

RULEMAKING NOTICE FORM

Notice Number _____ Rule Number Plc 200

<p>1. Agency Name & Address:</p> <p>Office of Professional Licensure & Certification 7 Eagle Square Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 310-A:1-d, II(h)(2); RSA 541 A:16, I(b); RSA 21-G:37, V</u></p> <p>3. Federal Authority: <u>n/a</u></p> <p>4. Type of Action:</p> <p>Adoption <u> X </u></p> <p>Repeal <u> </u></p> <p>Readoption <u> </u></p> <p>Readoption w/amendment <u> X </u></p>
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5. Short Title: **Practice and Procedure**

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

The existing rules in Plc 200 (Parts Plc 201-213) establish procedural requirements for the Office of Professional Licensure and Certification (OPLC) relative to presiding officers, filing and service of documents, time periods, motions and objections, investigations, adjudicative hearings, petitions for rulemaking, public comment hearings, declaratory rulings, waivers of substantive rules, and explanations of adopted rules. The OPLC is proposing to readopt the existing rules with amendments and renumbering as Plc 201-211 based on reorganizing the rules so that all requirements that apply to adjudicative proceedings are in the same part, and to adopt two new parts in chapter Plc 200. The amendments to the existing rules are intended to include more of the procedures of the OPLC, to better align the rules with statutory requirements including several that were enacted in the 2021 legislative session, and to use terms and include provisions that will allow the rules to be incorporated by reference by any of the boards, councils, and commissions supported by the OPLC, as listed in RSA 310-A:1-a, I. The two new parts are to establish the procedures required by RSA 21-G:37 and to establish uniform criteria for disciplinary proceedings and license conditions. The proposed rules are more specifically described below:

Plc 201 Purpose and Applicability: amendments are proposed to the Purpose section to better explain the purpose of the chapter as a whole and the purpose of the individual parts; amendments are proposed to the Applicability section to identify the provisions that apply to subsequent rules, to clearly identify the professions that are regulated by the OPLC with an advisory board or advisory committee, and to allow the rules to be used by any of the other supported boards, councils, or commissions that choose to incorporate the rules by reference.

Plc 202 Definitions: definitions are proposed to be adopted as separate sections instead of as a single section with many paragraphs to facilitate future amendments that may become necessary; existing definitions that are not needed because the terms are being used with their common meanings or that are for terms that are not used in the rules are proposed to be deleted; and additional terms are defined to enable the adoption of rules that are clearer.

Plc 203 Provisions Applicable to All Proceedings (new Part heading; existing Plc 203 is being renumbered as Plc 206 and renamed “Adjudicative Proceedings”): the part will contain a rule

on how time periods are determined (currently Plc 205.01), a rule on how documents are to be filed (currently Plc 204.01), and a rule on the date of filing or issuance (new).

Plc 204 Complaints; Investigations: proposes new sections on how complaints can be filed and includes the Part heading and section from existing Plc 207 Investigations. The heading for existing Plc 204 (Filing and Service of Documents) is being deleted; existing Plc 204.01 is being moved and renumbered as Plc 203.02, existing Plc 204.02 is being moved and renumbered as Plc 206.09, and existing Plc 204.03 is being moved and renumbered as Plc 206.10.

Plc 205 Settlement Procedures; Non-Disciplinary Remedial Actions (new Part; existing Plc 205 (“Time Periods”)) only contains one section, which is being moved to new Plc 203): sections are proposed to define terms and establish procedures that apply only to settlement procedures and non-disciplinary remedial actions.

Plc 206 Adjudicative Proceedings: includes Part heading (revised) and sections from existing Plc 203 and existing sections Plc 204.02-.03, and existing Parts Plc 206 and Plc 208; the Part headings for existing Plc 206 (Motions and Objections) and existing Plc 208 (Adjudicative Proceedings) are being deleted, and the sole section that is currently in Plc 206 is retained in new Plc 206. Amendments are proposed to supplement and clarify the requirements for adjudicative proceedings.

Plc 207 Non-Adjudicative Proceedings (currently Plc 210 Public Comment Hearings): amendments are proposed to accommodate non-adjudicative proceedings that are not rulemaking hearings so that such procedures will be in place if they are needed.

Plc 208 Rulemaking Petitions (currently Plc 209 Rulemaking): “rules” that are true as a matter of law (and so that are unnecessary) are proposed to be deleted; amendments are proposed to the remaining provisions to clarify them.

Plc 209 Explanation of Adopted Rules (currently Plc 213 [same name]): amendments are proposed to clarify the rules.

Plc 210 Declaratory Rulings (currently Plc 211 [same name]): sections are proposed to be added to clarify the purpose of declaratory rulings and to establish how a request should be filed; amendments are proposed to clarify the existing rules.

Plc 211 Waiver of Rules (currently Plc 212 Waiver of Substantive Rules): amendments are proposed to split existing Plc 211.01 into two sections and to clarify the rules.

Plc 212 Waiver of Procurement Provisions (new): rules required by RSA 21-G:37, V relative to circumstances in which the requirements of the section can be waived on an emergency basis are proposed.

Plc 213 Disciplinary Proceedings; License Conditions (new): rules are proposed to establish a more uniform framework for disciplinary proceedings and to allow license conditions to be included in licenses if necessary to provide greater assurance that the licensee will comply with applicable law or minimize the potential for harm to public health, safety, or welfare from any violations of applicable requirements. Limitations on the types of conditions that can be added are included and the right to appeal conditions is explicitly stated.

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

These rules affect any persons who interact with the OPLC, and potentially affect any persons who interact with another regulatory authority that chooses to incorporate the rules by reference.

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

Rule(s)	State Statute(s) Implemented
Plc 200 (see below for additional or more specific statutes)	RSA 541-A:16, I(b)
Plc 204	RSA 310-A:1-d, II(h)(2); RSA 310-A:1-j
Plc 206	RSA 541-A:16, I(b)(2); RSA 541-A:30-a; RSA 541-A:33
Plc 206.13	RSA 541-A:32
Plc 206.18	RSA 310-A:1-k, II
Plc 207	RSA 541-A:16, I(b)(3)
Plc 208	RSA 541-A:16, I (c)
Plc 209	RSA 541-A:11, VII
Plc 210	RSA 541-A:16, I(d)
Plc 211	RSA 541-A:22, IV
Plc 212	RSA 21-G:37, V
Plc 213	RSA 310-A:1-d, II(d)

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

Name: **Gretchen Hamel** Title: **Program Specialist IV**
 Address: **OPLC** Phone #: **Please contact via email**
7 Eagle Square Fax#: **[discontinued]**
Concord, NH 03301 E-mail: Gretchen.R.Hamel1@oplcnh.gov

The rules can be reviewed on-line at
<https://www.oplc.nh.gov/oplc-laws-and-rules>

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: **4:00 PM on Friday, May 20, 2022**

Please submit comments to OPLC-Rules@oplcnh.gov

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, May 10, 2022 at 1:30 PM**

Place: **Hearing Room (2nd floor), Office of Professional Licensure & Certification,
 7 Eagle Square, Concord, NH 03301**

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

FIS # 22:055, dated 04/07/2022

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

When compared to the existing rules, the proposed rules may decrease costs to certain citizens, independently owned businesses, and political subdivisions.

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):

State citizens, independently owned businesses, and political subdivisions may have decrease costs to the extent they file documents with the Office of Professional Licensure and Certification or other regulatory authority electronically or less copies are required. To extend there is a savings it would be de minimis.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

See #3 above.

C. To independently owned businesses:

See #3 above.

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

The rules only affect political subdivisions if they submit paper documents to the OPLC or other regulatory authority that elects to be covered by the rules, which is highly unlikely. Also, the proposed rules reduce the number of paper copies that must be filed from 5 to one and allow for electronic filing, both of which are expected to reduce costs. The rules thus do not mandate or assign any new, expanded, or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures and so do not violate Part I, Article 28-a of the N.H. Constitution.