

RULEMAKING NOTICE FORM

Notice Number _____

Rule Number _____

Mhp 300 various

1. Agency Name & Address:
**Board of Mental Health Practice
 c/o Office of Professional
 Licensure & Certification
 7 Eagle Square
 Concord, NH 03301**

2. RSA Authority: **RSA 330-A:10, I, IX, and XII, RSA 541-A:16, I(b)**

3. Federal Authority: n/a

4. Type of Action:

Adoption **X**

Repeal **X**

Readoption _____

Readoption w/amendment **X**

5. Short Title: **License and Registration Requirements, Applications, and Fees**

6. (a) Summary of what the rule says and of any proposed amendments:

Mhp 301.01 provides definitions and is being readopted with amendment to add the definition of “Synchronous virtual presence” and the definition of “Independent solo”.

Mhp 302.01 describes pre-licensure supervised practice and is being readopted with amendment to:

- **Add rules for student interns or residents practicing in a mental health discipline regulated by the Board including the “Candidate for Licensure: Supervision Agreement”;**
- **Clarify that all individuals shall before beginning supervised practice together with each supervisor complete and submit the “Candidate for Licensure: Supervision Agreement”;**
- **Incorporate by reference the “Candidate for Licensure: Supervision Agreement by reference and remove the list of requirements;**
- **Add official transcripts to the documents required to submitted with the “Candidate for Licensure: Supervisory Agreement” ;**
- **Add to the list of reasons a “Candidate for Licensure: Supervision Agreement” is returned to the applicant as failure to submit documents described in Mhp 302.01(d);**
- **Clarify that the required fee is described in Mhp 307.01;**
- **Change the requirements for approval of the “Candidate for Licensure: Supervision Agreement” from “within a reasonable time, not to exceed 120 days” to “within 60 days of receipt of the completed application packet”;**
- **Change one of the reasons for denial of the application from “if the supervised practice take place in a private practice setting” to the candidate is a 1099 employee of an independent private practice; and**
- **Add to requests for a hearing for an individual on active military duty shall be upon return from that active military duty.**

Mhp 302.02 describes character qualifications and is being readopted with amendment to:

- **Clarify the title to add to “of Candidate for Supervised Practice”;**
- **Add the applicant is under active investigation by the Board to the list of items that will show lack of good character**

- Add to character qualification that the information contained in the “Supervision Confirmation of Clinical Experience Form” can be used as evidence the applicant cannot be relied upon to practice competently, safety, and honestly;
- Change receipt of evidence of an “emotional disturbance, mental illness, organic illness, or addictive disorder” and remove evidence of a positive outcome of treatment from a pas disorder.

Mhp 302.03 is being adopted to describes the requirements to be a supervisor of a student intern or resident.

Mhp 302.04 is being adopted to describe issuance of a full license to a post-graduate supervisee.

The existing **Mhp 302.03** renumbered as **302.05**, describes the licensure application process and is being readopted with amendment to:

- Require the applicant applying for a license as a mental health practitioner to check on the application which license type they are applying for;
- Add to documents to be submitted the criminal history record check release form and completed fingerprint card;
- Add the requirement for the applicant to submit a criminal history record release form, fingerprint card or live scan documentation, and appropriate fee to have a federal criminal history records check completed and if the criminal history record check shows the existence of a criminal record in another State a detailed criminal record check directly from that State;
- Require the check to pay for the criminal background check;
- Add to the required examinations the NH Pastoral Psychotherapist Examination;
- Remove the description of the application form;
- Clarify that the documents to be submitted with the application form shall be the “Summary of Supervised Clinical Experience Form – Pastoral Psychotherapist and Marriage and Family Therapist” or the “Summary of Supervised Clinical Experience Form – Clinical Mental Health Counselors, Independent Clinical Social Workers, or School Social Worker”;
- Remove the description of the forms and incorporate by reference the “Summary of Supervised Clinical Experience Form – Pastoral Psychotherapist and Marriage and Family Therapist” and the “Summary of Supervised Clinical Experience Form – Clinical Mental Health Counselors, Independent Clinical Social Workers, or School Social Worker”
- Add procedures for the Board upon receipt of a competed application form; and
- Add a description of when the Board shall deny an application.

Mhp 302.04, renumbered as **Mhp 302.06**, describes the application process for those licensed in another state for a period of 5 years or less and being readopted with amendment to:

- Clarify that a person applying for a in NH license from the Bord of Mental Health Practice, and has been licensed in another State for 5 years or less, shall meet the requirements listed in this section according to the license type for which they are applying.
- Require a criminal history records check; and
- Change the time the applicant is allowed to practice in NH from 60 days to 30 days after the completed application is received by the Board pending final approval or conditional denial of the license.

Mhp 302.07 is being adopted to describe the application process for those actively licensed in another State for a period of 5 years or more when the applicant is in good standing with that State.

Mhp 303.01 describes the education requirements for pastoral psychotherapists and is being readopted with amendment to:

- Clarify the requirements for an applicant who has a concentration in theological studies removing course work content and equivalent of one academic year of post graduate study; and
- Add a Multidisciplinary study concentration as a pathway to licensure.

Mhp 303.02 describes practical experience for pastoral psychotherapists and is being readopted with amendment to:

- Clarify that the practical experience applies to those who graduated with a doctoral degree in clinical psychology;
- Describe the supervisor of the supervised experience not allowing that supervisor to be related to the supervisee;
- State that independent private mental health practice is not an allowed for of supervised professional experience; and
- Clarify that a 1099 independent contractor relationship with a site shall not meet the requirement.

Mhp 303.03 is being adopted to describe practical experience for pastoral psychotherapists who has a mental health license in another state application requirements.

The existing Mhp 303.04 describes the oral examination requirements for pastoral psychotherapists and is being repealed to remove oral examination requirements for pastoral psychotherapists.

Mhp 304.02 describes the practical experience requirements for social workers and is being readopted with amendment to:

- Add the requirement to the post-masters supervised clinical work experience that the supervision be completed between 2 and 4 years from the date supervision is approved by the Board to begin;
- Allow up to 1500 hours of work experience as a master licensed alcohol and drug counselor (MLADC) and 50 hours for the face-to -face requirement;
- Require supervision occur on site where the applicant delivers services, at a mutually convenient and ethically appropriate site, or using a virtual Health Insurance Portability and Accountability Act (HIPAA) compliant platform;
- Require that if the site is a private practice that the supervisee have a W-2 relationship that site; and
- Describe the supervisor of the supervised experience not allowing that supervisor to be related to the supervisee.

Mhp 304.03 describes the examination for social workers and is being readopted with amendment to update and rename the form for used to apply to take the social worker examination and add the requirement that the social worker applying to take the examination have been supervised for at least 18 months before applying.

Mhp 305.01 describes the educational requirements for mental health counselors and is being readopted with amendment to remove the rule allowing the applicant granted a degree in mental health counseling before December 31, 2021 that was at least 48 hours to obtain additional instruction to equal the required 60 hours and the description of those additional hours.

Mhp 305.03 describes the practical experience for mental health counselors and is being readopted with amendment to:

- Allow up to 1500 hours of work experience as an MLADC and 50 hours for the face-to -face requirement;

- **Require supervision to occur on site where the applicant delivers services, at a mutually convenient and ethically appropriate site, or use a virtual HIPAA compliant platform; and**
- **Require that, if the site is a private practice’ that the supervisee have a W-2 relationship that site.**

Mhp 306.01 describes the educational requirements for marriage and family therapists and is being readopted with amendment to add the acronym for Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) and add that unless the program is accredited through COAMFTE, the minimum of one year of academic graduate study shall be completed in a residence at the institution granting the degree.

Mhp 306.02 describes post-graduate practical experience for marriage and family therapists and is being readopted with amendment to:

- **Allow up to 1500 hours of work experience as an MLADC and 50 hours for the face-to-face requirement;**
- **Require supervision to occur on site where the applicant delivers services, at a mutually convenient and ethically appropriate site, or use a virtual HIPAA compliant platform;**
- **Require that if the site is a private practice that the supervisee have a W-2 relationship that site; and**
- **Provide a list of ways the supervisor is not allowed to be related to the supervisee.**

Mhp 306.03 describes examination procedures for marriage and family therapists and is being readopted with amendment to require the marriage and family therapist to use the “Request to sit for the Marriage and Family Therapy Exam Form” provided by the Board.

Mhp 307 describes fees and is being readopted with amendment to remove fees established by the Office of Professional Licensure and Certification and to change the fees for initial licensure, renewal of licensure, renewal fee for dule licensure, and the reinstatement fee.

6. (b) Brief description of the groups affected:

These rules affect individuals during their pre-licensure supervised practice and those individuals wishing to become licensed a marriage and family therapist, clinical mental health counselor, pastoral psychotherapist, independent clinical social worker, and school social worker.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Statute Implemented
Mhp 301.01	RSA 330-A:9, XIII
Mhp 302.01	RSA 330-A:22
Mhp 302.02	RSA 330-A:17 - 21
Mhp 302.03	RSA 330-A:17 - 21
Mhp 302.04	RSA 330-A:26
Mhp 302.05 (formerly Mhp 302.03)	RSA 330-A:17 - 21
Mhp 302.06 (formerly Mhp 302.04)	RSA 330-A:26
Mhp 302.07	RSA 330-A:26
Mhp 303.01	RSA 330-A:17, I-IX

Rule	Statute Implemented
Mhp 303.02	RSA 330-A:17 I-XI
Mhp 303.03	RSA 330-A:17 I-XI
Mhp 303.04 (repeal)	RSA 330-A:17, I-XI
Mhp 303.04	RSA 330-A:17 I-XI
Mhp 303.05	RSA 330-A:17 I-XI
Mhp 304.02 and Mhp 304.03	RSA 330-A:18, I-IV
Mhp 305.01	RSA 330-A:19, I-III
Mhp 305.03	RSA 330-A:19, I-III
Mhp 306.01	RSA 330-A:21; RSA 330-A:10, II
Mhp 306.02	RSA 330-A:21; RSA 330-A:10, II
Mhp 306.03	RSA 330-A:21; RSA 330-A:10, II
Mhp 307.01	RSA 330-A:12

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Tina M. Kelley** Title: **Program Specialist IV**
Address: **Office of Professional Licensure and Certification** Phone #: **(603) 271-5247**
7 Eagle Square Fax#: **(603) 271-0597**
Concord, NH 03301 E-mail: **OPLC-Rules@oplc.nh.gov**

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Monday, January 30, 2023 at 4:00 a.m.**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, January 20, 2023 at 10:30 a.m.**

Place: **Office of Professional Licensure and Certification**
7 Eagle Square, Concord NH 03301

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 22:179, dated 9-13-2022

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rules, the proposed rules will have an indeterminable impact on State revenues, State citizens and employers including independently owned businesses. Not applicable to Mhp 302.03, Mhp 302.04, Mhp 303.03 and 303.04 as these are new rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

The proposed rules make changes to definitions and add clarifying language. The OPLC is adjusting fees as currently the Board is projected to receive fees totaling 172% of the cost to operate in FY 22 & FY 23 and RSA 310-A:1-e only allows fee sufficient enough to produce estimated revenues up to 125% of the total operating expenses of OPLC.

To reduce these fees to be less than or equal to 125%, OPLC proposes to change the following fees:

Fee Type	Current Fee	New Fee	Change
Initial License	\$135.00	\$150.00	+ \$15.00
Renewal	\$270.00	\$150.00	-\$120.00
Dual License	\$350.00	\$300.00	-\$50.00
Reinstatement	\$300.00	\$150.00	-\$150.00

Currently there are 3,709 active licenses through the Board of Mental Health. With the fee changes being reduced the revenue impact would be an indeterminable decrease to the OPLC fund.

The OPLC is removing the following fees as they stopped charging them approximately 9 months ago:

- License application renewal \$150.
- Candidate agreement review \$25.
- License replacement \$10.
- Letter of good standing \$25.
- Bill of Rights – additional copy \$10.
- License verification \$10.
- Wall license replacement \$10; and
- Electronic mailing list of licensees \$25.

A. To State general or State special funds:

There will be no direct impact on the State general fund, however after paying all costs and salaries associated with the Office, any remaining balance in the fund lapses to the general fund at the close of each biennium. There will be indeterminable decrease in revenue to the office of professional licensure and certification fund from the proposed license fees.

B. To State citizens and political subdivisions:

To the extent State citizens would be seeking renewal of their license through the Board of Mental Health the citizen would experience a benefit. However, if the State citizen were applying for an initial license the fee has increased by \$15. There is no impact to political subdivisions.

C. To independently owned businesses:

To the extent an independently owned business would be paying for an employee to renew their license through the Board of Mental Health the business would see a benefit by way of the reduced fees and an increase of \$15 per initial license fee.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

These rules do not violate Part I, Article 28-a of the New Hampshire Constitution. These rules do not mandate or assign this program or responsibility to any political subdivision in any way.