the office of professional licensure and certification.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Three*

AN ACT relative to the organization of the office of professional licensure and certification..

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Paragraph; Social Work; Conditional License. Amend RSA 330-A:2 by inserting after  
2 paragraph X the following new paragraph:

3 XI. "Regulated Social Worker" means clinical social workers, school social workers, licensed  
4 social workers, and licensed social work associates licensed under this chapter.

5 2 New Paragraph; Medical Imaging and Radiation Therapy; Applications; Temporary License.  
6 Amend RSA 328-J:13 by inserting after paragraph II-b the following new paragraph:

7 II-c. The executive director may issue a temporary license to any person who has submitted  
8 a complete application for licensure, but whose criminal history check results are pending. A  
9 temporary license shall be issued only if the applicant has satisfied all requirements, excluding the  
10 criminal history check. The temporary license shall be valid until the criminal history check results  
11 are received by the office, or for 120 days, whichever occurs first.

12 3 Board of Nursing. Amend RSA 326-B:3, I to read as follows:

13 I. The board of nursing shall comprise [~~14~~] **13** members to be appointed by the governor with  
14 the consent of the council. Any interested individual, association, or entity may make  
15 [~~recommendation~~] **recommendations** to the governor. The members of the board shall include [~~5~~] **6**  
16 registered nurses, [~~one~~] **2** of whom shall be [~~an~~] advanced practice registered [~~nurse~~] **nurses**, 2  
17 licensed practical nurses, [~~2~~] **3** licensed nursing assistants, one of whom shall be a medication  
18 licensed nursing assistant if possible, and 2 representative members of the public. The terms of  
19 members shall be staggered as determined by the governor and council. All terms shall be for 3  
20 years, and no member of the board shall be appointed to more than 3 consecutive terms.

21 4 New Paragraph; Authority of the Board of Nursing to Establish Subcommittees. Amend RSA  
22 326-B:4 by inserting after paragraph XIV the following new paragraph:

23 XV. Establish a liaison committee, a practice and education committee, and such additional  
24 subcommittees as may be appropriate to assist the board in the performance of its duties.

25 5 Barbering, Cosmetology, and Esthetics; Penalty for Operating without a License. Amend RSA  
26 313-A:9, II(b) to read as follows:

27 (b) Hire, [~~or~~] employ, **or otherwise allow** any person to engage in a practice regulated  
28 by this chapter, unless such person then holds a valid license or a temporary permit issued by the  
29 board to practice the respective profession.



**HB 409-FN - VERSION ADOPTED BY BOTH BODIES**

**- Page 3 -**

1 (a) "Board" means a board, council, commission, committee, or other regulatory body  
2 with jurisdiction over professions listed in paragraph II.

3 (b) "Investigation" means procedures for investigation of allegations and complaints of  
4 misconduct in accordance with RSA 310:9.

5 (c) "Lapse" when referring to licenses shall mean expire.

6 (d) "License" shall include licenses, certifications or registrations required to practice a  
7 regulated profession, and shall include apprentice registrations, or those licensed pursuant to RSA  
8 332-G:14.

9 (e) "Office" or "OPLC" shall mean the office of professional licensure and certification.

10 II. The office of professional licensure and certification shall consist of the division of  
11 licensing and board administration and the division of enforcement, under the executive director as  
12 the administrative head of the agency. The boards within the office of professional licensure and  
13 certification shall consist of:

14 (a) Advisory board of body art practitioners under RSA 314-A.

15 (b) Advisory board of court reporters under RSA 310-A:163.

16 (c) Advisory board of massage therapists under RSA 328-B.

17 (d) Advisory board of medical imaging and radiation therapy under RSA 328-J.

18 (e) Advisory board of recreational therapists established under RSA 326-J.

19 (f) Advisory board of respiratory care practitioners established under RSA 326-E.

20 (g) Advisory board of reflexology, structural integration, and Asian bodywork therapy  
21 under RSA 328-H.

22 (h) Board of accountancy under RSA 309-B.

23 (i) Board of acupuncture licensing under RSA 328-G.

24 (j) Board of architects under RSA 310-A:29.

25 (k) Board of barbering, cosmetology, and esthetics under RSA 313-A.

26 (l) Board of chiropractic examiners under RSA 316-A.

27 (m) Board of dental examiners under RSA 317-A.

28 (n) Board of directors, office of licensed allied health professionals under RSA 328-F.

29 (o) Board of examiners of nursing home administrators under RSA 151-A.

30 (p) Board of family mediator certification under RSA 328-C.

31 (q) Board of home inspectors under RSA 310-A:186.

32 (r) Board of land surveyors under RSA 310-A:55.

33 (s) Board of landscape architects under RSA 310-A:142.

34 (t) Board of licensed dietitians under RSA 326-H.

35 (u) Board of licensing for alcohol and other drug use professionals under RSA 330-C.

36 (v) Board of licensing for foresters under RSA 310-A:100.

37 (w) Board of manufactured housing under RSA 205-A:25.

**HB 409-FN - VERSION ADOPTED BY BOTH BODIES**  
**- Page 4 -**

- 1 (x) Board of medicine under RSA 329.
- 2 (y) Board of mental health practice under RSA 330-A.
- 3 (z) Board of natural scientists under RSA 310-A:81.
- 4 (aa) Board of nursing under RSA 326-B.
- 5 (bb) Board of pharmacy under RSA 318.
- 6 (cc) Board of podiatry under RSA 315.
- 7 (dd) Board of psychologists under RSA 329-B:3.
- 8 (ee) Board of professional engineers under RSA 310-A:3.
- 9 (ff) Board of professional geologists under RSA 310-A:120.
- 10 (gg) Board of psychologists under RSA 329-B.
- 11 (hh) Board of registration of funeral directors and embalmers under RSA 325.
- 12 (ii) Board of registration in optometry under RSA 327.
- 13 (jj) Board of registration of medical technicians under RSA 328-I.
- 14 (kk) Board of septic system evaluators under RSA 310-A:206.
- 15 (ll) Board of veterinary medicine under RSA 332-B.
- 16 (mm) Electricians' board under RSA 319-C.
- 17 (nn) Electrology advisory committee under RSA 314.
- 18 (oo) Genetic counselors governing board established under RSA 328-F and RSA 326-K.
- 19 (pp) Governing board of athletic trainers established under RSA 328-F and RSA 326-G.
- 20 (qq) Guardians ad litem board under RSA 490-C.
- 21 (rr) Installation standards board under RSA 205-D.
- 22 (ss) Mechanical licensing board under RSA 153:27-a.
- 23 (tt) Midwifery council under RSA 326-D.
- 24 (uu) Naturopathic board of examiners under RSA 328-E.
- 25 (vv) Occupational therapy governing board established under RSA 326-F; and RSA 326-
- 26 C.
- 27 (ww) Physical therapy governing board established under RSA 328-F and 328-A.
- 28 (xx) Real estate appraiser board under RSA 310-B.
- 29 (yy) Real estate commission under RSA 331-A.
- 30 (zz) Registration of ophthalmic dispensers under RSA 327-A.
- 31 (aaa) Speech-language pathology and hearing care provider governing board established
- 32 under RSA 328-F and 326-F.
- 33 (bbb) Assessing certification board under RSA 310-C.
- 34 310:3 Executive Director; Directors; Unclassified Personnel.

35 I. The executive director of the office of professional licensure and certification shall be an  
36 unclassified employee of the state. The executive director shall be appointed by the governor, with  
37 the consent of the council, and shall serve for a term of 4 years. The executive director shall be

1 qualified to hold that position by reason of professional competence, education, and experience. A  
2 vacancy shall be filled for the remainder of the unexpired term in the same manner as the original  
3 appointment.

4 II. The executive director shall nominate for appointment by the governor and council the  
5 unclassified positions of director of the division of licensing and board administration and director of  
6 the division of enforcement. Each director shall be qualified for the position by reason of education,  
7 competence, and experience and shall serve at the pleasure of the executive director for a term of 4  
8 years.

9 III. The executive director shall nominate for appointment by the governor and council the  
10 unclassified position of chief pharmacy compliance investigator and 2 unclassified pharmacy  
11 investigator positions. Each inspector shall be qualified for the position by reason of education,  
12 competence, and experience and shall serve at the pleasure of the executive director.

13 IV. The executive director shall nominate for appointment by the governor and council the  
14 unclassified positions of agency chief legal officer and board chief legal officer. Each officer shall be  
15 qualified for the position by reason of education, competence, and experience and shall serve at the  
16 pleasure of the executive director.

17 V. The salaries of the executive director, each division director, each legal officer, the chief  
18 pharmacy investigator, and each pharmacy investigator shall be as specified in RSA 94:1-a.

19 310:4 Duties of Executive Director.

20 I. The executive director, as the administrative head of the office of professional licensure  
21 and certification, may employ such clerical or other assistants as are necessary for the proper  
22 performance of the office's work and may make expenditures for any purpose which are reasonably  
23 necessary, according to the executive director, for the proper performance of the office's duties under  
24 this chapter. The office shall contract for the services of investigators, presiding officers, legal  
25 counsel, and industry experts as necessary and in consultation with the appropriate board.

26 II. The executive director of the office of professional licensure and certification shall be  
27 responsible for:

28 (a) Supervision of the division directors and chief legal officers.

29 (b) Employment of personnel needed to carry out the functions of the office and the  
30 boards.

31 (c) The examination, processing and approval or denial of an application for licensure,  
32 certification, or registration for all license types governed by the office or a board listed in RSA 310:2,  
33 based on set objective standards developed by the boards, and in accordance with RSA 541-A.

34 (d) The investigation of all complaints of professional misconduct in accordance with  
35 RSA 310:9.

36 (e) Maintenance of the official record of the office and the boards in accordance with the  
37 retention policy established by the office.

1 (f) Drafting and coordinating rulemaking for all boards within the office in accordance  
2 with RSA 541-A, with the advice and recommendations of the boards.

3 (g) Maintaining the confidentiality of information, documents, and files in accordance  
4 with RSA 91-A.

5 (h) Submitting, by November 1, to the speaker of the house of representatives, the  
6 president of the senate, the chairpersons of the house and senate executive departments and  
7 administration committees, and the governor, an annual report summarizing the transactions of the  
8 preceding fiscal year and a complete statement of the receipts and expenditures of the office of  
9 professional licensure and certification. The report shall be posted on the website of the office of  
10 professional licensure and certification immediately upon submission.

11 (i) Notwithstanding any other provisions of law to the contrary, for the performance of  
12 the administrative, clerical, and business processing responsibilities under paragraph II(b), the office  
13 and all boards shall accept electronic signatures and scans of signed documents in addition to  
14 original signatures.

15 310:5 Administration of the Office of Professional Licensure and Certification; Funding.

16 I. The executive director of the office of professional licensure and certification shall  
17 establish and collect all license, certification, and renewal fees, as well as any necessary  
18 administrative fees for each professional regulatory board administered by the office. Such fees shall  
19 be sufficient to produce estimated revenues up to 125 percent of the total operating expenses for the  
20 office, as determined by averaging the operating expenses for the office for the previous 2 fiscal  
21 years.

22 II. There is hereby established the office of professional licensure and certification fund into  
23 which the fees collected under paragraph I shall be deposited. The fund shall be a separate,  
24 dedicated, nonlapsing fund, continually appropriated to the office of professional licensure and  
25 certification. Moneys in the fund shall be used to pay all costs and salaries associated with the  
26 office, and any remaining funds in a biennium shall be used for capital expenditures related to the  
27 operation of the office of professional licensure and certification. At the close of each biennium, any  
28 funds in excess of \$3,000,000 shall be used to reduce licensing and certification fees.

29 III. There is hereby established a dedicated, nonlapsing fund to be known as the New  
30 Hampshire health professionals' program administration fund for the administration of the  
31 professionals' health program, including the professionals' health program in RSA 329:13-b, the  
32 alternative recovery monitoring program in RSA 326-B:36-a, and the impaired pharmacist program  
33 set forth in RSA 318:29-a, with a fee charged to licensees at the time of initial licensure, renewal  
34 licensure, or reinstatement of licensure, for the board of medicine, board of dental examiners,  
35 pharmacy board, board of nursing, board of veterinary medicine, board of psychologists, board of  
36 chiropractic examiners, board of mental health practice, midwifery council, board of registration in  
37 optometry, board of podiatry, board of licensed dietitians, and board of licensing for alcohol and other

1 drug use professionals, not to exceed 125 percent of the actual cost of providing the services. Other  
2 health and technical professions boards may be added to the program at the same annual fee per  
3 licensee. The moneys in this fund shall be continually appropriated to the office.

4 IV. The office of professional licensure and certification shall be responsible for the financing  
5 of any interstate compact joined by the state that affects a profession governed by a board listed in  
6 RSA 310:2. Such financing shall be from funds deposited in the office of professional licensure and  
7 certification fund.

8 V. The office of professional licensure and certification shall report biennially by each July 1  
9 on how the funds were expended over the previous biennium. The office shall forward the report to  
10 the president of the senate, the speaker of the house of representatives, the chairs of the house and  
11 senate executive departments and administration committees, the state library, the governor, and  
12 applicable boards, and shall make the report available online.

13 310:6 Rulemaking Authority. The executive director of the office of professional licensure and  
14 certification shall adopt rules, relative to RSA 541-A, for the following:

15 I. All fees set forth in RSA 310:5, with the advice and recommendations of the respective  
16 board. Fees shall be reassessed, at a minimum, every five years.

17 II. Such organizational and procedural rules necessary to administer the boards in the  
18 office, including rules governing the administration of complaints and investigations, hearings,  
19 disciplinary and non-disciplinary proceedings, inspections, payment processing procedures, and  
20 application procedures.

21 III. The rate of per diem compensation and reimbursable expenses for all boards within the  
22 office.

23 IV. Rules governing the professionals' health program as set forth in RSA 310:5.

24 V. Temporary licenses to out-of-state health care professionals who present evidence of an  
25 active license in good standing from another jurisdiction. The temporary license shall be valid for  
26 120 days, or until the office acts on an application for full licensure, whichever happens first, and  
27 shall not be renewed, except that a complete application for full licensure before the expiration of the  
28 temporary license shall continue the validity of the temporary license until the office has acted on  
29 the application. All individuals licensed under rules adopted pursuant to this subparagraph shall be  
30 subject to the jurisdiction of the state licensing body for that profession.

31 310:7 Telemedicine and Telehealth Services.

32 I. For this section:

33 (a) "Asynchronous interaction" means an exchange of information between a patient and  
34 a health care professional that does not occur in real time.

35 (b) "Synchronous interaction" means an exchange of information between a patient and  
36 a health care professional that occurs in real time.



1 (c) "Telemedicine" means the use of audio, video, or other electronic media and  
2 technologies by a health care professional in one location to a patient at a different location for the  
3 purpose of diagnosis, consultation, or treatment, including the use of synchronous or asynchronous  
4 interactions.

5 (d) "Telehealth" means the use of audio, video, or other electronic media and  
6 technologies by a health care professional in one location to a patient at a different location for the  
7 purpose of diagnosis, consultation, or treatment, including the use of synchronous or asynchronous  
8 interactions.

9 II. Individuals licensed, certified, or registered pursuant to RSA 137-F; RSA 151-A; RSA  
10 315; RSA 316-A; RSA 317-A; RSA 326-B; RSA 326-D; RSA 326-H; RSA 327; RSA 328-D; RSA 328-E;  
11 RSA 328-F; RSA 328-G; RSA 329-B; RSA 330-A; RSA 330-C; RSA 327-A; RSA 329; RSA 326-B; RSA  
12 318; RSA 328-I; RSA 328-J; or RSA 332-B may provide services through telemedicine or telehealth,  
13 provided the services rendered are authorized by scope of practice. Nothing in this provision shall be  
14 construed to expand the scope of practice for individuals regulated under this chapter.

15 III. Unless otherwise prescribed by statute, an out-of-state healthcare professional providing  
16 services by means of telemedicine or telehealth shall be required to be licensed, certified, or  
17 registered by the appropriate New Hampshire licensing body, or pursuant to a licensing compact or  
18 endorsement, if the patient is physically located in New Hampshire at the time of service. This  
19 paragraph shall not apply to out-of-state physicians who provide consultation services pursuant to  
20 RSA 329:21, II.

21 IV. An individual providing services by means of telemedicine or telehealth directly to a  
22 patient shall:

23 (a) Use the same standard of care as used in an in-person encounter;

24 (b) Maintain a medical record;

25 (c) Subject to the patient's consent, forward the medical record to the patient's primary  
26 care or treating provider, if appropriate; and

27 (d) Provide meaningful language access if the individual is practicing in a facility that is  
28 required to ensure meaningful language access to limited-English proficient speakers pursuant to 45  
29 C.F.R. section 92.101 or RSA 354-A, or to deaf or hard of hearing individuals pursuant to 45 C.F.R.  
30 section 92.102, RSA 521-A, or RSA 354-A.

31 V. Under this section, Medicaid coverage for telehealth services shall comply with the  
32 provisions of 42 C.F.R. section 410.78 and RSA 167:4-d.

33 VI. Physicians and physician assistants, governed by RSA 329 and RSA 328-D; advanced  
34 practice nurses, governed by RSA 326-B and registered nurses under RSA 326-B employed by home  
35 health care providers under RSA 151:2-b; midwives, governed by RSA 326-D; psychologists, governed  
36 by RSA 329-B; naturopathic doctors, governed by RSA 328-E; allied health professionals, governed  
37 by RSA 328-F; dentists, governed by RSA 317-A; mental health practitioners governed by RSA 330-

1 A; community mental health providers employed by community mental health programs pursuant to  
2 RSA 135-C:7; alcohol and other drug use professionals, governed by RSA 330-C; and dietitians,  
3 governed by RSA 326-H shall be authorized to provide consultation services or follow-up care via  
4 telehealth to a patient who previously received services from the provider in the state where the  
5 provider is licensed.

6 VII. Nothing in this section shall limit a provider's ability to diagnose, assess, or treat an  
7 individual patient.

8 310:8 License Renewals; Lapse.

9 I. The executive director of the office of professional licensure and certification shall issue  
10 licenses, as set forth in RSA 310:4, to applicants meeting the eligibility requirements as defined in  
11 statute, and rules adopted by each individual board.

12 II. Licenses shall be valid for 2 years from the date of issuance except for those apprentices  
13 licensed for one year in accordance with rules adopted pursuant to 541-A, provided that timely and  
14 complete application for license renewal by eligible applicants shall continue the validity of the  
15 licenses being renewed until the office has acted on the renewal application.

16 III. Applicants shall submit completed applications for renewal, the renewal fee, and any  
17 supporting documents required for that renewal on or before the expiration of the license. Licenses  
18 shall lapse when completed renewal applications, renewal fee, and supporting documents have not  
19 been filed by the expiration of the license and the holders of a lapsed license are not authorized to  
20 practice until the licenses have been reinstated. Holders of lapsed licenses shall not be able to  
21 renew, but shall be eligible to reinstate licenses by submitting an application and meeting the  
22 eligibility requirements as defined in statute, and rules adopted by each individual board.

23 IV. The office of professional licensure and certification shall provide licensees, at least 2  
24 months before the date of expiration of their license, with notice of the need to complete their  
25 renewal applications. Failure to receive notice shall not relieve any licensee of the obligation to  
26 renew their license, comply with the rules of the office, the rules of the board, or this section.  
27 Timeliness of submission of renewal applications shall be evidenced by the date stamp of receipt, or  
28 for applications submitted electronically the electronic time stamp of submission.

29 V. Upon the request of a licensee who is a member of any reserve component of the armed  
30 forces of the United States or the national guard and is called to active duty, the office of  
31 professional licensure and certification shall place the person's license on inactive status. The  
32 license may be reactivated within one year of the licensee's release from active status by payment of  
33 the renewal fee and with proof of completion of the most current continuing education requirement  
34 unless still within the renewal period.

35 310:9 Complaints and Investigations.

36 I. Allegations of professional misconduct shall be brought in accordance with RSA 332-G and  
37 rules adopted by the executive director, subject to the following:

1 (a) The office or the boards within the office may disclose information acquired in an  
2 investigation to law enforcement, if it involves suspected criminal activity, to health licensing  
3 agencies in this state or any other jurisdiction, or in response to specific statutory requirements or  
4 court orders.

5 (b) Allegations of professional misconduct shall be brought within 5 years from the time  
6 the office reasonably could have discovered the act, omission or failure complained of, except that  
7 conduct which resulted in a criminal conviction or in a disciplinary action by a relevant licensing  
8 authority in another jurisdiction may be considered by the board without time limitation in making  
9 licensing or disciplinary decisions if the conduct would otherwise be a ground for discipline. The  
10 board may also consider licensee conduct without time limitation when the ultimate issue before the  
11 board involves a pattern of conduct or the cumulative effect of conduct which becomes apparent as a  
12 result of conduct which has occurred within the 5-year limitation period prescribed by this  
13 paragraph.

14 II. Upon receipt of an allegation of professional misconduct, the office shall determine  
15 whether the allegation states a claim of professional misconduct on its face.

16 (a) If the office determines that the allegation does not state a claim, it shall make a  
17 recommendation to the board for dismissal. The board shall review the office's recommendation and  
18 dismiss the allegation if it agrees with the office's recommendation. Each board shall dismiss a  
19 complaint if the board concludes that the allegations do not state a claim of professional misconduct.

20 (b) If the office determines that the allegation does state a claim on its face, the office  
21 shall proceed under paragraph III.

22 III. Notwithstanding any other law to the contrary, the office shall investigate allegations of  
23 misconduct by licensees (a) upon its own initiative or (b) upon confirmation that a written complaint  
24 alleging misconduct of a licensed or unlicensed individual or entity of a profession regulated under  
25 the office should be investigated.

26 IV. Allegations of misconduct received by the office, information and records acquired by the  
27 office during an investigation, and reports and records made by the office because of its  
28 investigation, shall be held confidential and shall be exempt from the disclosure requirements of  
29 RSA 91-A, unless such information subsequently becomes part of a public disciplinary hearing.  
30 However, the office may disclose information acquired in an investigation to law enforcement or  
31 licensing agencies in this state or any other jurisdiction, or in accordance with specific statutory  
32 requirements or court orders.

33 V. To carry out investigations, the executive director is authorized to:

34 (a) Retain qualified experts according to criteria established by the relevant board or  
35 who have sufficient knowledge on appropriate statutes or professions and their practices.

1 (b) Conduct inspections of places of business of a profession regulated under the office,  
2 which may include entrance into only the portion of a residence where professional equipment is  
3 located and does not include home office equipment.

4 (c) Issue subpoenas for persons, relevant documents and relevant materials in  
5 accordance with the following conditions:

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

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

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

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

16 VI. When an allegation or complaint of misconduct is determined to be unfounded after an  
17 investigation, the board shall dismiss the allegation and explain in writing to the complainant and  
18 the licensee its reason for dismissing the complaint. The office shall retain all information  
19 concerning investigations in accordance with the retention policy established by the office.

20 VII. Subject to the limitations of RSA 329-B:26 and RSA 330-A:32, the office shall obtain,  
21 handle, archive, and destroy mental health and psychological records as follows:

22 (a) If a client or patient owning a privilege is the person who has made a complaint  
23 against a licensee, the office may access the records of such client or patient. The complaint form  
24 provided by the office and initial follow-up correspondence shall clearly indicate that the submission  
25 of the complaint by the client or patient who is the owner of the privilege shall override the privacy  
26 of that record for the purposes of the office's confidential investigation and proceedings. The client or  
27 patient's identity shall not be disclosed to the public in any manner or in any proceeding of the board  
28 without his or her consent. If the client or patient named in the complaint is a child, the legitimate  
29 assertion of the privilege by one natural or adoptive parent or legal guardian is sufficient for this  
30 paragraph to apply. The office may act on that parent or guardian's initiation of complaint  
31 regardless of the objection of the other parent or guardian.

32 (b) If the person who has made the allegations against the licensee is not the owner of  
33 the privilege for the records of the client or patient named in the complaint whose treatment is  
34 under investigation by the office, the records for investigation shall be treated as follows:

35 (1) When the office reviews the initial complaint and upon all further reviews of the  
36 case by the office or the board, the identity of the named client or patient shall be redacted from the  
37 documents reviewed.

1           (2) The names of clients or patients may be made available only to office staff and  
2 consultants assigned to investigate or adjudicate the matter, and in instances where the board has  
3 decided to proceed with discipline, to board members for purposes of determining recusal issues as  
4 described in subparagraph (f).

5           (3) The record of a client or patient under this subparagraph that has been  
6 specifically named in a complaint may be obtained by office staff as specified:

7           (A) Office staff and consultants may request permission from the client or  
8 patient to obtain the record for the investigation, informing the client or patient about the bounds of  
9 confidentiality of such records and the nature of the investigative process. If the client or patient  
10 grants permission, office staff may obtain the copies of the record.

11           (B) If the client or patient denies permission for access to the record, the office  
12 may only obtain the record pursuant to a court order.

13           (4) Personally identifiable information pertaining to a client or patient under this  
14 subparagraph shall remain known only to staff and consultants assigned to the matter, which may  
15 include an employee of the office's investigations bureau, an employee of the office's prosecutions  
16 bureau, professional conduct investigator, the board administrator, and only those additional  
17 investigative assistants as the office's investigation team deems necessary to accomplish the  
18 investigation of the complaint.

19           (5) All communication beyond the office staff and consultants, or the board,  
20 pertaining to these clients or patients shall be conducted without the use of personally identifiable  
21 information.

22           (6) The identity of a client or patient shall not be disclosed to the public in any  
23 manner or in any proceeding of a board without his or her consent.

24           (c) Records of clients or patients who are not named in the initial complaint shall be  
25 treated as follows:

26           (1) If office staff and consultants assigned to the matter wish to obtain records of, or  
27 contact, clients or patients not named in the initial complaint, they shall make a request to the board  
28 with reasons for the request, specify the scope of cases and types of records requested, and state the  
29 name of the individual for whom authorization is requested to contact the client or patient.

30           (2) Upon board approval of a request pertaining to treatment of clients or patients  
31 defined in this subparagraph, the names of the clients or patients that fulfill the criteria of selection  
32 may be made available to office staff and consultants for purposes of determining whether recusal  
33 issues pertain to their selection for the investigation as described in subparagraph (f).

34           (3) If the board approves an investigation into client or patient cases who are not  
35 named in the original complaint, the board shall specify whether the clients or patients may be  
36 contacted directly.

1 (4) For records requested under this subparagraph, the keeper of the record shall be  
2 instructed to provide records that are redacted of personally identifiable information as defined in  
3 subparagraph (g). Each record shall be marked with an identifying code and the keeper of the record  
4 shall provide to the office's staff and consultants the contact information for corresponding clients or  
5 patients.

6 (5) The office shall store in a secure manner the list of these client or patient codes  
7 with corresponding contact information.

8 (6) If office staff and consultants have just cause to verify redacted copies against  
9 originals records of specified cases they shall request permission of the board, giving reason for the  
10 request. Upon board approval, office staff and consultants may have access to the identified  
11 unredacted records, which may be viewed at a time and location of their choosing. Office staff and  
12 consultants may request a copy of the identified original records be sent to the office. Copies and  
13 corrections to the redacted records may be made by the office staff and consultants, after which any  
14 identified unredacted copies shall be destroyed and original records returned to the keeper of the  
15 records.

16 (7) Office staff and consultants contacting the clients or patients pursuant to  
17 subparagraph (c)(1) shall request permission from the clients or patients to conduct an interview,  
18 include an explanation that the individual(s) may grant or refuse permission for such interview, and  
19 explain there are no adverse personal consequences of any kind for refusal to grant permission or for  
20 withdrawing permission at any time during the interview. Office staff and consultants may inform  
21 the individual(s) that refusal to participate may prevent the investigation from proceeding or  
22 reaching a satisfactory conclusion.

23 (8) The identity of each client or patient shall be redacted from any documents  
24 reviewed by the board.

25 (9) The identity of a client or patient defined in this subparagraph shall not be  
26 disclosed to the public in any manner or in any proceeding of the board without the client or patient's  
27 consent.

28 (d) Mental health or psychological records obtained through subparagraphs (a)-(c) shall  
29 be archived or destroyed at the conclusion of the matter in accordance with a retention schedule  
30 established by the office. The identification and contact information collected during the  
31 investigation for clients or patients other than a client or patient complainant shall be destroyed.

32 (e) For the purposes of this paragraph:

33 (1) "Record" means health or psychological information collected from or about an  
34 individual that:

35 (A) Is created or received by a health care provider, health plan, employer, or  
36 health care clearinghouse; and

1 (B) Relates to the individual, the past, present, or future physical or mental  
2 health or psychological condition of an individual, the provision of health care to an individual, or the  
3 past, present, or future payment for the provision of health care to an individual.

4 (2) "Personally identifiable information" means information which identifies an  
5 individual or which a reasonable person would believe could be used to identify an individual,  
6 including common and uncommon identifiers, including, but not limited to, name, address, birth  
7 date, social security number, court docket number, insurance policy number, and any other  
8 identifiers of an individual and of the individual's known relatives, household members, and  
9 employers that a reasonable person would believe could identify the individual to whom the record  
10 pertains.

11 (f) In the process of determining recusal, the security of the client or patient's identity  
12 shall be preserved as follows:

13 (1) Before engaging in any matter as defined in subparagraph (a), board members,  
14 investigators, and others as specified in this paragraph with access to case files shall first review the  
15 name of the client/patient before proceeding. If a conflict of interest is identified, that person shall  
16 recuse himself or herself from the matter.

17 (2) Before engaging in any cases defined in subparagraph (b), office staff and  
18 consultants at the onset of the investigation, board members at the time of reviewing the findings of  
19 the investigation, and any others authorized to have access to the case prior to commencing review of  
20 such cases shall first determine if there is a need for recusal.

21 (3) If a client or patient as defined in subparagraph (b) or (c) testifies or intends to  
22 attend the hearing of the case involving his or her treatment and the board may see the client or  
23 patient inadvertently or directly, the client or patient's name shall be revealed to the board members  
24 so they may have the opportunity to recuse themselves prior to the proceeding. The client or patient  
25 shall be informed beforehand of such disclosure.

26 (4) For recusals pertaining to clients or patients under subparagraph (c) of this  
27 section, office staff and consultants shall review the names of the clients or patients who qualify for  
28 the scope of investigation as approved by the board, to determine if there is cause for recusal.

29 (5) When board members review any report of investigation that includes case  
30 information pertaining to clients or patients as defined in subparagraph (c), they shall review their  
31 names prior to reading such reports in the following manner:

32 (A) If there are 10 or fewer cases with individual clinical information presented,  
33 then the methods of testing for recusal shall follow the recusal procedures in subparagraph (f)(2).

34 (B) When the report includes clinical information pertaining to more than 10  
35 cases, the recusal methods of subparagraph (f)(4) shall apply.

36 (C) When such client or patients' information is presented only in aggregate  
37 form, no recusal is required.

1           (g) A keeper of the record shall comply with the board and the office's investigative  
2 team's requests for client or patient records and all redaction requirements specified under this  
3 section. The board may seek a court order to enforce valid requests for such records under this  
4 section.

5           VIII. Any board member who has had a personal relationship or has worked in a  
6 professional capacity with a complainant or with a licensee against whom a complaint has been filed  
7 or whose personal or professional views regarding the licensee or the complainant could prevent the  
8 board member from being impartial in considering the complaint shall recuse himself or herself from  
9 any investigation or disciplinary action against such licensee.

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

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

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

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

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

27           V. The presiding officer in disciplinary and non-disciplinary remedial proceedings may issue  
28 subpoenas for persons, relevant documents and relevant materials in accordance with the following  
29 conditions:

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

32           (b) Subpoenas for documents and materials shall not require compliance in fewer than  
33 15 days after receipt of service.

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

36           (d) Service shall be made on persons who are not licensees or certified individuals in  
37 accordance with the procedures and fee schedules of the superior court, and the subpoenas served on



1 them shall be annotated "Fees Guaranteed by the New Hampshire Office of Professional Licensure  
2 and Certification."

3 VI. In carrying out disciplinary or non-disciplinary remedial proceedings, the presiding  
4 officer, as defined in RSA 541-A, shall have the authority to hold pre-hearing conferences, which  
5 shall be exempt from the provisions of RSA 91-A; to administer oaths and affirmations; and, to  
6 render legal opinions and make conclusions of law.

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

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

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

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

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

20 X. Except as otherwise provided by RSA 541-A:30, the board shall furnish the respondent at  
21 least 15 days' written notice of the date, time and place of a hearing. Such notice shall include an  
22 itemization of the issues to be heard, and, in the case of a disciplinary hearing, a statement as to  
23 whether the action has been initiated by a written complaint or upon the board's own motion, or  
24 both. If a written complaint is involved, the notice shall provide the complainant with a reasonable  
25 opportunity to intervene as a party.

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

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

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

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

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

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

9 310:11 Licensing Proceedings.

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

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

14 III. In carrying out licensing proceedings, the board shall have the authority to:

15 (a) Hold pre-hearing conferences exempt from the provisions of RSA 91-A;

16 (b) Appoint a board member or other qualified person as presiding officer; and

17 (c) Administer, and authorize an appointed presiding officer to administer, oaths and  
18 affirmations.

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

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

23 310:12 Sanctions.

24 I. Upon making an affirmative finding that a licensee has committed professional  
25 misconduct, boards may take disciplinary action in any one or more of the following ways:

26 (a) By reprimand.

27 (b) By suspension of a license for a period of time as determined reasonable by the board.

28 (c) By revocation of license.

29 (d) By placing the licensee on probationary status. The board may require the person to  
30 submit to any of the following:

31 (1) Regular reporting to the board concerning the matters which are the basis of the  
32 probation.

33 (2) Continuing professional education until a satisfactory degree of skill has been  
34 achieved in those areas which are the basis of probation.

35 (3) Submitting to the care, counseling, or treatment of a physician, counseling  
36 service, health care facility, professional assistance program, or any comparable person or facility  
37 approved by the board.

1 (4) Practicing under the direct supervision of another licensee for a period of time  
2 specified by the board.

3 (e) By assessing administrative fines in amounts established by the board which shall  
4 not exceed \$3,000 per offense, or, in the case of continuing offenses, \$300 for each day that the  
5 violation continues, whichever is greater.

6 II. The board may issue a non-disciplinary confidential letter of concern to a licensee  
7 advising that while there is insufficient evidence to support disciplinary action, the board believes  
8 the licensee or certificate holder should modify or eliminate certain practices, and that continuation  
9 of the activities which led to the information being submitted to the board may result in action  
10 against the licensee's license. This letter shall not be released to the public or any other licensing  
11 authority, except that the letter may be used as evidence to establish a relevant pattern or course of  
12 conduct in subsequent adjudicatory proceedings by the board.

13 III. In the case of sanctions for discipline in another jurisdiction, the decision of the other  
14 jurisdiction's disciplinary authority may not be collaterally attacked and the board may impose any  
15 of the sanctions set forth in this chapter, but shall provide notice and an opportunity to be heard  
16 prior to imposing any sanctions.

17 IV. In cases involving imminent danger to public health, safety, or welfare, a board may  
18 order immediate suspension of a license or certification pending an adjudicative proceeding before  
19 the board to determine if the suspension should remain in place pending final adjudication of the  
20 matter, and which shall commence not later than 10 working days after the date of the order  
21 suspending the license unless the licensee or certified individual agrees in writing to a longer period.  
22 In such cases of immediate danger, the board shall comply with RSA 541-A:30.

23 V. For any order issued in resolution of a disciplinary proceeding by the board, where the  
24 board has found misconduct sufficient to support disciplinary action, the board may require the  
25 licensee or certificate holder who is the subject of such finding to pay the office the reasonable cost of  
26 investigation and prosecution of the proceeding, but which shall not exceed \$10,000. This sum may  
27 be imposed in addition to any otherwise authorized administrative fines levied by the board as part  
28 of the penalty. The investigative and prosecution costs shall be assessed by the office and any sums  
29 recovered shall be credited to the office's fund and disbursed by the office for any future  
30 investigations of complaints and activities that violate this chapter or rules adopted under this  
31 chapter.

32 310:13 Unlicensed Practice. Whoever, not being licensed or otherwise authorized to practice  
33 according to the laws of this state, advertises oneself as engaging in a profession licensed or certified  
34 by the office of professional licensure and certification, engages in activity requiring professional  
35 licensure, or in any way holds oneself out as qualified to do so, or calls oneself a licensed  
36 professional, or whoever does such acts after receiving notice that such person's license to practice  
37 has been suspended or revoked, is engaged in unlawful practice. After providing notice and

1 opportunity to be heard, and upon making an affirmative finding of unlawful practice, the board may  
2 impose a fine not to exceed the amount of any gain or economic benefit that the person derived from  
3 the violation, or up to \$10,000 for each offense, whichever amount is greater. Each violation of  
4 unlicensed or unlawful practice shall be deemed a separate offense. The board, the state's attorney  
5 general, or a prosecuting attorney of any county or municipality where the act of unlawful practice  
6 takes place may maintain an action to enjoin any person or entity from continuing to do acts of  
7 unlawful practice. The action to enjoin shall not replace any other civil, criminal, or regulatory  
8 remedy. An injunction without bond is available to any board.

9 310:14 Rehearing; Appeals.

10 I. Any person who has been denied a license or certification by the office or a board shall  
11 have the right to a rehearing before the appropriate board. Requests for a rehearing shall be made  
12 in writing to the appropriate board within 30 days of receipt of the original final decision.

13 II. Any person who has been disciplined by a board shall have the right to petition in writing  
14 for a rehearing within 30 days of receipt of the original final decision.

15 III. Appeals from a decision on rehearing shall be by appeal to the supreme court pursuant  
16 to RSA 541, except as specified in RSA 674:34 or other applicable statutes. No sanction shall be  
17 stayed by the board during an appeal.

18 310:15 Oversight Committee; Establishment; Purpose.

19 I. There shall be an oversight committee for the office of professional licensure and  
20 certification (OPLC) consisting of the following members:

21 (a) Three members of the house executive departments and administration committee,  
22 one of whom shall be a minority member of that committee, appointed by the speaker of the house of  
23 representatives.

24 (b) Two members of the senate executive departments and administration committee,  
25 one of whom shall be a minority member of that committee, appointed by the president of the senate.

26 II. Membership on the oversight committee shall be for the duration of the biennium and  
27 shall be coterminous with membership in the general court. The first meeting of the committee shall  
28 be called by the first-named house member. The committee shall elect a chair from among the  
29 members at the first meeting of each biennium. Meetings shall be called as needed, but at least  
30 quarterly. The members of the committee shall receive mileage at the legislative rate when  
31 performing the duties of the committee. Three members of the committee shall constitute a quorum.

32 III. The committee shall provide legislative oversight and informational meetings on the  
33 policies and rules of the office as brought to its attention by office personnel, legislators, members of  
34 the boards, councils, committees, and commissions overseen by OPLC, and members of the  
35 professions under the jurisdiction of OPLC. The committee's work shall include analyzing the  
36 division of duties between administration and the boards in order to promote more productive and  
37 efficient interactions.

1 IV. The oversight committee shall recommend legislation deemed necessary to correct issues  
2 it identifies.

3 310:16 Military Service Members and Spousal Temporary Licensure. The office of professional  
4 licensure and certification shall issue temporary licenses to a member of the armed forces or their  
5 spouse, if the applicant holds a current, valid unencumbered occupational or professional license in  
6 good standing issued by a state or territory of the United States, in accordance with rules adopted by  
7 executive director of the office of professional licensure and certification under RSA 541-A, provided  
8 that the applicant meets the requirements of this section, within 30 days of having received an  
9 application or, if the applicant is subject to a criminal records check, within 14 days of having  
10 received the results of a criminal records check. The rules shall contain the following provisions:

11 I. The applicant shall obtain a temporary license for a period of not less than 180 days while  
12 completing any requirements for licensure in New Hampshire so long as no cause for denial of a  
13 license exists under this title, or under any other law.

14 II. The license applicant must submit a notarized affidavit affirming, under penalty of law,  
15 that the applicant is the person described and identified in the application, that all statements made  
16 on the application are true and correct and complete, that the applicant has read and understands  
17 the requirements for licensure and certifies that they meet those requirements, and that the  
18 applicant is in good standing in all jurisdictions in which the applicant holds or has held a license.

19 III. The applicant may request a one-time 180-day extension of the temporary license if  
20 necessary to complete the New Hampshire licensing requirements. The applicant must make this  
21 request within 15 days prior to the temporary license's expiration date.

22 IV. All individuals licensed under this section shall be subject to the jurisdiction of the state  
23 licensing body for that profession.

24 9 Dedicated Fund; Office of Professional Licensure and Certification. Amend 6:12, I(b)(340) to  
25 read as follows:

26 (340) Moneys deposited in the office of professional licensure and certification fund  
27 established in RSA [~~310-A:1-e~~] **310:5**.

28 10 Transition; Administrative Rules; Recodification of Office of Professional Licensure and  
29 Certification. The rules adopted for any occupation or profession under the office of professional  
30 licensure and certification under former RSA 310-A:1-a in effect on the effective date of this act  
31 shall, to the extent practicable, continue and be effective and apply to such respective occupation or  
32 profession until they expire or are amended or repealed.

33 11 Reference Changed; Mechanical Licensing; OPLC. Amend RSA 153:16-b, III to read as  
34 follows:

35 III. The mechanical licensing board with the approval of the executive director of the office  
36 of professional licensing and certification shall adopt rules, which shall not be subject to RSA 541-A,  
37 relative to the establishment of fees for voluntary certification under this section. After the first

1 year of this program, such fees shall be sufficient to produce estimated revenues equal to 125 percent  
2 of the direct operating expenses of the previous fiscal year. Fees collected shall be deposited in the  
3 office of professional licensure and certification fund established in RSA ~~[310-A:1-e]~~ **310:5**.

4 12 Reference Changed; Mechanical Licensing; OPLC. Amend RSA 153:28, II to read as follows:

5 II. Notwithstanding RSA 21-G:9, the board, with an affirmative vote of at least 4 of the  
6 appointed board members, in consultation with the office of professional licensure and certification  
7 and with the approval of the executive director of the office of professional licensure and  
8 certification, shall establish application fees for licensure, for renewal, for late renewal, and for  
9 reinstatement of licenses under this subdivision pursuant to RSA 541-A. Such licensing fees  
10 including any endorsements shall not exceed \$500 per individual. The board shall also adopt fees for  
11 replacement licenses, for certified copies and reports, for inspections done pursuant to this  
12 subdivision, for letters of verification requested by individuals or jurisdictions relating to licensure  
13 and certification, and for transcribing and transferring records and other services. The fee for  
14 examination by third parties shall be separate from the fees established by the board. Fees  
15 established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the  
16 direct operating expenses of the board budgeted for the biennium in which they will apply. Fees  
17 collected shall be deposited in the office of professional licensure and certification fund established in  
18 RSA ~~[310-A:1-e]~~ **310:5**.

19 13 Reference Changed; Accountancy. Amend RSA 309-B:4, III to read as follows:

20 III. The office of professional licensure and certification shall establish fees for examination  
21 of applicants, for licenses, for certificates of authorization, for reissuance of licenses, for renewal and  
22 reinstatement of licenses and certificates to practice under this chapter, for late renewals, for  
23 verification of licensure or examination, and for transcribing and transferring records and other  
24 services. All moneys collected by the office of professional licensure and certification from fees  
25 authorized under this chapter shall be received and accounted for by the office of professional  
26 licensure and certification, shall be deposited in the office of professional licensure and certification  
27 fund established in RSA ~~[310-A:1-e]~~ **310:5**. Administration expenses shall be limited to the funds  
28 collected and may include, but shall not be limited to, the costs of conducting investigations and of  
29 taking testimony and procuring the attendance of witnesses before the board or its committees; all  
30 legal proceedings taken under this chapter for the enforcement of this chapter; and educational  
31 programs for the benefit of the public or licensees and their employees.

32 14 Reference Changed; Architects. Amend RSA 310-A:32, II to read as follows:

33 II. In adopting any rule under this section, the board **shall** consult with the office of  
34 professional licensure and certification established under RSA ~~[310-A:1 through RSA 310-A:1-e]~~ **310**.

35 15 Reference Changed; Body Art. Amend RSA 314-A:2, II to read as follows:

36 II. There shall be a fee for an initial license and a renewal license. The procedure and  
37 timeframe for license renewals shall be as described in RSA ~~[310-A:1-h]~~ **310**.

1 16 Reference Changed; Chiropractic. Amend RSA 316-A:14-a to read as follows:

2 316-A:14-a Licenses and Certificates. Each applicant who qualifies under this chapter and who  
3 attains a minimum grade of 70 percent upon the examination given under RSA 316-A:13, I shall  
4 receive a license from the board as a chiropractor permitted to practice in New Hampshire. Each  
5 applicant who qualifies under this chapter shall pay a fee for an initial license and a license renewal.  
6 The initial license and license renewals shall be valid for the terms established under RSA ~~310-A:1-~~  
7 ~~h~~] **310**.

8 17 Reference Changed; Dentists Professional Health. Amend RSA 317-A:16-a, VII to read as  
9 follows:

10 VII. Rules governing the professional health program shall be implemented through the  
11 office of professional licensure and certification pursuant to RSA ~~310-A:1-d, II(h)(4)]~~ **310**.

12 18 Reference Changed; Pharmacists. Amend RSA 318:1, XV-a to read as follows:

13 XV-a. "Practitioner-patient relationship" means a medical connection between a licensed  
14 practitioner and a patient that includes an in-person exam or an exam using telemedicine, as defined  
15 in RSA ~~310-A:1-g, I-b]~~ **310**, provided the health care practitioner: (i) verifies the identity of the  
16 patient receiving health care services through telemedicine; (ii) discloses to the patient the health  
17 care practitioner's name, contact information, and the type of health occupation license held by the  
18 health care practitioner; (iii) obtains oral or written consent from the patient or from the patient's  
19 parent or guardian, if state law requires the consent of a parent or guardian for use of telemedicine  
20 services; and (iv) meets the standard of care. A health care practitioner shall complete or review a  
21 history, a diagnosis, a treatment plan appropriate for the practitioner's scope of practice, and  
22 documentation of all prescription drugs including name and dosage. A practitioner may prescribe for  
23 a patient whom the practitioner does not have a practitioner-patient relationship under the following  
24 circumstances: for a patient of another practitioner for whom the prescriber is taking call; for a  
25 patient examined by another New Hampshire licensed practitioner; or for medication on a short-  
26 term basis for a new patient prior to the patient's first appointment. The definition of a practitioner-  
27 patient relationship shall not apply to a practitioner licensed in another state who is consulting to a  
28 New Hampshire licensed practitioner with whom the patient has a relationship.

29 19 Reference Changed; Nurse Practice Act. Amend RSA 326-B:36-a, VI-a, (c) to read as follows:

30 (c) Rules governing this program shall be implemented through the office of professional  
31 licensure and certification pursuant to RSA ~~310-A:1-d, II(h)(4)]~~ **310**.

32 20 Reference Changed; Acupuncture. Amend RSA 328-G:9, IX to read as follows:

33 IX. The procedure and timeframe for license renewals shall be as described in RSA ~~310-A:1-~~  
34 ~~h~~] **310**.

35 21 Reference Changed; Reflexologists. Amend RSA 328-H:2, IV-a to read as follows:

36 IV-a. "Executive director" means the executive director of the office of professional licensure  
37 and certification established under RSA ~~310-A:1 through RSA 310-A:1-e]~~ **310**.

1 22 Reference Changed; Physicians. Amend RSA 329:1-c to read as follows:

2 329:1-c Physician-Patient Relationship. "Physician-patient relationship" means a medical  
3 connection between a licensed physician and a patient that includes an in-person exam or an exam  
4 using telemedicine, as defined in RSA [~~310-A:1-g, I-b~~] **310**, provided the physician: (i) verifies the  
5 identity of the patient receiving health care services through telemedicine; (ii) discloses to the  
6 patient the physician's name, contact information, and the type of health occupation license held by  
7 the physician; (iii) obtains oral or written consent from the patient or from the patient's parent or  
8 guardian, if state law requires the consent of a parent or guardian for use of telemedicine services;  
9 and (iv) meets the standard of care. A physician shall complete or review a history, a diagnosis, a  
10 treatment plan appropriate for the licensee's medical specialty, and documentation of all  
11 prescription drugs including name and dosage. A licensee may prescribe for a patient whom the  
12 licensee does not have a physician-patient relationship under the following circumstances: writing  
13 admission orders for a newly hospitalized patient; for a patient of another licensee for whom the  
14 prescriber is taking call; for a patient examined by a physician assistant, nurse practitioner, or other  
15 licensed practitioner; or for medication on a short-term basis for a new patient prior to the patient's  
16 first appointment or when providing limited treatment to a family member in accordance with the  
17 American Medical Association Code of Medical Ethics. Prescribing drugs to individuals without a  
18 physician-patient relationship shall be unprofessional conduct subject to discipline under RSA  
19 329:17, VI. The definition of a physician-patient relationship shall not apply to a physician licensed  
20 in another state who is consulting to a New Hampshire licensed physician with whom the patient  
21 has a relationship.

22 23 Reference Changed; Physicians. Amend RSA 329:1-d, I to read as follows:

23 I. "Telemedicine" means the use of audio, video, or other electronic media and technologies  
24 by a physician in one location to a patient in a different location for the purpose of diagnosis,  
25 consultation, or treatment, including the use of synchronous or asynchronous interactions as defined  
26 in RSA [~~310-A:1-g~~] **310**.

27 24 Reference Changed; Physicians Health. Amend RSA 329:13-b, VII to read as follows:

28 VII. Rules governing the program shall be implemented through the office of professional  
29 licensure and certification pursuant to RSA [~~310-A:1-d, II(h)(4)~~] **310**.

30 25 Reference Changed; Administrative Procedures. Amend 541-A:29-a, I to read as follows:

31 I. If an agency fails to take any required action on an application, petition, or request within  
32 the time limits prescribed by RSA 541-A:29 or any other provisions of law, the application, petition,  
33 or request shall be deemed approved and any permit, approval or other item requested shall be  
34 deemed granted to or received by the applicant, petitioner, or requestor, except as provided in RSA  
35 [~~310-A:1-d, V~~] **310**.

36 26 Reference Changed; Planning Boards. Amend RSA 676:4-b, V to read as follows:



1 V. Any person who becomes aware of a failure by a third party inspector to report properly  
2 and promptly a construction defect or deviation from the terms of the approval or approved project  
3 plans, may file a written complaint to the ~~[joint board established under RSA 310-A:1]~~ **office of**  
4 **professional licensure and certification under RSA 310** for possible ~~[peer review or]~~  
5 disciplinary action.

6 27 Repeal of Former OPLC Administrative Provisions. RSA 310-A:1 through RSA 310-A:1-p,  
7 relative to the organization of the office of professional licensure and certification are repealed.

8 28 Repeals; OPLC Administrative Attachment; Obsolete References. The following are  
9 repealed:

10 I. RSA 5:13-a, relative to the administrative attachment of the real estate commission.

11 II. RSA 205-A:29-a, relative to the administrative attachment of the board of manufactured  
12 housing.

13 III. RSA 205-D:3-a, relative to the administrative attachment of the manufactured housing  
14 installation board.

15 IV. RSA 309-B:4, VIII, relative to the administrative attachment of the board of  
16 accountancy.

17 V. RSA 310-B:4, X, relative to the administrative attachment of the real estate appraiser's  
18 board.

19 VI. RSA 319-C:4, III, relative to the administrative attachment of the electricians board.

20 VII. RSA 328-C:13, relative to the administrative attachment of the board of family  
21 mediators.

22 VIII. RSA 331-A:5, X, relative to the administrative attachment of the real estate  
23 commission.

24 IX. RSA 332-B:3, IV, relative to the administrative attachment of the board of veterinary  
25 medicine.

26 X. RSA 490-C:7, relative to the administrative attachment of the GAL board.

27 29 Effective Date. This act shall take effect July 15, 2023.

**HB 409-FN- FISCAL NOTE**  
AS AMENDED BY THE SENATE (AMENDMENT #2023-1921s)

AN ACT relative to the organization of the office of professional licensure and certification and adoption of the interstate social work licensure compact.

**FISCAL IMPACT:**     State             County             Local             None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	(\$106,200)	(\$106,200)	(106,200)
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General OPLC Fund	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other -

**METHODOLOGY:**

The Office of Professional Licensure and Certification (OPLC) states the fiscal impact of the bill is indeterminable. The bill establishes two new unclassified attorney positions, an agency chief legal officer and board chief legal officer. The exact labor grade for these positions would be determined by DAS/DOP, with comparable positions at other agencies falling within the FF and GG labor grades. As such, a reasonable estimate for the salary range would be between \$68,822 (the lowest step at FF) and \$110,682 (the highest step at GG), multiplied by two. However, it is unlikely that the highest step of either classification would be applied initially.

Additionally, the change in fee collection resulting from the transition to a non-lapsing fund would incur indeterminable costs for the OPLC. Currently, the OPLC primarily relies on licensing application fees to generate funding and is required to collect between 100-125% of operating costs. However, any excess funds above 100% lapses into the general fund every biennium. With the proposed change, the OPLC would be able to utilize the non-lapsed funds, which may lead to a potential reduction in licensing application costs for licensees throughout the state. The exact financial impact of this change is uncertain at this time.

Furthermore, the adoption of the Social Work Licensure Compact would entail annual assessments from each member state to cover operational costs. Although the specific assessment cost is unknown, the OPLC estimates, based on familiarity and experience with other compacts, that the fee would be less than \$5,000 annually.

In summary, the fiscal impact of the bill on the OPLC includes indeterminable costs related to the addition of new attorney positions, changes in fee collection, and the adoption of the Social Work Licensure Compact. The exact financial implications will depend on factors such as labor grade determinations, fee adjustments, and the assessment cost of the compact.

Since FY 2019, the OPLC has lapsed \$3.3 million to \$4.1 million back to the General Fund at the end of each fiscal year. Chapter 91, Laws of 2021, changed the law to have the funds lapse at the end of the biennium starting with the FY 2022-2023 biennium. Based on the historical trends, the OPLC would be expected to lapse between \$6.5 million to \$8 million back to the General Fund at the end of this biennium. This bill would allow the OPLC to retain the funds up to \$5,000,000, thus decreasing the amount to the General Fund.

This bill does not provide an appropriation for new positions.

**AGENCIES CONTACTED:**

Office of Professional Licensure and Certification