



# State of New Hampshire

GENERAL COURT

CONCORD

## MEMORANDUM

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**DATE:** November 1, 2024

**TO:** Honorable Sherman Packard, Speaker of the House  
Honorable Jeb Bradley, President of the Senate  
Honorable Paul C. Smith, House Clerk  
Honorable Tammy L. Wright, Senate Clerk  
Honorable Chris Sununu, Governor  
Michael York, State Librarian

**FROM:** Representative Erica Layon, Chair

**SUBJECT:** Final Report of the Committee to Study the New Hampshire Board of Medicine  
HB322 (Ch. 211, Laws of 2024)

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Pursuant to HB322 (Ch. 211, Laws of 2024), enclosed please find the Final Report of the Committee to Study the New Hampshire Board of Medicine .

If you have any questions or comments regarding this report, please do not hesitate to contact me.

I would like to thank those members of the committee who were instrumental in this study. I would also like to acknowledge all those who testified before the committee and assisted the committee in our study.

Enclosures

cc: Members of the Committee to Study the New Hampshire Board of Medicine

# **FINAL REPORT**

## **Committee to Study the New Hampshire Board of Medicine**

**HB322 (Ch. 211, Laws of 2024)**

**November 1, 2024**

Representative Erica Layon, Chair  
Representative Tom Dolan  
Representative William Palmer  
Representative Dianne Schuett  
Senator Regina Birdsell  
Senator Suzanne Prentiss

### **Committee Charge and Study Purpose:**

The committee shall:

- (a) Provide a forum within which stakeholders in the proceedings of the board of medicine have an opportunity to hear and review public comments on the operations of the board.
- (b) To permit and facilitate organizations which are linked to the board of medicine such as hospitals, the medical association, the association of nurses, the association of nurse practitioners, and others to hold regular meetings to share their views on the operation of the board of medicine.
- (c) Offer reports to the oversight committee established in RSA 126-A:13 regarding suggested needs for legislation to guide the operations of the board of medicine.
- (d) The committee's scope of inquiry as to the board of medicine and its operations shall include:
  - (1) Adequacy of staffing and funding to maintain the highest possible transparency for the public.
  - (2) Appropriateness of procedures to ensure timely consideration of complaints and reporting to complainants of the disposition of those complaints.
  - (3) Construction and maintenance of means to make the decisions of the board of medicine accessible to public view in a timely manner.
  - (4) The maintenance of robust systems to investigate reports of lapses in physician practice as well as complaints of such lodged by professionals, organizations, or public citizens.

(e) To ensure a breadth of expertise the following shall be requested to be in regular attendance but shall not be voting members of the committee:

- (1) The commissioner of the department of health and human services or a designee.
- (2) A physician appointed by the New Hampshire Medical Society.
- (3) The president of the board of medicine or a designee.
- (4) A member of the New Hampshire Nurses' Association.
- (5) A member of the New Hampshire Nurse Practitioner Association.
- (6) The president of the New Hampshire Hospital Association or designee.
- (7) A lawyer experienced with malpractice rules and procedures appointed by the attorney general.
- (8) The executive director of the office of professional licensure and certification or a designee.
- (9) The president of the New Hampshire Osteopathic Association, or a designee.
- (10) A medical ethicist to be named by the elected chair of the committee.
- (11) A trial lawyer for the plaintiffs in malpractice cases to be named by the elected chair of the committee.
- (12) A trial lawyer for the defense in malpractice cases to be named by the elected chair of the committee.

### **Process and Procedures:**

The committee organized on September 26, 2024 and elected Representative Layon as Chair.

The committee met two times throughout the study period.

At the organizational meeting, the committee discussed the changes in law regarding the responsibilities of the Board of Medicine and the Office of Professional Licensure and Certification (OPLC) between the introduction of the bill which created this study committee and the present. The committee heard testimony from stakeholders regarding the operation of the board.

The committee heard about the reorganization of the Board of Medicine and the present format where the Office of Professional Licensure and Certification has many responsibilities formerly held by the Board of Medicine. Given the shift in responsibility, the committee narrowed its scope to a review of the former Medical Review Subcommittee of the Board of Medicine and the current process for medical review which utilizes the Clinician Licensee Panel. The administrative rule for the Clinician Licensee Panel, Med 107, was approved in May.

The committee met for a second time on October 17, 2024. At this meeting, the committee focused on recent changes to the Board of Medicine's enforcement processes, highlighting shifts in responsibilities and concerns regarding the lack of physician involvement in initial investigations. Key discussions included a comparison of the old and new complaint handling procedures, emphasizing the need for medical expertise at different stages.

Discussion between the committee, Executive Director of the OPLC Deanna Jurius, attorney for the Board of Medicine Cassandra Brown, representative of the New Hampshire Medical Society Ava Hawkes and two physicians in attendance focused on the workings of medical review of complaints.

The attached Appendix B shows flow charts of the new and old processes to review complaints.

The key issue for stakeholders is involving a medical provider in review of complaints, and the committee was assured that OPLC, the Board of Medicine and the NH Medical Society would work together to utilize the rulemaking and other procedures available to address this.

### **Relevant Legislative History:**

House Bill 322 was drafted in the fall of 2022 and introduced in January 2023 and referred to the House Health Human Services and Elderly Affairs Committee. The bill was a response to concern arising from a surgeon practicing in New Hampshire with 20 malpractice claims against him which were listed on the Massachusetts Board of Medicine website but not in New Hampshire. It sought process and procedures for greater review and transparency.

The bill was retained by the committee.

In the 2023 session, two bills passed which impacted the Board of Medicine. For further information, see Appendix A (legislative history summary)

SB 371 (Ch. 352, Laws of 2024): relative to the licensing and regulation of physicians and

SB107 (Ch. 212, Laws of 2023): relative to the general administration of regulatory boards and commissions.

A subcommittee of the House Health Human Services and Elderly Affairs Committee met on October 6, 2023 and determined that the bill should move forward and recommended Ought to Pass in order to keep the process moving forward. The subcommittee stated an expectation that the ongoing work at the Board of Medicine and OPLC may make this study committee unnecessary, and that the Senate would have an opportunity to review the progress and determine the necessity of continuing this bill to create the study committee.

The Senate Hearing on March 6, 2024 included discussion of the change in structure of the Board of Medicine. The bill was amended to include additional language discussed at an April 4, 2024 hearing.

In the 2024 session, an additional bill passed which impacts the operation of the Board of Medicine and OPLC:

SB 371 (Ch. 352, Laws of 2024): relative to the licensing and regulation of physicians.

**Findings:**

The Committee finds that the reorganization of the responsibilities of the Board of Medicine has made much of this study committee unnecessary. The Committee did find that stakeholder participation and further rulemaking can address some of the remaining concerns.

The committee finds that concerns regarding appropriate medical review of complaints need further work between stakeholders, and in particular between the Board of Medicine, OPLC, and the New Hampshire Medical Society. Following one organizational meeting and one regular meeting of the Committee to Study the NH Board of Medicine, representation from the New Hampshire Medical Society (NHMS), the NH Board of Medicine (NH BOM), and the NH Office of Professional Licensure and Certification (NH OPLC), agreed to collaborate (beyond the sunset date of the study committee on November 1, 2024) to address mutual concerns of the BOM and the NHMS relative to ensuring physician/clinical review of complaints made to the NH BOM.

As the physician membership association in New Hampshire, the NHMS offered to be active, collaborative partners with the NH BOM in filling physician vacancies, particularly on the newly formed panel (as a replacement to the Board's former MRSC, or medical review subcommittee) to assist in complaint investigations and enforcement.

The committee finds these stakeholders willing to address these concerns through existing rulemaking authority. The committee notes that the rulemaking process requires public hearings, and encourages all interested people to watch the rulemaking register for notices for these hearings. After hearing testimony from NH physicians, NH OPLC leadership and staff, and NH BOM legal counsel, the Committee believes, at this juncture, stakeholders are afforded the flexibility through rulemaking to make the necessary revisions and changes to the Board's internal complaint review process to ensure the integration of physician/clinical review of complaints early in the investigative process.

While the Committee does not intend to recommend legislation at this time, committee members look forward to the collaborative work between the state's medical association and their regulatory body in finding resolve and a path forward; should legislative action be necessitated in the future, stakeholders are encouraged to contact members of the committee.

**Recommendations:**

The committee recommends that the Office of Professional Licensure and Certification and the Board of Medicine, in conjunction with stakeholders, review the process for medical review of complaints.

If the existing rulemaking process is insufficient, the committee asks that OPLC and the Board contact the legislature with specific concerns and needed legislative authority as soon as these concerns are known.

Respectfully Submitted,

Representative Layon, Chair

**Committee to Study the New Hampshire Board of Medicine**

**HB322 (Ch. 211, Laws of 2024)**

**November 1, 2024**

**Appendices:**

Appendix A: Legislative History

Appendix B: Board of Medicine Processes

Appendix C: Conditional Approval Request for Final Proposal Notice #2024-15 regarding NH Admin. Code, Med 100 and Med 408

# APPENDIX A



# HCS

New Hampshire House of Representatives  
House Committee Services

**Kristin A. Grant, Committee Researcher**

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603-271-3386

kristin.grant@leg.state.nh.us

**TO: Representative Erica Layon, Chair  
Committee to Study the New Hampshire Board of Medicine**

**FROM: Kristin A. Grant, Esq., Committee Researcher**

**DATE: October 9, 2024**

**SUBJ: History of Recent Changes to RSA 329:1 et seq.**

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You asked for a review of recent bills that resulted in the transfer of several tasks and responsibilities from the Board of Medicine to the Office of Professional Licensure and Certification (OPLC). There appear to be four bills that affected most of this change. In 2023, two bills repealed and reenacted the law pertaining to the OPLC – HB655 (Ch. 112) and HB409 (Ch. 235). Also in 2023, a shift in responsibilities from the Board of Medicine to the OPLC was enacted in SB107 (Ch. 212). In 2024, SB371 (Ch. 352) shifted more of the Board’s responsibilities. I have provided an overview of the changes in these bills as they affected RSA 329:2 *et seq.* below and I have attached copies of the bills as enacted.

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**2024:**

**SB 371 (Ch. 352, Laws of 2024): *relative to the licensing and regulation of physicians.***

**AMENDED ANALYSIS:** This bill makes various changes regarding the licensing of and regulation of physicians, including transferring certain authority from the board of medicine to the office of professional licensure and certification.

House Executive Departments and Administration Committee:

In its original form, this bill sought to create an exemption for the two year licensing requirements for resident physicians. The committee unanimously agreed that the licensing requirement did not create sufficient hardship to the licensees to justify this exemption. The committee then moved an amendment to replace the bill and update statutory language pertaining to the licensing and regulation of physicians. This updated language to RSA 329 will bring this statutory section into alignment with the work the committee has been doing over the last few years to restructure the responsibilities of the licensing boards and OPLC. The amendment was originally part of a bill to merge the board of podiatry with the medical board. When that bill was found inexpedient to legislate, this bill was chosen to make the necessary adjustments.

Representative Matthew Simon, for the Committee

Vote: 20-0

- As amended, the bill made changes to the duties of board, specifically with regard to rulemaking, background checks, and licensing, among other actions to shift responsibilities to the office of professional licensure and certification.
- The following sections of RSA 329, pertaining to Physicians and Surgeons, were amended generally to reflect a shift of responsibilities to the office of professional licensure:
  - RSA 329:2 Examining Board; Duties
  - RSA 329:9 Examining Board; Rulemaking Authority
  - RSA 329:11-a Examinations and Licenses; Criminal History Record Checks
  - RSA 329:12 Examinations and Licenses; Qualifications of Licensees
  - RSA 329:14 Examinations and Licenses; Action on License Applications
  - RSA 329:16-a Renewal of Licenses; Renewal
  - RSA 329:16-c Renewal of Licenses; Inactive Status
  - RSA 329:16-f Renewal of Licenses; License Notice Requirements
  - RSA 329:16-h Renewal of Licenses; Reinstatement
  - RSA 329:17-c Disciplinary Proceedings; Denial or Revocation of License
- The following sections of RSA 329 were repealed:
  - RSA 329:9, XXI relative to rulemaking authority concerning a process for registering certain practitioners
  - RSA 329:16-d, relative to notice of renewal
  - RSA 329:16-e, relative to neglect to renew
  - RSA 329:29, relative to proceedings of the medical review subcommittee.

**2023**

**SB107 (Ch. 212, Laws of 2023): relative to the general administration of regulatory boards and commissions.**

**AMENDED ANALYSIS:** This bill makes certain changes to the administration requirements for regulatory boards and commissions and revises the procedure for occupational licensure applicants with criminal convictions. The bill also revises the regulation of hearings, disciplinary proceedings, and other administration by occupational boards under the office of professional licensure and certification.

House Executive Departments and Administration Committee:

This bill as amended is part of the reorganization of occupational licensing that is included in other bills. The bill as amended makes these and other changes. It sets time limits for hearings on disciplinary action related to an occupational license. It redefines the circumstances under which a criminal conviction may permit a license being denied. The denial must serve the purpose of protecting public safety and the process for making the determination is defined. It continues the process of moving the management of disciplinary hearings, investigations, and penalties to the Office of Professional Licensure and Certification (OPLC). It makes changes to the membership of some licensing boards and requires that public members of such boards be independent of board

members and the profession the board oversees. It also permits a board to petition the governor for the removal of a member for various reasons and in particular for being absent from at least 3 consecutive meetings of the board. Some boards have been unable to act because they could not get enough members to attend meetings to meet the quorum requirement.

Rep. Tony Lekas, for the Committee

Vote: 20-0

- SB107 (Ch. 212:20 and 212:65) repealed the following sections of RSA 329:
  - Ch. 212:20:
    - RSA 329:2 II(b), and (c), relative to investigations through the medical review subcommittee.
    - RSA 329:9 VI, relative to hearings and disciplinary proceedings.
    - RSA 329:17, I, I-a, VII, VII-a, VIII, XII, and XIII, relevant to disciplinary action.
    - RSA 329:18, relative to investigations.
    - RSA 329:18-a, relative to hearings.
    - RSA 329:18-b, relative to temporary suspension of licensure.
  - Ch. 212:65
    - RSA 329:9, XVIII, relative to the relationship between the board and the medical review subcommittee.
    - RSA 329:9, XIX, relative to procedures to be followed during informal and formal investigations.
- The following section pertaining to the Examining Board was amended at Ch. 212:64:
  - RSA 329:9, XVII Examining Board; Rulemaking Authority

**HB655 (Ch. 112, Laws of 2023): relative to the office of professional licensure and certification.**

Effective 7/1/2023

**AMENDED ANALYSIS:** The bill consolidates administrative authority for the office of professional licensure and certification (OPLC) in a new chapter of law.

House Executive Departments and Administration Committee:

As introduced, this bill addressed the codification of Office of Professional Licensure and Certification (OPLC), merged some boards and repealed certain licenses. Realizing that this bill was also placed in HB 2, the committee was concerned that language appearing in two bills might result in conflicting statute if amended differently. As amended, this bill codifies the organizational structure and responsibility of OPLC. It establishes a non-lapsing fund appropriated to the

agency for budget purposes, gives OPLC rulemaking authority to set fees and establish rules for administration of complaints and disciplinary actions. Nothing in this bill addresses the repeals of any licensing, modifies any advisory boards or addresses mergers of boards. It is the intent of the committee to ask that this portion of the bill be removed from HB 2.

Rep. Jaci Grote, for the Committee

Vote 20-0

Changes to RSA 329 in HB655 appear to be changing the specifics or format of already-existing references to RSA 310 (Office of Professional Licensure and Certification). For example, at Chapter 112:15, HB655 modifies RSA 329:1-c as follows:

329:1-c Physician-Patient Relationship. "Physician-patient relationship" means a medical connection between a licensed physician and a patient that includes an in-person exam or an exam using telemedicine, as defined in RSA [310-A:1-g, I-b] 310[.]

**HB409 (Ch. 235, Laws of 2023): relative to the organization of the office of professional licensure and certification**

Effective 7/15/2023

**AMENDED ANALYSIS:** This bill reorganizes the office of professional licensure and certification.

It appears that HB655 and HB409 (enacted 7/1/2023 and 7/15/2023, respectively) both repealed and reenacted RSA 310, regarding the organization of the office of professional licensure and certification. It does not appear that there were any substantive differences between the two bills as enacted with regard to their respective impacts on the Board of Medicine. Please let me know if you would like any more details.

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SB 371-FN - FINAL VERSION

23May2024... 1671h  
06/13/2024 2288CofC

2024 SESSION

24-3033  
09/10

SENATE BILL

***371-FN***

AN ACT relative to the licensing and regulation of physicians.

SPONSORS: Sen. Fenton, Dist 10; Sen. Rosenwald, Dist 13; Sen. Watters, Dist 4; Sen. Prentiss, Dist 5; Rep. T. Dolan, Rock. 16; Rep. C. Brown, Graf. 10; Rep. Mangipudi, Hills. 11

COMMITTEE: Executive Departments and Administration

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AMENDED ANALYSIS

This bill makes various changes regarding the licensing of and regulation of physicians, including transferring certain authority from the board of medicine to 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 struck through.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

**CHAPTER 352**  
**SB 371-FN - FINAL VERSION**

23May2024... 1671h  
06/13/2024 2288CofC

24-3033  
09/10

STATE OF NEW HAMPSHIRE

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

AN ACT                   relative to the licensing and regulation of physicians.

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

1           352:1 Physicians and Surgeons; Examining Board; Board; Duties. Amend RSA 329:2, II(a) to read  
2 as follows:

3                   (a) ~~[Evaluate]~~ **Establish criteria for** persons ~~[who]~~ **to** apply for the authority to practice  
4 medicine in New Hampshire ~~[and license to those who are found qualified]~~ under the standards of this  
5 chapter.

6           352:2 Physicians and Surgeons; Examining Board; Board; Duties. Amend RSA 329:2, II(d) to read  
7 as follows:

8                   (d) Assess~~[-, compromise, and collect]~~ civil penalties against persons engaged in the  
9 unauthorized practice of medicine or other violations of this chapter.

10          352:3 Physicians and Surgeons; Examining Board; Rulemaking Authority. Amend RSA 329:9, XV to  
11 read as follows:

12                   XV. ~~[Procedural and]~~ Substantive requirements for assessing~~[-, compromising and collecting]~~  
13 administrative fines against licensees as authorized under ~~[RSA 329:17, VII(g)]~~ **RSA 310:12** and against  
14 licensees and nonlicensees as authorized by RSA 329:2, II(d).

15          352:4 Physicians and Surgeons; Examinations and Licenses; Criminal History Record Checks.  
16 Amend RSA 329:11-a, I-IV to read as follows:

17                   I. Every applicant for initial permanent licensure or reinstatement shall submit to the ~~[board of~~  
18 ~~medicine]~~ **office of professional licensure and certification** a criminal history record release form, as  
19 provided by the New Hampshire division of state police, which authorizes the release of his or her criminal  
20 history record, if any, to the ~~[board]~~ **office**.

21                   II. The applicant shall submit with the release form a complete set of fingerprints taken by a  
22 qualified law enforcement agency or an authorized employee of the department of safety. In the event  
23 that the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be  
24 necessary in order to complete the criminal history records check. If, after 2 attempts, a set of fingerprints  
25 is invalid due to insufficient pattern, the ~~[board]~~ **office** may, in lieu of the criminal history records check,  
26 accept police clearances from every city, town, or county where the person has lived during the past 5  
27 years.

28                   III. The ~~[board]~~ **office** shall submit the criminal history records release form and fingerprint form to  
29 the division of state police which shall conduct a criminal history records check through its records and  
30 through the Federal Bureau of Investigation. Upon completion of the records check, the division of state  
31 police shall release copies of the criminal history records to the ~~[board]~~ **office**.

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1           IV. The [board] **office** shall review the criminal record information prior to making a licensing  
2 decision and shall maintain the confidentiality of all criminal history records received pursuant to this  
3 section.

4           352:5 Physicians and Surgeons; Examinations and Licenses; Qualifications of Licensees. Amend  
5 RSA 329:12, I(a) through the introductory subparagraph of (d) to read as follows:

6           (a) Pay a fee established by the [board] **office of professional licensure and certification**.

7           (b) Submit an application [~~in a form prescribed by the board~~] which shall be verified by oath.

8           (c) Submit a complete set of fingerprints and a criminal history record release form pursuant  
9 to RSA 329:11-a.

10           (d) Demonstrate to the reasonable satisfaction of the [board] **office** that the applicant:

11           352:6 Physicians and Surgeons; Examinations and Licenses; Qualifications of Licensees; Waiver of  
12 Examination Requirement. Amend RSA 329:12, II to read as follows:

13           II. The [~~board may~~] **office shall** waive the examination requirement for any applicant who has  
14 satisfactorily passed all examinations and requirements to become board certified by the American Board  
15 of Medical Specialties (ABMS) or by the American Osteopathic Association (AOA).

16           352:7 Physicians and Surgeons; Examinations and Licenses; Action on License Applications.  
17 Amend RSA 329:14 to read as follows:

18           329:14 Action on License Applications.

19           I. The [board] **office of professional licensure and certification** shall make [~~no final decision~~  
20 ~~concerning the qualifications of a new or reinstatement applicant until it has received the results of all~~  
21 ~~required examinations, criminal history record checks, and all third party certifications required to be~~  
22 ~~submitted with the license application, and the time periods specified by RSA 541-A:29 shall be calculated~~  
23 ~~from the date the last of the required documents is received by the board~~] **decisions on applications in**  
24 **accordance with RSA 310:4, II(c).**

25           II. No application shall be granted unless the [board] **office** finds that the applicant possesses the  
26 necessary educational, character and other professional qualifications to practice medicine, and that no  
27 circumstances exist which would be grounds for disciplinary action against a licensed physician pursuant  
28 to RSA 329:17, I, **or other applicable statute**.

29           III. The [board] **office** shall grant an unrestricted permanent license to persons it finds to have the  
30 necessary professional qualifications. The [board] **office** may also, **in consultation with the board**, by  
31 consent or after notice and the opportunity to be heard, resolve issues concerning professional  
32 qualifications or circumstances that would be grounds for non-disciplinary remedial action against a  
33 licensed physician by granting a temporary license, or a temporary or permanent license with restrictions.

34           IV. [Repealed.]

35           V.(a) The [board] **office** shall issue special training licenses to persons of good professional  
36 character who are enrolled in a regular residency or graduate fellowship training program accredited by  
37 the Council on Graduate Medical Education, and who possess such further education and training as the  
38 board may require by rule.

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1           (b) Persons holding training licenses shall be subject to the disciplinary provisions of RSA  
2 329:17 and such additional professional character and competency requirements as the board may  
3 require by rule.

4           (c) Training licenses shall be confined to activities performed in the course of the qualifying  
5 residency or graduate fellowship training program, shall expire automatically upon the licensee's  
6 separation from the residency or graduate fellowship training program for any reason, and may be issued  
7 on a restricted or conditional basis.

8           VI. The ~~[board]~~ **office** may issue special licenses containing conditions, limitations, or restrictions,  
9 including licenses limited to specific periods of time in accordance with rules adopted under RSA 329:9,  
10 VIII.

11           VII. The ~~[board]~~ **office** may issue courtesy licenses authorizing the practice of medicine under  
12 limited conditions as defined by the board by rule. Courtesy licenses shall not exceed 100 days and shall  
13 be limited in location. All applicants shall hold an active~~[-unrestricted license in another state and]~~ **license**  
14 ***in good standing from another jurisdiction that has substantially similar licensing requirements to New***  
15 ***Hampshire's licensing requirements. Applicants shall also*** meet the same character qualifications as  
16 other licensees.

17           VIII. The ~~[board]~~ **office** may issue licenses authorizing the practice of medicine limited to  
18 administrative medicine for physicians whose practice does not include the provision of clinical services to  
19 patients.

20           352:8 Physicians and Surgeons; Renewal of Licenses; Renewal. Amend RSA 329:16-a to read as  
21 follows:

22           329:16-a Renewal. Every person licensed to practice under this chapter, except as provided in RSA  
23 329:16-c, shall apply ~~[to the board on a biennial basis]~~ for renewal of license ***in accordance with RSA***  
24 ***310:8*** on forms provided by the ~~[board]~~ **office of professional licensure and certification** and shall pay a  
25 renewal fee as established by the ~~[board]~~ **office**. ~~[If a person applies to the board for a renewal of license~~  
26 ~~by June 30 of the year in which the licensee's renewal is set to occur, the person's license shall not expire~~  
27 ~~until the board has taken final action upon the application for renewal.]~~

28           352:9 Physicians and Surgeons; Renewal of Licenses; Inactive Status. Amend RSA 329:16-c to read  
29 as follows:

30           329:16-c Inactive Status. A ~~[person licensed by the board]~~ **licensee** who does not intend to engage in  
31 such licensed profession in this state, upon written request to the ~~[board]~~ **office of professional licensure**  
32 ***and certification***, may have one's name transferred to inactive status and shall not be required to renew  
33 such license or pay any renewal fee as long as the person remains inactive.

34           352:10 Physicians and Surgeons; Renewal of Licenses; License Notice Requirements. Amend RSA  
35 329:16-f to read as follows:

36           329:16-f License Notice Requirements.

37           I. All licensees shall maintain their current business address on file with the ~~[board]~~ **office of**  
38 ***professional licensure and certification***, or if licensees have no business address, ***licensees shall provide***  
39 their current home address ~~[shall be provided]~~. Any changes in the address, including the closing of an

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1 office shall be promptly provided to the ~~[board]~~ **office** or, in any event, no later than 30 days from the date  
2 of the change.

3 II. All licensees shall provide the ~~[board]~~ **office** with a copy of any notice of complaint, action for  
4 medical injury, or claim received from, or disciplinary action taken in a jurisdiction outside of this state  
5 within 30 days of receipt of such notice or action.

6 352:11 Physicians and Surgeons; Renewal of Licenses; Reinstatement. Amend RSA 329:16-h to  
7 read as follows:

8 329:16-h Reinstatement. Any person whose name has been placed on the inactive list may be  
9 restored to active status upon the filing of a written request for reinstatement of license, accompanied by  
10 the reinstatement fee as established by the ~~[board]~~ **office of professional licensure and certification**, proof  
11 of satisfaction of continuing medical education requirements established by RSA 329:16-g, and such  
12 other evidence of professional competence as the board may reasonably require.

13 352:12 Physicians and Surgeons; Disciplinary Proceedings; Denial or Revocation of License. Amend  
14 RSA 329:17-c to read as follows:

15 329:17-c Denial or Revocation of License. Upon receipt of an administratively final order from the  
16 licensing authority of another jurisdiction which imposes disciplinary sanctions against a licensee of the  
17 board, or a person applying for such license, the board may issue an order directing the licensee or  
18 applicant to appear and show cause why similar disciplinary sanctions or, in the case of an applicant,  
19 license denial or restriction, should not be imposed in the state. In any such proceeding, the decision of  
20 the foreign licensing authority may not be collaterally attacked, but the licensee or applicant shall be given  
21 the opportunity to demonstrate why a lesser sanction should be imposed. The board may issue any  
22 disciplinary sanction or take any action with regard to a license application pursuant to this section  
23 otherwise permitted by this chapter, **or other applicable law**, including sanctions or actions which are more  
24 stringent ~~than~~ **than** those imposed by the foreign jurisdiction. The ~~[board]~~ **office of professional licensure**  
25 **and certification** may adopt summary procedures for handling proceedings brought under this chapter, but  
26 shall furnish the respondent at least 10 days' written notice and a reasonable opportunity to be heard.  
27 The board may require a licensee to suspend practice in this state as a condition of postponing a hearing  
28 date established for allegations brought under this section.

29 352:13 Repeal. The following are repealed:

30 I. RSA 329:9, XXI, relative to rulemaking authority concerning a process for registering certain  
31 practitioners.

32 II. RSA 329:16-d, relative to notice of renewal.

33 III. RSA 329:16-e, relative to neglect to renew.

34 IV. RSA 329:29, relative to proceedings of the medical review subcommittee.

35 352:14 Effective Date. This act shall take effect 60 days after its passage.

Approved: August 02, 2024  
Effective Date: October 01, 2024

**CHAPTER 212**  
**SB 107 - FINAL VERSION**

02/22/2023 0587s  
8Jun2023... 2012h  
8Jun2023... 2075h  
06/29/2023 2240EBA

2023 SESSION

23-0852  
09/10

SENATE BILL **107**

AN ACT relative to the general administration of regulatory boards and commissions.

SPONSORS: Sen. Carson, Dist 14; Rep. C. McGuire, Merr. 27

COMMITTEE: Executive Departments and Administration

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AMENDED ANALYSIS

This bill makes certain changes to the administration requirements for regulatory boards and commissions and revises the procedure for occupational licensure applicants with criminal convictions. The bill also revises the regulation of hearings, disciplinary proceedings, and other administration by occupational boards under 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 struck through~~].  
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 general administration of regulatory boards and commissions.

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

1 212:1 New Paragraph; State Recognition. Amend RSA 332-G:1 by inserting after paragraph II the  
2 following new paragraph:

3 III. As used in this chapter, "state recognition" means an occupational, trade, vocational,  
4 professional, or business license, permit, certificate, or registration.

5 212:2 Investigatory and Legal Expenses. Amend RSA 332-G:3 to read as follows:

6 332-G:3 Investigatory and Legal Expenses. Notwithstanding any other provision of law, **except for**  
7 **those boards or commissions under the supervision of the office of professional licensure and certification,**  
8 a board or commission may retain expert witnesses or other qualified persons to assist with any  
9 investigation or adjudicatory proceeding. Members of the board or commission are not eligible for  
10 retention. The board or commission may also retain special legal counsel in instances when  
11 recommended by the attorney general. To the extent the existing appropriation of the board or  
12 commission does not include funds covering such expenditures, the board or commission may request  
13 the governor and council to expend funds not otherwise appropriated on the condition that such funds be  
14 considered in the next budget of the board or commission when the board or commission sets its fees so  
15 as to produce estimated revenues equal to 125 percent of its direct operating expenses for the previous  
16 fiscal year.

17 212:3 Time Limits for Hearings on Disciplinary Actions. Amend RSA 332-G:8 to read as follows:

18 332-G:8 Time Limits for Hearings on Disciplinary Actions. For all disciplinary actions under this title  
19 which do not require a hearing to be held within one year of the date upon which notice of the complaint  
20 was received by the accused, [~~the notice of a hearing on a disciplinary action pursuant to a written~~  
21 ~~complaint or initiation of formal disciplinary proceedings before any board or commission under this title~~  
22 ~~shall be issued by the board or commission]~~ **the board shall commence the final adjudicatory hearing**  
23 within 2 years of the date **it initiated a formal disciplinary proceeding based upon either a** [~~the notice of~~  
24 ~~complaint, its own initiative, or other action.~~ ~~[or initiation of formal disciplinary proceeding was received by~~  
25 ~~the accused in the disciplinary action, unless otherwise agreed to by the parties in the disciplinary action.]~~  
26 **An agency may extend the time periods provided for in this section or in any other provision of law upon**  
27 **written agreement of the respondent to the disciplinary action. Any request made by a respondent to**  
28 **continue any portion of a disciplinary action will constitute a waiver of this provision.**

29 212:4 Criminal Conviction. RSA 332-G:10 is repealed and reenacted to read as follows:

30 332-G:10 Criminal Conviction.

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1 I. No board or commission shall disqualify a person from practicing, pursuing, or engaging in any  
2 occupation, trade, vocation, profession, or business for which state recognition is required under this title,  
3 nor suspend or revoke such state recognition because of a prior conviction of a crime in and of itself. A  
4 board or commission may only deny a state recognition, or may suspend or revoke such state recognition,  
5 because of a prior conviction after:

6 (a) Considering the nature of the crime, and any information provided as to the current  
7 circumstances of the convicted person, including but not limited to their rehabilitation, completion of the  
8 criminal sentence, amount of time that has passed since the conviction or release, testimonials,  
9 employment history, and employment aspirations; and

10 (b) Determining by clear and convincing evidence that:

11 (1) The conviction has a substantial and direct relationship to the occupation, trade,  
12 vocation, profession, or business for which the person has applied for or obtained state recognition; and

13 (2) Disqualifying the individual or suspending or revoking the state recognition based  
14 upon that conviction serves the purpose of protecting public safety.

15 II. An individual with a prior criminal conviction may petition a board or commission at any time,  
16 including before obtaining any required education or training, for a determination of whether the  
17 individual's criminal conviction will disqualify the individual from obtaining state recognition. The individual  
18 shall include in the petition the individual's criminal record or authorize the board or commission to obtain  
19 the individual's criminal record; and may include additional information about the individual's current  
20 circumstances.

21 III. The board or commission considering a petition shall follow the same standard and process  
22 set forth in paragraph I, and issue its determination within 90 days after the board or commission receives  
23 the petition. The determination shall be in writing and include the criminal record, findings of fact, and  
24 conclusions of law.

25 IV. If the board or commission determines the conviction has a substantial and direct relationship  
26 to the occupation, trade, vocation, or profession for which the person has applied for or obtained state  
27 recognition and disqualifies the individual from obtaining state recognition, the board or commission may  
28 advise the individual of actions the individual may take to remedy the disqualification. The individual may  
29 submit a revised petition reflecting the completion of the remedies at any time after 90 days following the  
30 board's or commission's judgment.

31 V. The individual may appeal the determination in paragraph III as provided for in RSA 541.

32 VI. The individual may submit a new petition to the board or commission at any time after 2 years  
33 following a final judgment on the initial petition.

34 VII. The board or commission may rescind its determination at any time if the individual is  
35 convicted of an additional offense that the board or commission determines meets the elements in  
36 paragraph I.

37 VIII. The board or commission may charge a fee to recoup its costs not to exceed \$100 for each  
38 petition.

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1 IX. The office of professional licensure and certification shall establish an annual reporting  
2 requirement of the number of applicants petitioning each board or commission, the numbers of each  
3 board or commission's approvals and denials for petition, the type of offenses for which each board or  
4 commission approved or denied the petitions, and other data the office determines. The office will  
5 compile and publish annually a report on a searchable public website.

6 212:5 Repeal. RSA 332-G:13, relative to the right to petition a board for review of a criminal record,  
7 is repealed.

8 212:6 Board of Acupuncture Licensing Repeals. The following are repealed:

9 I. RSA 328-G:7, VII, relative to rulemaking for hearings.

10 II. RSA 328-G:12, relative to disciplinary proceedings.

11 III. RSA 328-G:13, relative to hearings.

12 IV. RSA 328-G:14, relative to penalties.

13 212:7 Alcohol and Other Drug Use Professionals; Repeals. The following are repealed:

14 I. RSA 330-C:5 IV and V relative to investigations and hearings, and subpoena power.

15 II. RSA 330-C:9, IX, relative to rulemaking authority pertaining to hearings.

16 III. RSA 330-C:27 I, II, IV, V, and VI, relative to disciplinary action.

17 IV. RSA 330-C:28, relative to investigations and hearings.

18 V. RSA 330-C:29, relative to hearings.

19 VI. RSA 330-C:30, relative to rehearing and appeals.

20 212:8 Allied Health Professionals Repeal. RSA 328-F:5 VII, relative to rulemaking authority  
21 pertaining to investigations and discipline, is repealed.

22 212:9 Barbering, Cosmetology and Esthetics Repeals. The following are repealed:

23 I. RSA 313-A:22, I, III, and IV, relative to disciplinary action.

24 II. RSA 313-A:23, relative to hearings.

25 III. RSA 313-A:32, relative to suspension of operation.

26 212:10 Chiropractic; Repeals. The following are repealed:

27 I. RSA 316-A:3, X, relative to procedures for investigations.

28 II. RSA 316-A:3, XI, relative to hearings procedures.

29 III. RSA 316-A:3, XII, relative to methods of informing the public of results of disciplinary action.

30 IV. RSA 316-A:22, I, III, IV, V, and VI, relative to disciplinary action.

31 V. RSA 316-A:23, relative to hearings.

32 212:11 Dentists and Dentistry; Dental Hygienists Committee. Amend RSA 317-A:2-a, II to read as  
33 follows:

34 II. The committee shall develop and propose the administrative rules regarding the practice,  
35 [~~discipline,~~] education, examination, and licensure of dental hygienists, for the board's consideration  
36 pursuant to RSA 317-A:12. The committee shall have no independent regulatory or disciplinary authority.

37 212:12 Repeals; Dentistry. The following provisions are repealed:

38 I. RSA 317-A:4 I(c), relative to disciplinary proceedings.

39 II. RSA 317-A:12, IX, relative to rulemaking authority pertaining to hearings.

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1           III. RSA 317-A:17, I and III, relative to professional misconduct.

2           IV. RSA 317-A:18, relative to investigatory powers of the board.

3           V. RSA 317-A:18-a, relative to hearings, decisions, and appeals.

4           VI. RSA 317-A:18-b, relative to temporary suspension of licensure.

5           212:13 Licensed Dietitians; Issuance, Expiration, and Renewal of a License. Amend RSA 326-H:9, V  
6 to read as follows:

7           V. Establish appropriate [~~disciplinary~~] actions including [~~penalties, sanctions,~~] supplemental  
8 training requirements and treatment and counseling requirements for licensees involved in violations of  
9 the code of ethics[~~, which may include revocation of license, suspension of license, fines, community~~  
10 ~~service, oral or written reprimand, additional education or training, and supervised training and~~  
11 ~~counseling, including substance abuse treatment and counseling].~~

12           212:14 Licensed Dietitians; Repeals. The following are repealed:

13           I. RSA 326-H:10, II, VII, and IX, relative to rulemaking authority pertaining to investigations,  
14 hearings, and discipline.

15           II. RSA 326-H:17, relative to hearings.

16           212:15 Repeals; Embalmers and Funeral Directors. The following are repealed:

17           I. RSA 325:9, VIII, relative to procedures for hearings.

18           II. RSA 325:32, I and III, relative to disciplinary action.

19           III. RSA 325:32-a, II, III, IV, VI, VII, and VIII, relative to reciprocal discipline.

20           IV. RSA 325:32-b, relative to temporary suspension of licensure.

21           V. RSA 325:33, relative to investigatory powers of the board and complaints.

22           VI. RSA 325:33-a, relative to summons, oaths, and witnesses.

23           VII. RSA 325:34, relative to hearings, decisions and appeals.

24           212:16 Cremation of Human Remains; Repeals. The following are repealed:

25           I. RSA 325-A:9, relative to complaints.

26           II. RSA 325-A:10, relative to temporary suspension of licensure.

27           III. RSA 325-A: 12, relative to disciplinary actions.

28           IV. RSA 325-A:13, relative to appeals.

29           212:17 Board of Registration for Medical Technicians; Powers. Amend RSA 328-I:3, III to read as  
30 follows:

31           III. Suspend or revoke certificates of registration upon the grounds listed in RSA 328-I:9[~~and~~  
32 ~~conduct hearings regarding the denial, suspension, revocation, and renewal of certificates as provided in~~  
33 ~~RSA 328-I:11].~~

34           212:18 Board of Registration for Medical Technicians. The following provisions are repealed:

35           I. RSA 328-I:3, IV, relative to complaints and investigations.

36           II. RSA 328-I:4, III, IV, relative to rulemaking authority pertaining to investigations and hearings,  
37 and notice.

38           III. RSA 328-I:10, II, IV, VII, VIII, IX, XII, and XIII, relative to disciplinary action.

39           IV. RSA 328-I:11, relative to investigations, complaints, and hearings.

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1 V. RSA 328-I:13, relative to administrative fines.

2 VI. RSA 328-I:14, relative to investigative costs.

3 212:19 Physician Assistant Practice Act. The following provisions are repealed:

4 I. RSA 328-D:7, relative to disciplinary action.

5 II. RSA 328-D:9, relative to appeals.

6 III. RSA 328-D:10 I(d), relative to rulemaking authority pertaining to appeals.

7 212:20 Board of Medicine; Physicians and Surgeons. The following provisions are repealed:

8 I. RSA 329:2 II(b), and (c), relative to investigations through the medical review subcommittee.

9 II. RSA 329:9 VI, relative to hearings and disciplinary proceedings.

10 III. RSA 329:17, I, I-a, VII, VII-a, VIII, XII, and XIII, relevant to disciplinary action.

11 IV. RSA 329:18, relative to investigations.

12 V. RSA 329:18-a, relative to hearings.

13 VI. RSA 329:18-b, relative to temporary suspension of licensure.

14 212:21 Board of Mental Health Practice. The following provisions of RSA 330-A are repealed:

15 I. RSA 330-A:10, XIII, and XV, relative to rulemaking authority pertaining to complaints,  
16 investigations, and disciplinary hearings.

17 II. RSA 330-A:27, I, III, and V, relative to disciplinary actions.

18 III. RSA 330-A:28, relative to investigations and complaints.

19 IV. RSA 330-A:29, relative to hearings.

20 V. RSA 330-A:30, relative to temporary suspension of licensure.

21 212:22 Midwifery Council; Public Member. Amend RSA 326-D:3, I(d) to read as follows:

22 (d) One member of the general public who has familiarity with the practice of midwifery. ***The***  
23 ***public member shall be a resident of the state of New Hampshire who is not, and never has been, a***  
24 ***member of the midwifery profession or the spouse of any such person. The public member shall not have,***  
25 ***and shall never have had, a material financial interest in either the provision of midwifery services or an***  
26 ***activity directly related to midwifery, including the representation of the council or its predecessor or the***  
27 ***profession for a fee at any time during the 5 years preceding the date of appointment.***

28 212:23 Midwifery Council. The following provisions are repealed:

29 I. RSA 326-D:4, I(b), and (c), relative to investigations, complaints, and disciplinary proceedings.

30 II. RSA 326-D:5, III, relative to rulemaking authority pertaining to adjudicative hearings.

31 III. RSA 326-D:8, I, and III, relative to disciplinary action.

32 212:24 Naturopathic Board of Examiners. The following are repealed:

33 I. RSA 328-E:8, II, III, and IV, relative to subpoenas, witness fees, and complaints.

34 II. RSA 328-E:14-a, relative to hearings and investigations.

35 212:25 Board of Nursing. Amend RSA 326-B:4, II to read as follows:

36 II. Provide consultation regarding nursing practice for institutions and agencies ~~and investigate~~  
37 ~~reports of illegal practice~~].

38 212:26 Board of Nursing. The following provisions are repealed:

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1 I. RSA 326-B:4, V, and VI, relative to powers and duties of the board pertaining to investigations  
2 and hearings.

3 II. RSA 326-B:37, I, III, and IV, relative to disciplinary action and misconduct.

4 III. RSA 326-B:38, relative to investigations and hearings.

5 IV. RSA 326-B:39, relative to rehearing and appeals.

6 212:27 New Subparagraph; Nursing Home Administrators. Amend RSA 151-A:3, III by inserting after  
7 subparagraph (d) the following new subparagraph:

8 (e) The public member shall be a resident of the state of New Hampshire who is not, and  
9 never has been, a nursing home administrator, or the spouse of any such person. The public member  
10 shall not have, and shall never have had, a material financial interest in either the provision of nursing  
11 home administration services or an activity directly related to nursing home administration, including the  
12 representation of the board or its predecessor or the profession for a fee at any time during the 5 years  
13 preceding the date of appointment.

14 212:28 Nursing Home Administrators; Rulemaking. Amend RSA 151-A:4-a, IV to read as follows:

15 IV. To establish [~~procedures and requirements for disciplinary proceedings and~~] criteria for  
16 disciplinary actions[~~, including suspending, revoking or placing conditions on a license~~].

17 212:29 Nursing Home Administrators. The following provisions are repealed:

18 I. RSA 151-A:4 I.(e), and II, relative to investigations, complaints, and witnesses.

19 II. RSA 151-A:4-a, VII, relative to rulemaking authority for accepting and processing reports of  
20 violations.

21 III. RSA 151-A:11, II, III, IV, and V, relative to disciplinary proceedings.

22 212:30 Board of Optometry. The following provisions are repealed:

23 I. RSA 327:20, I, and III, relative to disciplinary action.

24 II. RSA 327:20-a, relative to complaints.

25 III. RSA 327:22, relative to hearings and investigations.

26 212:31 Pharmacy Board; Public Member. Amend RSA 318:2 to read as follows:

27 318:2 Board. There shall be a pharmacy board consisting of 7 members; including 6 practicing  
28 pharmacists, at least one of whom shall be a full-time hospital pharmacist, and one public member, each  
29 to be appointed by the governor, with the approval of the council, to a term of 5 years. No member shall  
30 be appointed to more than 2 consecutive terms and no member shall serve for more than 10 consecutive  
31 years. Only board members provided for in this section shall have the authority to vote in board  
32 determinations. ***The public member shall be a resident of the state of New Hampshire who is not, and***  
33 ***never has been, a member of the pharmacy profession or the spouse of any such person. The public***  
34 ***member shall not have, and shall never have had, a material financial interest in either the provision of***  
35 ***pharmaceutical services or an activity directly related to pharmaceutical services, including the***  
36 ***representation of the board or its predecessor or the profession for a fee at any time during the 5 years***  
37 ***preceding the date of appointment.***

38 212:32 Board of Pharmacy. The following provisions are repealed:

39 I. RSA 318:5-a, VIII, relative to rulemaking pertaining to hearings.

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1           II. RSA 318:29, I, IV, and V, relative to disciplinary action.

2           III. RSA 318:30, relative to investigations and complaints.

3           IV. RSA 318:30-a, relative to temporary suspension of licenses.

4           V. RSA 318:31, relative to hearings, decisions and appeals.

5           212:33 Board of Podiatry. The following provisions are repealed:

6           I. RSA 315:4, IV, relative to rulemaking authority pertaining to the conduct of hearings.

7           II. RSA 315:9, I, and III, relative to disciplinary action.

8           III. RSA 315:10, relative to investigations and preliminary hearings.

9           IV. RSA 315:10-a, relative to hearings.

10          V. RSA 315:10-b, relative to temporary suspension of licenses.

11          212:34 Board of Psychologists. The following provisions of RSA 329-B are repealed:

12          I. RSA 329-B:10, XII, relative to rulemaking authority pertaining to complaints, investigations, and  
13 disciplinary hearings.

14          II. RSA 329-B:21 I, III, IV, V, and VI, relative to disciplinary action.

15          III. RSA 329-B:22, relative to investigations and complaints.

16          IV. RSA 329-B:23, relative to hearings.

17          V. RSA 329-B:24, relative to temporary suspension of licenses.

18          212:35 New Paragraph; Veterinary Medicine; Public Member. Amend RSA 332-B:3 by inserting after  
19 paragraph IV the following new paragraph:

20           V. The public member shall be a resident of the state of New Hampshire who is not, and never  
21 has been, a member of the veterinary profession or the spouse of any such person. The public member  
22 shall not have, and shall never have had, a material financial interest in either the provision of veterinary  
23 services or an activity directly related to veterinary practice, including the representation of the board or its  
24 predecessor or the profession for a fee at any time during the 5 years preceding the date of appointment.

25          212:36 Board of Veterinary Medicine. The following provisions are repealed:

26          I. RSA 332-B:7 IV, relative to the power of the board to investigate and conduct hearings.

27          II. RSA 332-B:7-a, VIII, and IX, relative to rulemaking authority pertaining to investigations and  
28 hearings.

29          III. RSA 332-B:14, I, III, and IV, relative to disciplinary action.

30          IV. RSA 332-B:15, relative to investigations.

31          V. RSA 332-B:15-a, relative to emergency suspension of licensure.

32          VI. RSA 332-B:16, relative to hearings, decisions, and appeals.

33          212:37 Accountancy; Hearings. Amend RSA 309-B:12, X to read as follows:

34           X. Any person or firm adversely affected by any order of the board entered after a hearing [~~under~~  
35 ~~this section~~] may appeal such order by filing a written petition with the superior court in the county in which  
36 the respondent resides or, if not a resident of this state, in the county in which the respondent has a place  
37 of business or resident agent. An appeal shall not suspend the order of the board unless the court orders  
38 otherwise. The record of the hearing of the board's action shall be presented to the superior court for its  
39 review pursuant to the procedures and standards of RSA 541. The superior court may affirm, reverse, or

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1 modify the board's order or may order a trial de novo. A trial de novo shall be pursuant to the board's  
2 rules and the rules of evidence shall not apply.

3 212:38 Board of Accountancy. The following provisions are repealed:

4 I. RSA 309-B:4, IV, V, and VI(b), relative to investigations, and hearings.

5 II. RSA 309-B:10, I, II, and III, relative to enforcement.

6 III. RSA 309-B:11, relative to enforcement procedures and investigations.

7 IV. RSA 309 -B:12, I, II, III, IV, V, VI, VII, VIII, and IX, relative to hearings.

8 212:39 Board of Architects. The following provisions are repealed:

9 I. RSA 310-A:32, I(h), relative to rulemaking authority pertaining to conducting hearings.

10 II. RSA 310-A:47, I, relative to investigations and disciplinary proceedings.

11 III. RSA 310-A:47-a, relative to disciplinary actions and penalties.

12 IV. RSA 310-A:48, relative to hearings.

13 212:40 Electricians' Board. The following provisions are repealed:

14 I. RSA 319-C:6-a, VI, and VII, relative to rulemaking authority pertaining to investigations and  
15 hearings.

16 II. RSA 319-C:12, I, III, and IV, relative to disciplinary action.

17 III. RSA 319-C:12-a, relative to hearings.

18 212:41 Family Mediators; Public Members. Amend RSA 328-C:4, I(d) to read as follows:

19 (d) Two members of the public, appointed by the governor with the consent of the council.

20 ***The public members shall be residents of the state of New Hampshire who are not, and never have been,***  
21 ***members of the family mediation profession or the spouse of any such person. The public members shall***  
22 ***not have, and shall never have had, a material financial interest in either the provision of family mediation***  
23 ***services or an activity directly related to family mediation, including the representation of the board or its***  
24 ***predecessor or the profession for a fee at any time during the 5 years preceding the date of appointment.***

25 212:42 Family Mediator Certification Board. The following provisions of RSA 328-C are repealed:

26 I. RSA 328-C:4-a, VI, relative to investigations and disciplinary action.

27 II. RSA 328-C:7, I, II, IV, V, and VI, relative to disciplinary action.

28 III. RSA 328-C:7-a, relative to appeals.

29 IV. RSA 328-C:8, I(f), relative rulemaking authority pertaining to disciplinary procedures.

30 212:43 Forester; Rulemaking. Amend RSA 310-A:102, VI to read as follows:

31 VI. Ethical and professional standards to be met by each license holder under this subdivision  
32 [~~and the manner in which disciplinary actions by the board shall be implemented for violations of these~~  
33 ~~standards].~~

34 212:44 Board of Foresters. The following provisions are repealed:

35 I. RSA 310-A:112, I, and III, relative to disciplinary action.

36 II. RSA 310-A:113, relative to hearings.

37 212:45 Guardian ad Litem Board; Public Members. Amend RSA 490-C:2, I(h) to read as follows:

38 (h) Two members of the general public representing the interests of those individuals  
39 receiving the services of guardians ad litem, appointed by the governor. ***The public members shall be***

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1 *Individuals who are not, and never have been, members of the guardian ad litem profession or the spouse*  
2 *of any such person. The public members shall not have, and shall never have had, a material financial*  
3 *interest in either the provision of guardian ad litem services or an activity directly related to guardian ad*  
4 *litem services, including the representation of the board or its predecessor or the profession for a fee at*  
5 *any time during the 5 years preceding the date of appointment.*

6 212:46 Guardian ad Litem Board; Complaints. Amend RSA 490-C:4, I(g) to read as follows:

7 (g) [~~Investigate and resolve complaints against certified guardians ad litem, and against~~  
8 ~~formerly certified guardians ad litem who are claimed to have engaged in acts or omissions prohibited~~  
9 ~~when certified.~~] The board may, upon the submission of a written allegation or complaint against a  
10 presently or formerly certified guardian ad litem who holds, held, or may hold an appointment in a case  
11 under the authority of a court, refer that matter to the appropriate court for investigation, resolution, or  
12 other action. Such referral may be made regardless of whether the allegation or complaint relates to a  
13 case which is then pending in court and may be made in lieu of or in addition to any investigatory or  
14 disciplinary procedures that the board may itself be authorized to pursue. The board may further  
15 informally resolve complaints by agreement. A complaint relating to a trial or judicial proceeding in  
16 progress shall be dismissed without prejudice, unless the board for good cause votes to proceed  
17 immediately with such complaint.

18 212:47 Guardian ad Litem Board. Amend RSA 490-C:4, II(i) to read as follows:

19 (i) Establish [~~procedures and~~] requirements relating to the resignation or surrender of  
20 certification including the circumstances or conditions under which a certified guardian ad litem may  
21 resign or surrender his or her certification.

22 212:48 Guardian ad Litem Board. Amend RSA 490-C:5, II(e) to read as follows:

23 (e) [~~Procedures and~~] Requirements relating to the resignation or surrender of certification,  
24 including but not limited to the circumstances or conditions under which a certified guardian ad litem may  
25 resign or surrender his or her certification.

26 212:49 Guardian ad Litem Board. The following provisions are repealed:

- 27 I. RSA 490-C:4, I(f); and II(f), (j), and (k), relative to disciplinary proceedings.  
28 II. RSA 490-C:5 I(f), (g), and (h); and II(c), (d), (f), and (g), relative to rulemaking authority  
29 pertaining to investigations, complaints, and disciplinary proceedings.  
30 III. RSA 490-C:8, relative to appeals.

31 212:50 Board of Home Inspectors. The following provisions are repealed:

- 32 I. RSA 310-A:187, I(c), and (d), relative to rulemaking authority pertaining to disciplinary actions  
33 and the conduct of hearings.  
34 II. RSA 310-A:196, I, relative to disciplinary action.  
35 III. RSA 310-A: 197, I, II, III, IV, V, VII, and VIII, relative to hearings.

36 212:51 Installation Standards Board. The following provisions are repealed:

- 37 I. RSA 205-D:6, relative to complaints.  
38 II. RSA 205-D:13, I, and III, relative to disciplinary action.  
39 III. RSA 205-D:14, relative to hearings.

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1 IV. RSA 205-D:20, IX, relative to rulemaking authority pertaining to a complaint process.

2 212:52 Board of Land Surveyors. The following provisions are repealed:

3 I. RSA 310-A:58, VIII, relative to rulemaking authority pertaining to the conduct of hearings.

4 II. RSA 310-A:70, I and III, relative to disciplinary action.

5 III. RSA 310-A:71, relative to hearings.

6 212:53 Board of Landscape Architects. The following provisions are repealed:

7 I. RSA 310-A:143, I(h), relative to rulemaking authority pertaining to the conduct of hearings.

8 II. RSA 310-A:155, I, relative to disciplinary action.

9 III. RSA 310-A:156, relative to hearings.

10 212:54 Board of Manufactured Housing; Public Members. Amend RSA 205-A:25, I(a) to read as  
11 follows:

12 (a) Two public members, appointed by the governor. ***The public members shall be residents***  
13 ***of the state of New Hampshire who are not, and never have been, members of the manufactured housing***  
14 ***profession or the spouse of any such person. The public members shall not have, and shall never have***  
15 ***had, a material financial interest in either the provision of manufactured housing services or an activity***  
16 ***directly related to manufactured housing, including the representation of the board or its predecessor or***  
17 ***the profession for a fee at any time during the 5 years preceding the date of appointment.***

18 212:55 Board of Manufactured Housing. RSA 205-A:27, IV, relative to complaints and hearings, is  
19 repealed.

20 212:56 Mechanical Safety and Licensing Board. RSA 153:32, I, and III, relative to disciplinary action,  
21 are repealed.

22 212:57 Board of Natural Scientists. The following provisions are repealed:

23 I. RSA 310-A:93, I, and III, relative to disciplinary action.

24 II. RSA 310-A: 94, relative to hearings.

25 212:58 Board of Professional Engineers. The following provisions are repealed:

26 I. RSA 310-A:6, I(h), relative to rulemaking authority pertaining to the conduct of hearings.

27 II. RSA 310-A:22, I, relative to investigations and disciplinary proceedings.

28 III. RSA 310-A:22-a, I and II, relative to investigations and enforcement.

29 IV. RSA 310-A:23, I relative to hearings, appeals, and penalties.

30 212:59 Board of Professional Geologists. The following provisions are repealed:

31 I. RSA 310-A:121, I(f), relative to rulemaking authority pertaining to the conduct of hearings.

32 II. RSA 310-A:133, I, and III, relative to investigations and disciplinary proceedings.

33 III. RSA 310-A:134, I, relative to investigations and enforcement.

34 IV. RSA 310-A:135, relative to hearings, appeals, and penalties.

35 212:60 Real Estate Appraisers Board. The following provisions are repealed:

36 I. RSA 310-B:18, I, III, and IV, relative to disciplinary proceedings.

37 II. RSA 310-B:19, relative to hearings, and investigations.

38 III. RSA 310-B:23-a, relative to summons, oaths, and witnesses.

39 IV. RSA 310-B:24 VII, relative to rulemaking authority pertaining to investigations and hearings.

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1           212:61 Real Estate Commission; Discipline. Amend RSA 331-A:28, I and I-a to read as follows:

2           I. The commission may investigate, ***by and through the office of professional licensure and***  
3 ***certification***, the actions of any person engaged in the business or acting in the capacity of a real estate  
4 broker or real estate salesperson, regardless of whether the transaction was for the person's own account  
5 or in the capacity as broker or salesperson. ~~[If found guilty, after a hearing, of violating this chapter, the~~  
6 ~~commission may impose any one or more of the following sanctions:~~

7                   ~~(a) Suspend, revoke or deny a license or the renewal of such license.~~

8                   ~~(b) Levy a fine not to exceed \$2,000 for each offense.~~

9                   ~~(c) Require the person to complete a course or courses in selected areas of real estate~~  
10 ~~practice relevant to the section of this chapter violated.]~~

11           I-a. The commission may investigate, ***by and through the office of professional licensure and***  
12 ***certification***, the actions or qualifications of any person engaged in offering to present or presenting an  
13 accredited preparatory or continuing education program of study to licensees or potential licensees, when  
14 the commission receives a complaint or other information that indicates that the program of study is not  
15 meeting the requirements of the accreditation granted to an individual, institution, or organization, or is  
16 otherwise violating this chapter, or a lawful rule or order of the commission. ~~[If, after a hearing, the~~  
17 ~~commission finds a violation of this chapter, the commission may impose one or more of the following~~  
18 ~~sanctions:~~

19                   ~~(a) Suspend, revoke, or deny an accreditation or the renewal of an accreditation.~~

20                   ~~(b) Levy a fine not to exceed \$2,000 for each offense.~~

21                   ~~(c) Require the person to complete a course or courses in selected areas of real estate~~  
22 ~~practice or education relevant to the violation].~~

23           212:62 Real Estate Commission. The following provisions are repealed:

24           I. RSA 331-A:7, V, and VI, relative to hearings, orders, subpoenas, and statements of charges.

25           II. RSA 331-A:29, relative to investigation procedures.

26           III. RSA 331-A:30, relative to hearing procedures.

27           212:63 Board of Septic System Evaluators. The following provisions are repealed:

28           I. RSA 310-A:207, I(e), relative to rulemaking authority pertaining to the conduct of hearings.

29           II. RSA 310-A:216 I, relative to disciplinary action.

30           III. RSA 310-A:217, relative to hearings.

31           212:64 Contingent; Physicians and Surgeons; Examining Board; Rulemaking Authority. Amend RSA  
32 329:9, XVII as follows:

33           XVII. ~~[The purpose, scope, and procedures of the medical review subcommittee.]~~ ***The***  
34 ***establishment of a panel of clinician licensees to assist the office in carrying out its investigative***  
35 ***obligations under RSA 310, provided that committee appointments shall be made by the executive***  
36 ***director in accordance with criteria established by the board.***

37           212:65 Contingent; Physicians and Surgeons; Repeals. The following provisions are hereby  
38 repealed:

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1 I. RSA 329:9, XVIII, relative to the relationship between the board and the medical review  
2 subcommittee.

3 II. RSA 329:9, XIX, relative to procedures to be followed during informal and formal  
4 investigations.

5 212:66 Contingent; New Paragraph; OPLC Procedures. Amend RSA 310:2 by inserting after  
6 paragraph II the following new paragraph:

7 III. Any board under the office of professional licensure and certification may petition the governor  
8 for removal of a member of the board for malfeasance, misfeasance, inefficiency in fulfillment of duties as  
9 a board member, incapacity, unfitness to perform assigned duties, absence from at least 3 consecutive  
10 meetings of the board, or reasons provided for in other applicable statutes. Any vacancy in the  
11 membership of the board occurring otherwise than by expiration of a member's term shall be promptly  
12 filled for the unexpired term.

13 212:67 Contingency. Sections 64-66 of this act shall take effect at 12:01 am on the day that HB 655-  
14 FN, or another act establishing new RSA chapter 310 for the administration of the office of professional  
15 licensure and certification, of the 2023 regular legislative session becomes law.

16 212:68 Authority for Transfer of OPLC Provisions. The director of legislative services shall have the  
17 authority to move and renumber the text of legislation enacted in any bill which becomes law in the 2023  
18 regular legislative session and which inserts into or amends the administrative provisions of the office of  
19 professional licensure and certification currently in RSA 310-A into new RSA 310 as established in the  
20 2023 legislative session, whether in HB 655-FN or another act establishing such RSA 310. The authority  
21 to move and renumber RSA provisions shall include any necessary technical and grammatical changes,  
22 provided however that no substantive changes shall be made. This authority shall expire at the  
23 publication of the laws of 2023.

24 212:69 Effective Date.

25 I. Sections 64-66 of this act shall take effect as provided in section 67 of this act.

26 II. Section 68 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect 60 days after its passage.

Approved: August 04, 2023

Effective Date:

I. Sections 64-66 effective as provided in section 67

II. Section 68 effective August 4, 2023

III. Remainder effective October 3, 2023

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2023 SESSION

23-0606  
09/10

HOUSE BILL

***655-FN***

AN ACT

relative to the office of professional licensure and certification.

SPONSORS:

Rep. C. McGuire, Merr. 27; Rep. Goley, Hills. 21; Rep. Merchant, Sull. 6; Rep. Ulery, Hills. 13; Sen. Carson, Dist 14; Sen. Lang, Dist 2

COMMITTEE:

Executive Departments and Administration

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AMENDED ANALYSIS

The bill consolidates administrative authority for the office of professional licensure and certification (OPLC) in a new chapter of law.

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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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- 1 (e) Advisory board of recreational therapists established under RSA 326-J.
- 2 (f) Advisory board of respiratory care practitioners established under RSA 326-E.
- 3 (g) Advisory board of reflexology, structural integration, and Asian bodywork therapy under
- 4 RSA 328-H.
- 5 (h) Board of accountancy under RSA 309-B.
- 6 (i) Board of acupuncture licensing under RSA 328-G.
- 7 (j) Board of architects under RSA 310-A:29.
- 8 (k) Board of barbering, cosmetology, and esthetics under RSA 313-A.
- 9 (l) Board of chiropractic examiners under RSA 316-A.
- 10 (m) Board of dental examiners under RSA 317-A.
- 11 (n) Board of directors, office of licensed allied health professionals under RSA 328-F.
- 12 (o) Board of examiners of nursing home administrators under RSA 151-A.
- 13 (p) Board of family mediator certification under RSA 328-C.
- 14 (q) Board of home inspectors under RSA 310-A:186.
- 15 (r) Board of land surveyors under RSA 310-A:55.
- 16 (s) Board of landscape architects under RSA 310-A:142.
- 17 (t) Board of licensed dietitians under RSA 326-H.
- 18 (u) Board of licensing for alcohol and other drug use professionals under RSA 330-C.
- 19 (v) Board of licensing for foresters under RSA 310-A:100.
- 20 (w) Board of manufactured housing under RSA 205-A:25.
- 21 (x) Board of medicine under RSA 329.
- 22 (y) Board of mental health practice under RSA 330-A.
- 23 (z) Board of natural scientists under RSA 310-A:81.
- 24 (aa) Board of nursing under RSA 326-B.
- 25 (bb) Board of pharmacy under RSA 318.
- 26 (cc) Board of podiatry under RSA 315.
- 27 (dd) Board of psychologists under RSA 329-B:3.
- 28 (ee) Board of professional engineers under RSA 310-A:3.
- 29 (ff) Board of professional geologists under RSA 310-A:120.
- 30 (gg) Board of psychologists under RSA 329-B.
- 31 (hh) Board of registration of funeral directors and embalmers under RSA 325.
- 32 (ii) Board of registration in optometry under RSA 327.
- 33 (jj) Board of registration of medical technicians under RSA 328-I.
- 34 (kk) Board of septic system evaluators under RSA 310-A:206.
- 35 (ll) Board of veterinary medicine under RSA 332-B.
- 36 (mm) Electricians' board under RSA 319-C.
- 37 (nn) Electrology advisory committee under RSA 314.
- 38 (oo) Genetic counselors governing board established under RSA 328-F and RSA 326-K.
- 39 (pp) Governing board of athletic trainers established under RSA 328-F and RSA 326-G.

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- 1 (qq) Guardians ad litem board under RSA 490-C.  
2 (rr) Installation standards board under RSA 205-D.  
3 (ss) Mechanical licensing board under RSA 153:27-a.  
4 (tt) Midwifery council under RSA 326-D.  
5 (uu) Naturopathic board of examiners under RSA 328-E.  
6 (vv) Occupational therapy governing board established under RSA 326-F; and RSA 326-C.  
7 (ww) Physical therapy governing board established under RSA 328-F and 328-A.  
8 (xx) Real estate appraiser board under RSA 310-B.  
9 (yy) Real estate commission under RSA 331-A.  
10 (zz) Registration of ophthalmic dispensers under RSA 327-A.

11 (aaa) Speech-language pathology and hearing care provider governing board established  
12 under RSA 328-F and 326-F.

13 (bbb) Assessing standards board under RSA 21-J:14-a.

14 310:3 Executive Director; Directors; Unclassified Personnel.

15 I. The executive director of the office of professional licensure and certification shall be an  
16 unclassified employee of the state. The executive director shall be appointed by the governor, with  
17 consent of the council, and shall serve for a term of 4 years. The executive director shall be qualified to  
18 hold that position by reason of professional competence, education, and experience. A vacancy shall be  
19 filled for the remainder of the unexpired term in the same manner as the original appointment.

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

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

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

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

35 310:4 Duties of Executive Director.

36 I. The executive director, as the administrative head of the office of professional licensure and  
37 certification, may employ such clerical or other assistants as are necessary for the proper performance of  
38 the office's work and may make expenditures for any purpose which are reasonably necessary, according  
39 to the executive director, for the proper performance of the office's duties under this chapter. The office

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1 shall contract for the services of investigators, presiding officers, legal counsel, and industry experts as  
2 necessary and in consultation with the appropriate board.

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

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

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

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

10 (d) The investigation of all complaints of professional misconduct in accordance with RSA  
11 310:9.

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

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

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

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

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

28 310:5 Administration of the Office of Professional Licensure and Certification; Funding.

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

34 II. There is hereby established the office of professional licensure and certification fund into which  
35 the fees collected under paragraph I shall be deposited. The fund shall be a separate, dedicated,  
36 nonlapsing fund, continually appropriated to the office for the purpose of paying all costs and salaries  
37 associated with the office. Funds in excess of \$5,000,000 shall lapse to the general fund at the close of  
38 each biennium.

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1           III. There is hereby established a dedicated, nonlapsing fund to be known as the New Hampshire  
2 health professionals' program administration fund for the administration of the professionals' health  
3 program, including the professionals' health program in RSA 329:13-b, the alternative recovery monitoring  
4 program in RSA 326-B:36-a, and the impaired pharmacist program set forth in RSA 318:29-a, with a fee  
5 charged to licensees at the time of initial licensure, renewal licensure, or reinstatement of licensure, for  
6 the board of medicine, board of dental examiners, pharmacy board, board of nursing, board of veterinary  
7 medicine, board of psychologists, board of chiropractic examiners, board of mental health practice,  
8 midwifery council, board of registration in optometry, board of podiatry, board of licensed dietitians, and  
9 board of licensing for alcohol and other drug use professionals, not to exceed 125 percent of the actual  
10 cost of providing the services. Other health and technical professions boards may be added to program at  
11 the same annual fee per licensee. The moneys in this fund shall be continually appropriated to the office.

12           IV. The office of professional licensure and certification shall be responsible for the financing of  
13 any interstate compact joined by the state that affects a profession governed by a board listed in RSA  
14 310:2. Such financing shall be from funds deposited in the office of professional licensure and  
15 certification fund.

16           310:6 Rulemaking Authority. The executive director of the office of professional licensure and  
17 certification shall adopt rules, relative to RSA 541-A, for the following:

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

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

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

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

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

32           310:7 Telemedicine and Telehealth Services.

33           I. For this section:

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

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

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

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

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

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

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

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

21 (b) Maintain a medical record;

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

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

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

30 VI. Physicians and physician assistants, governed by RSA 329 and RSA 328-D; advanced  
31 practice nurses, governed by RSA 326-B and registered nurses under RSA 326-B employed by home  
32 health care providers under RSA 151:2-b; midwives, governed by RSA 326-D; psychologists, governed by  
33 RSA 329-B; allied health professionals, governed by RSA 328-F; dentists, governed by RSA 317-A;  
34 mental health practitioners governed by RSA 330-A; community mental health providers employed by  
35 community mental health programs pursuant to RSA 135-C:7; alcohol and other drug use professionals,  
36 governed by RSA 330-C; and dietitians, governed by RSA 326-H shall be authorized to provide  
37 consultation services or follow-up care via telehealth to a patient who previously received services from  
38 the provider in the state where the provider is licensed.

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

3           310:8 License Renewals; Lapse.

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

7           II. Licenses shall be valid for 2 years from the date of issuance, except that timely and complete  
8 application for license renewal by eligible applicants shall continue the validity of the licenses being  
9 renewed until the office has acted on the renewal application.

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

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

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

29           310:9 Complaints and Investigations.

30           I. Allegations of professional misconduct shall be brought in accordance with RSA 332-G.

31           II. Upon receipt of an allegation of professional misconduct, the office shall determine whether  
32 the allegation states a viable claim. If the office determines that the allegation is not viable, it shall make a  
33 recommendation to the board for dismissal. The board shall review the office's recommendation and  
34 dismiss the allegation if it determines that the allegation does not state a claim of professional  
35 misconduct.

36           III. Notwithstanding any other law to the contrary, the office shall investigate allegations of  
37 misconduct by licensees (a) upon its own initiative or (b) upon written complaint alleging misconduct of a  
38 licensed, or unlicensed, individual or entity of a profession regulated under the office.

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

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

8           (a) Retain qualified experts that have sufficient knowledge on appropriate statutes or  
9 professions and their practices.

10           (b) Conduct inspections of places of business of a profession regulated under the office.

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

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

15           (2) Subpoenas for documents and materials shall not require compliance in fewer than  
16 15 days after receipt of service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31                  (e) For the purposes of this paragraph:

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

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

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

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

7           (f) In the process of determining recusal, the security of the client or patient’s identity shall be  
8 preserved as follows:

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

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

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

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

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

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

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

32           (C) When such client or patients’ information is presented only in aggregate form, no  
33 recusal is required.

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

37           VIII. Any board member who has had a personal relationship or has worked in a professional  
38 capacity with a complainant or with a licensee against whom a complaint has been filed or whose  
39 personal or professional views regarding the licensee or the complainant could prevent the board member

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1 from being impartial in considering the complaint shall recuse himself or herself from any investigation or  
2 disciplinary action against such licensee.

3 310:10 Disciplinary Proceedings; Non-Disciplinary Remedial Proceedings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26           (a) A noncomplainant client or patient shall not be compelled to testify at a hearing.

27           (b) If a noncomplainant client or patient testifies at a hearing, the identity of the individual  
28 shall be screened from the public view and knowledge, although the respondent and attorneys shall be  
29 within the view of the client patient. The board may view the client or patient. The public's access to view  
30 or information that would identify the client or patient shall be restricted. The hearing may be closed to the  
31 public for the duration of the client or patient's testimony, at the board's discretion.

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

34          310:11 Licensing Proceedings.

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

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

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

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- 1 (a) Hold pre-hearing conferences exempt from the provisions of RSA 91-A;  
2 (b) Appoint a board member or other qualified person as presiding officer; and  
3 (c) Administer, and authorize an appointed presiding officer to administer, oaths and  
4 affirmations.

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

8 V. Licensing proceedings shall be open to the public in accordance with RSA 91-A.  
9 310:12 Sanctions.

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

- 12 (a) By reprimand.  
13 (b) By suspension of a license for a period of time as determined reasonable by the board.  
14 (c) By revocation of license.  
15 (d) By placing the licensee on probationary status. The board may require the person to  
16 submit to any of the following:  
17 (1) Regular reporting to the board concerning the matters which are the basis of the  
18 probation.  
19 (2) Continuing professional education until a satisfactory degree of skill has been  
20 achieved in those areas which are the basis of probation.  
21 (3) Submitting to the care, counseling, or treatment of a physician, counseling service,  
22 health care facility, professional assistance program, or any comparable person or facility approved by the  
23 board.  
24 (4) Practicing under the direct supervision of another licensee for a period of time  
25 specified by the board.  
26 (e) By assessing administrative fines in amounts established by the board which shall not  
27 exceed \$3,000 per offense, or, in the case of continuing offenses, \$300 for each day that the violation  
28 continues, whichever is greater.

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

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

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

7           V. For any order issued in resolution of a disciplinary proceeding by the board, where the board  
8 has found misconduct sufficient to support disciplinary action, the board may require the licensee or  
9 certificate holder who is the subject of such finding to pay the office a sum not to exceed the reasonable  
10 cost of investigation and prosecution of the proceeding. This sum may be imposed in addition to any  
11 otherwise authorized administrative fines levied by the board as part of the penalty. The investigative and  
12 prosecution costs shall be assessed by the office and any sums recovered shall be credited to the office's  
13 fund and disbursed by the office for any future investigations of complaints and activities that violate this  
14 chapter or rules adopted under this chapter.

15           310:13 Unlicensed Practice. Whoever, not being licensed or otherwise authorized to practice  
16 according to the laws of this state, advertises oneself as engaging in a profession licensed or certified by  
17 the office of professional licensure and certification, engages in activity requiring professional licensure, or  
18 in any way holds oneself out as qualified to do so, or calls oneself a licensed professional, or whoever  
19 does such acts after receiving notice that such person's license to practice has been suspended or  
20 revoked, is engaged in unlawful practice. After providing notice and opportunity to be heard, and upon  
21 making an affirmative finding of unlawful practice, the board may impose a fine not to exceed the amount  
22 of any gain or economic benefit that the person derived from the violation, or up to \$10,000 for each  
23 offense, whichever amount is greater. Each violation of unlicensed or unlawful practice shall be deemed  
24 a separate offense. The board, the state's attorney general, or a prosecuting attorney of any county or  
25 municipality where the act of unlawful practice takes place may maintain an action to enjoin any person or  
26 entity from continuing to do acts of unlawful practice. The action to enjoin shall not replace any other civil,  
27 criminal, or regulatory remedy. An injunction without bond is available to any board.

28           310:14 Rehearing; Appeals.

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

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

34           III. Appeals from a decision on rehearing shall be by appeal to the supreme court pursuant to  
35 RSA 541. No sanction shall be stayed by the board during an appeal.

36           310:15 Oversight Committee; Establishment; Purpose.

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

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

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

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

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

17           IV. The oversight committee shall recommend legislation deemed necessary to correct issues it  
18 identifies.

19           310:16 Military Service Members and Spousal Temporary Licensure. The office of professional  
20 licensure and certification shall issue temporary licenses to a member of the armed forces or their spouse,  
21 if the applicant holds a current, valid unencumbered occupational or professional license in good standing  
22 issued by a state or territory of the United States, in accordance with rules adopted by executive director  
23 of the office of professional licensure and certification under RSA 541-A, provided that the applicant meets  
24 the requirements of this section, within 30 days of having received an application or, if the applicant is  
25 subject to a criminal records check, within 14 days of having received the results of a criminal records  
26 check. The rules shall contain the following provisions:

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

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

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

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

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1           112:2 Dedicated Fund; Office of Professional Licensure and Certification. Amend 6:12, I(b)(340) to  
2 read as follows:

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

5           112:3 Transition; Administrative Rules; Recodification of Office of Professional Licensure and  
6 Certification. The rules adopted for any occupation or profession under the office of professional licensure  
7 and certification under former RSA 310-A:1-a in effect on the effective date of this act shall, to the extent  
8 practicable, continue and be effective and apply to such respective occupation or profession until they  
9 expire or are amended or repealed.

10          112:4 Reference Changed; Mechanical Licensing; OPLC. Amend RSA 153:16-b, III to read as  
11 follows:

12                       III. The mechanical licensing board with the approval of the executive director of the office of  
13 professional licensing and certification shall adopt rules, which shall not be subject to RSA 541-A, relative  
14 to the establishment of fees for voluntary certification under this section. After the first year of this  
15 program, such fees shall be sufficient to produce estimated revenues equal to 125 percent of the direct  
16 operating expenses of the previous fiscal year. Fees collected shall be deposited in the office of  
17 professional licensure and certification fund established in RSA [~~310-A:1-e~~] **310:5**.

18          112:5 Reference Changed; Mechanical Licensing; OPLC. Amend RSA 153:28, II to read as follows:

19                       II. Notwithstanding RSA 21-G:9, the board, with an affirmative vote of at least 4 of the appointed  
20 board members, in consultation with the office of professional licensure and certification and with the  
21 approval of the executive director of the office of professional licensure and certification, shall establish  
22 application fees for licensure, for renewal, for late renewal, and for reinstatement of licenses under this  
23 subdivision pursuant to RSA 541-A. Such licensing fees including any endorsements shall not exceed  
24 \$500 per individual. The board shall also adopt fees for replacement licenses, for certified copies and  
25 reports, for inspections done pursuant to this subdivision, for letters of verification requested by individuals  
26 or jurisdictions relating to licensure and certification, and for transcribing and transferring records and  
27 other services. The fee for examination by third parties shall be separate from the fees established by the  
28 board. Fees established by the board shall be sufficient to produce estimated revenues equal to 125  
29 percent of the direct operating expenses of the board budgeted for the biennium in which they will apply.  
30 Fees collected shall be deposited in the office of professional licensure and certification fund established  
31 in RSA [~~310-A:1-e~~] **310:5**.

32          112:6 Reference Changed; Accountancy. Amend RSA 309-B:4, III to read as follows:

33                       III. The office of professional licensure and certification shall establish fees for examination of  
34 applicants, for licenses, for certificates of authorization, for reissuance of licenses, for renewal and  
35 reinstatement of licenses and certificates to practice under this chapter, for late renewals, for verification  
36 of licensure or examination, and for transcribing and transferring records and other services. All moneys  
37 collected by the office of professional licensure and certification from fees authorized under this chapter  
38 shall be received and accounted for by the office of professional licensure and certification, shall be  
39 deposited in the office of professional licensure and certification fund established in RSA [~~310-A:1-e~~]

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1 **310:5.** Administration expenses shall be limited to the funds collected and may include, but shall not be  
2 limited to, the costs of conducting investigations and of taking testimony and procuring the attendance of  
3 witnesses before the board or its committees; all legal proceedings taken under this chapter for the  
4 enforcement of this chapter; and educational programs for the benefit of the public or licensees and their  
5 employees.

6 112:7 Reference Changed; Architects. Amend RSA 310-A:32, II to read as follows:

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

9 112:8 Reference Changed; Body Art. Amend RSA 314-A:2, II to read as follows:

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

12 112:9 Reference Changed; Chiropractic. Amend RSA 316-A:14-a to read as follows:

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

18 112:10 Reference Changed; Dentists Professional Health. Amend RSA 317-A:16-a, VII to read as  
19 follows:

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

22 112:11 Reference Changed; Pharmacists. Amend RSA 318:1, XV-a to read as follows:

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

39 112:12 Reference Changed; Nurse Practice Act. Amend RSA 326-B:36-a, VI(c) to read as follows:

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

3 112:13 Reference Changed; Acupuncture. Amend RSA 328-G:9, IX to read as follows:

4 IX. The procedure and timeframe for license renewals shall be as described in RSA ~~[310-A:1-h]~~  
5 **310**.

6 112:14 Reference Changed; Reflexologists. Amend RSA 328-H:2, IV-a to read as follows:

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

9 112:15 Reference Changed; Physicians. Amend RSA 329:1-c to read as follows:

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

28 112:16 Reference Changed; Physicians. Amend RSA 329:1-d, I to read as follows:

29 I. "Telemedicine" means the use of audio, video, or other electronic media and technologies by a  
30 physician in one location to a patient in a different location for the purpose of diagnosis, consultation, or  
31 treatment, including the use of synchronous or asynchronous interactions as defined in RSA ~~[310-A:1-g]~~  
32 **310**.

33 112:17 Reference Changed; Physicians Health. Amend RSA 329:13-b, VII to read as follows:

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

36 112:18 Reference Changed; Administrative Procedures. Amend 541-A:29-a, I to read as follows:

37 I. If an agency fails to take any required action on an application, petition, or request within the  
38 time limits prescribed by RSA 541-A:29 or any other provisions of law, the application, petition, or request

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1 shall be deemed approved and any permit, approval or other item requested shall be deemed granted to  
2 or received by the applicant, petitioner, or requestor, except as provided in RSA ~~[310-A:1 d, V]~~ **310**.

3 112:19 Reference Changed; Planning Boards. Amend RSA 676:4-b, V to read as follows:

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

8 112:20 Effective Date. This act shall take effect July 1, 2023.

Approved: June 28, 2023  
Effective Date: July 01, 2023

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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 struck through.]~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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

23-0534  
09/05

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           235:1 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           235:2 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 a  
8 complete application for licensure, but whose criminal history check results are pending. A temporary  
9 license shall be issued only if the applicant has satisfied all requirements, excluding the criminal history  
10 check. The temporary license shall be valid until the criminal history check results are received by the  
11 office, or for 120 days, whichever occurs first.

12           235:3 Board of Nursing. Amend RSA 326-B:3, I to read as follows:

13           I. The board of nursing shall comprise ~~[44]~~ **13** members to be appointed by the governor with the  
14 consent of the council. Any interested individual, association, or entity may make ~~[recommendation]~~  
15 **recommendations** to the governor. The members of the board shall include ~~[5]~~ **6** registered nurses, ~~[one]~~  
16 **2** of whom shall be ~~[an]~~ advanced practice registered ~~[nurse]~~ **nurses**, 2 licensed practical nurses, ~~[2]~~ **3**  
17 licensed nursing assistants, one of whom shall be a medication licensed nursing assistant if possible, and  
18 2 representative members of the public. The terms of members shall be staggered as determined by the  
19 governor and council. All terms shall be for 3 years, and no member of the board shall be appointed to  
20 more than 3 consecutive terms.

21           235:4 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           235:5 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 by this  
28 chapter, unless such person then holds a valid license or a temporary permit issued by the board to  
29 practice the respective profession.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (x) Board of medicine under RSA 329.

37 (y) Board of mental health practice under RSA 330-A.

38 (z) Board of natural scientists under RSA 310-A:81.

39 (aa) Board of nursing under RSA 326-B.

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

28 (bbb) Assessing certification board under RSA 310-C.

29 310:3 Executive Director; Directors; Unclassified Personnel.

30 I. The executive director of the office of professional licensure and certification shall be an  
31 unclassified employee of the state. The executive director shall be appointed by the governor, with the  
32 consent of the council, and shall serve for a term of 4 years. The executive director shall be qualified to  
33 hold that position by reason of professional competence, education, and experience. A vacancy shall be  
34 filled for the remainder of the unexpired term in the same manner as the original appointment.

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

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

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

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

11           310:4 Duties of Executive Director.

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

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

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

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

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

25               (d) The investigation of all complaints of professional misconduct in accordance with RSA  
26 310:9.

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

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

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

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

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

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

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

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

18           III. There is hereby established a dedicated, nonlapsing fund to be known as the New Hampshire  
19 health professionals' program administration fund for the administration of the professionals' health  
20 program, including the professionals' health program in RSA 329:13-b, the alternative recovery monitoring  
21 program in RSA 326-B:36-a, and the impaired pharmacist program set forth in RSA 318:29-a, with a fee  
22 charged to licensees at the time of initial licensure, renewal licensure, or reinstatement of licensure, for  
23 the board of medicine, board of dental examiners, pharmacy board, board of nursing, board of veterinary  
24 medicine, board of psychologists, board of chiropractic examiners, board of mental health practice,  
25 midwifery council, board of registration in optometry, board of podiatry, board of licensed dietitians, and  
26 board of licensing for alcohol and other drug use professionals, not to exceed 125 percent of the actual  
27 cost of providing the services. Other health and technical professions boards may be added to the  
28 program at the same annual fee per licensee. The moneys in this fund shall be continually appropriated  
29 to the office.

30           IV. The office of professional licensure and certification shall be responsible for the financing of  
31 any interstate compact joined by the state that affects a profession governed by a board listed in RSA  
32 310:2. Such financing shall be from funds deposited in the office of professional licensure and  
33 certification fund.

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

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1           310:6 Rulemaking Authority. The executive director of the office of professional licensure and  
2 certification shall adopt rules, relative to RSA 541-A, for the following:

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

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

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

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

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

17          310:7 Telemedicine and Telehealth Services.

18          I. For this section:

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

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

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

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

29          II. Individuals licensed, certified, or registered pursuant to RSA 137-F; RSA 151-A; RSA 315;  
30 RSA 316-A; RSA 317-A; RSA 326-B; RSA 326-D; RSA 326-H; RSA 327; RSA 328-D; RSA 328-E; RSA  
31 328-F; RSA 328-G; RSA 329-B; RSA 330-A; RSA 330-C; RSA 327-A; RSA 329; RSA 326-B; RSA 318;  
32 RSA 328-I; RSA 328-J; or RSA 332-B may provide services through telemedicine or telehealth, provided  
33 the services rendered are authorized by scope of practice. Nothing in this provision shall be construed to  
34 expand the scope of practice for individuals regulated under this chapter.

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

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

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

4                   (b) Maintain a medical record;

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

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

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

13           VI. Physicians and physician assistants, governed by RSA 329 and RSA 328-D; advanced  
14 practice nurses, governed by RSA 326-B and registered nurses under RSA 326-B employed by home  
15 health care providers under RSA 151:2-b; midwives, governed by RSA 326-D; psychologists, governed by  
16 RSA 329-B; naturopathic doctors, governed by RSA 328-E; allied health professionals, governed by RSA  
17 328-F; dentists, governed by RSA 317-A; mental health practitioners governed by RSA 330-A; community  
18 mental health providers employed by community mental health programs pursuant to RSA 135-C:7;  
19 alcohol and other drug use professionals, governed by RSA 330-C; and dietitians, governed by RSA 326-  
20 H shall be authorized to provide consultation services or follow-up care via telehealth to a patient who  
21 previously received services from the provider in the state where the provider is licensed.

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

24           310:8 License Renewals; Lapse.

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

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

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

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

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

13           310:9 Complaints and Investigations.

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

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

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

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

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

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

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

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

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

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

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

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

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

17           (2) Subpoenas for documents and materials shall not require compliance in fewer than  
18 15 days after receipt of service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31          (e) For the purposes of this paragraph:

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

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

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

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

7           (f) In the process of determining recusal, the security of the client or patient’s identity shall be  
8 preserved as follows:

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

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

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

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

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

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

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

32           (C) When such client or patients’ information is presented only in aggregate form, no  
33 recusal is required.

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

37           VIII. Any board member who has had a personal relationship or has worked in a professional  
38 capacity with a complainant or with a licensee against whom a complaint has been filed or whose  
39 personal or professional views regarding the licensee or the complainant could prevent the board member

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1 from being impartial in considering the complaint shall recuse himself or herself from any investigation or  
2 disciplinary action against such licensee.

3 310:10 Disciplinary Proceedings; Non-Disciplinary Remedial Proceedings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34          310:11 Licensing Proceedings.

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

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

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

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- 1           (a) Hold pre-hearing conferences exempt from the provisions of RSA 91-A;  
2           (b) Appoint a board member or other qualified person as presiding officer; and  
3           (c) Administer, and authorize an appointed presiding officer to administer, oaths and  
4 affirmations.

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

8           V. Licensing proceedings shall be open to the public in accordance with RSA 91-A.  
9           310:12 Sanctions.

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

- 12           (a) By reprimand.  
13           (b) By suspension of a license for a period of time as determined reasonable by the board.  
14           (c) By revocation of license.  
15           (d) By placing the licensee on probationary status. The board may require the person to  
16 submit to any of the following:

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

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

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

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

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

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

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

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

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

15           310:13 Unlicensed Practice. Whoever, not being licensed or otherwise authorized to practice  
16 according to the laws of this state, advertises oneself as engaging in a profession licensed or certified by  
17 the office of professional licensure and certification, engages in activity requiring professional licensure, or  
18 in any way holds oneself out as qualified to do so, or calls oneself a licensed professional, or whoever  
19 does such acts after receiving notice that such person's license to practice has been suspended or  
20 revoked, is engaged in unlawful practice. After providing notice and opportunity to be heard, and upon  
21 making an affirmative finding of unlawful practice, the board may impose a fine not to exceed the amount  
22 of any gain or economic benefit that the person derived from the violation, or up to \$10,000 for each  
23 offense, whichever amount is greater. Each violation of unlicensed or unlawful practice shall be deemed  
24 a separate offense. The board, the state's attorney general, or a prosecuting attorney of any county or  
25 municipality where the act of unlawful practice takes place may maintain an action to enjoin any person or  
26 entity from continuing to do acts of unlawful practice. The action to enjoin shall not replace any other civil,  
27 criminal, or regulatory remedy. An injunction without bond is available to any board.

28           310:14 Rehearing; Appeals.

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

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

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

37           310:15 Oversight Committee; Establishment; Purpose.

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

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

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

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

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

17           IV. The oversight committee shall recommend legislation deemed necessary to correct issues it  
18 identifies.

19           310:16 Military Service Members and Spousal Temporary Licensure. The office of professional  
20 licensure and certification shall issue temporary licenses to a member of the armed forces or their spouse,  
21 if the applicant holds a current, valid unencumbered occupational or professional license in good standing  
22 issued by a state or territory of the United States, in accordance with rules adopted by executive director  
23 of the office of professional licensure and certification under RSA 541-A, provided that the applicant meets  
24 the requirements of this section, within 30 days of having received an application or, if the applicant is  
25 subject to a criminal records check, within 14 days of having received the results of a criminal records  
26 check. The rules shall contain the following provisions:

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

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

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

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

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1       235:9 Dedicated Fund; Office of Professional Licensure and Certification. Amend 6:12, I(b)(340) to  
2 read as follows:

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

5       235:10 Transition; Administrative Rules; Recodification of Office of Professional Licensure and  
6 Certification. The rules adopted for any occupation or profession under the office of professional licensure  
7 and certification under former RSA 310-A:1-a in effect on the effective date of this act shall, to the extent  
8 practicable, continue and be effective and apply to such respective occupation or profession until they  
9 expire or are amended or repealed.

10       235:11 Reference Changed; Mechanical Licensing; OPLC. Amend RSA 153:16-b, III to read as  
11 follows:

12               III. The mechanical licensing board with the approval of the executive director of the office of  
13 professional licensing and certification shall adopt rules, which shall not be subject to RSA 541-A, relative  
14 to the establishment of fees for voluntary certification under this section. After the first year of this  
15 program, such fees shall be sufficient to produce estimated revenues equal to 125 percent of the direct  
16 operating expenses of the previous fiscal year. Fees collected shall be deposited in the office of  
17 professional licensure and certification fund established in RSA ~~[310-A:1-e]~~ **310:5**.

18       235:12 Reference Changed; Mechanical Licensing; OPLC. Amend RSA 153:28, II to read as follows:

19               II. Notwithstanding RSA 21-G:9, the board, with an affirmative vote of at least 4 of the appointed  
20 board members, in consultation with the office of professional licensure and certification and with the  
21 approval of the executive director of the office of professional licensure and certification, shall establish  
22 application fees for licensure, for renewal, for late renewal, and for reinstatement of licenses under this  
23 subdivision pursuant to RSA 541-A. Such licensing fees including any endorsements shall not exceed  
24 \$500 per individual. The board shall also adopt fees for replacement licenses, for certified copies and  
25 reports, for inspections done pursuant to this subdivision, for letters of verification requested by individuals  
26 or jurisdictions relating to licensure and certification, and for transcribing and transferring records and  
27 other services. The fee for examination by third parties shall be separate from the fees established by the  
28 board. Fees established by the board shall be sufficient to produce estimated revenues equal to 125  
29 percent of the direct operating expenses of the board budgeted for the biennium in which they will apply.  
30 Fees collected shall be deposited in the office of professional licensure and certification fund established  
31 in RSA ~~[310-A:1-e]~~ **310:5**.

32       235:13 Reference Changed; Accountancy. Amend RSA 309-B:4, III to read as follows:

33               III. The office of professional licensure and certification shall establish fees for examination of  
34 applicants, for licenses, for certificates of authorization, for reissuance of licenses, for renewal and  
35 reinstatement of licenses and certificates to practice under this chapter, for late renewals, for verification  
36 of licensure or examination, and for transcribing and transferring records and other services. All moneys  
37 collected by the office of professional licensure and certification from fees authorized under this chapter  
38 shall be received and accounted for by the office of professional licensure and certification, shall be  
39 deposited in the office of professional licensure and certification fund established in RSA ~~[310-A:1-e]~~

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1 **310:5.** Administration expenses shall be limited to the funds collected and may include, but shall not be  
2 limited to, the costs of conducting investigations and of taking testimony and procuring the attendance of  
3 witnesses before the board or its committees; all legal proceedings taken under this chapter for the  
4 enforcement of this chapter; and educational programs for the benefit of the public or licensees and their  
5 employees.

6 235:14 Reference Changed; Architects. Amend RSA 310-A:32, II to read as follows:

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

9 235:15 Reference Changed; Body Art. Amend RSA 314-A:2, II to read as follows:

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

12 235:16 Reference Changed; Chiropractic. Amend RSA 316-A:14-a to read as follows:

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

18 235:17 Reference Changed; Dentists Professional Health. Amend RSA 317-A:16-a, VII to read as  
19 follows:

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

22 235:18 Reference Changed; Pharmacists. Amend RSA 318:1, XV-a to read as follows:

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

39 235:19 Reference Changed; Nurse Practice Act. Amend RSA 326-B:36-a, VI-a(c) to read as follows:

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

3 235:20 Reference Changed; Acupuncture. Amend RSA 328-G:9, IX to read as follows:

4 IX. The procedure and timeframe for license renewals shall be as described in RSA ~~[310-A:1-h]~~  
5 **310**.

6 235:21 Reference Changed; Reflexologists. Amend RSA 328-H:2, IV-a to read as follows:

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

9 235:22 Reference Changed; Physicians. Amend RSA 329:1-c to read as follows:

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

28 235:23 Reference Changed; Physicians. Amend RSA 329:1-d, I to read as follows:

29 I. "Telemedicine" means the use of audio, video, or other electronic media and technologies by a  
30 physician in one location to a patient in a different location for the purpose of diagnosis, consultation, or  
31 treatment, including the use of synchronous or asynchronous interactions as defined in RSA ~~[310-A:1-g]~~  
32 **310**.

33 235:24 Reference Changed; Physicians Health. Amend RSA 329:13-b, VII to read as follows:

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

36 235:25 Reference Changed; Administrative Procedures. Amend 541-A:29-a, I to read as follows:

37 I. If an agency fails to take any required action on an application, petition, or request within the  
38 time limits prescribed by RSA 541-A:29 or any other provisions of law, the application, petition, or request

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1 shall be deemed approved and any permit, approval or other item requested shall be deemed granted to  
2 or received by the applicant, petitioner, or requestor, except as provided in RSA ~~[310-A:1-d, V]~~ **310**.

3 235:26 Reference Changed; Planning Boards. Amend RSA 676:4-b, V to read as follows:

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

8 235:27 Repeal of Former OPLC Administrative Provisions. RSA 310-A:1 through RSA 310-A:1-p,  
9 relative to the organization of the office of professional licensure and certification are repealed.

10 235:28 Repeals; OPLC Administrative Attachment; Obsolete References. The following are  
11 repealed:

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

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

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

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

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

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

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

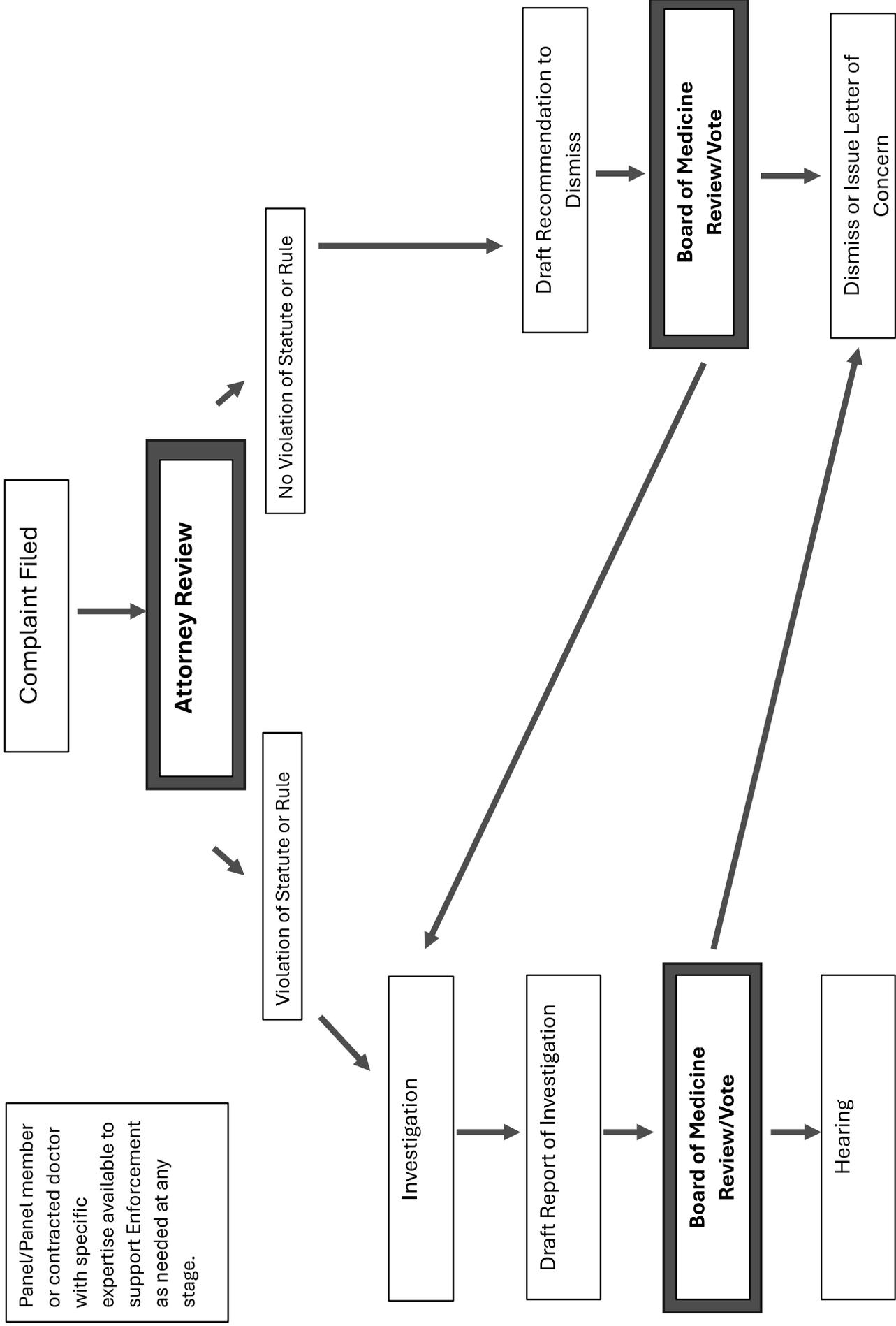
23 X. RSA 490-C:7, relative to the administrative attachment of the GAL board.

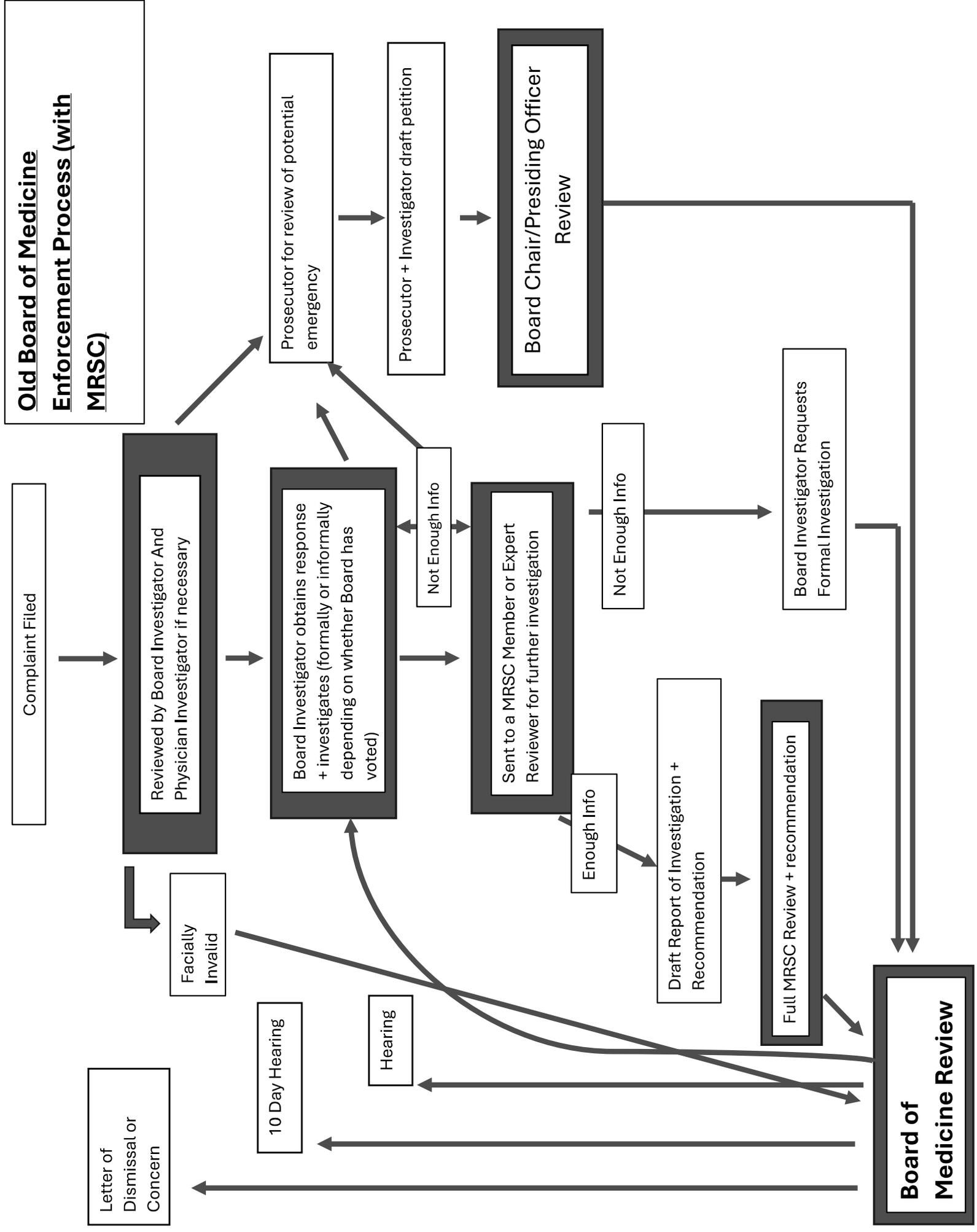
24 235:29 Effective Date. This act shall take effect July 15, 2023.

Approved: August 08, 2023  
Effective Date: July 15, 2023

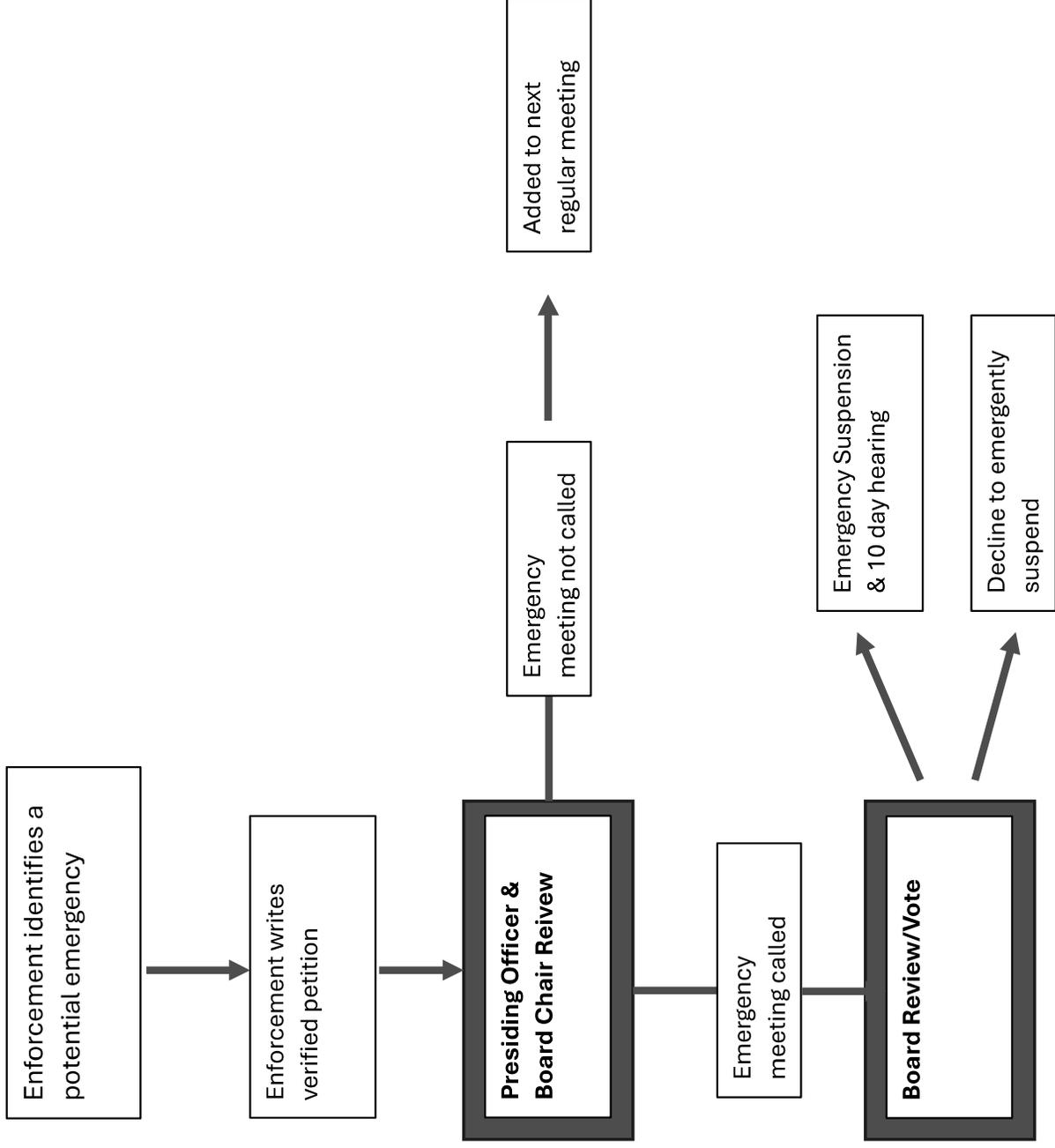
# APPENDIX B

# Board of Medicine Enforcement Process

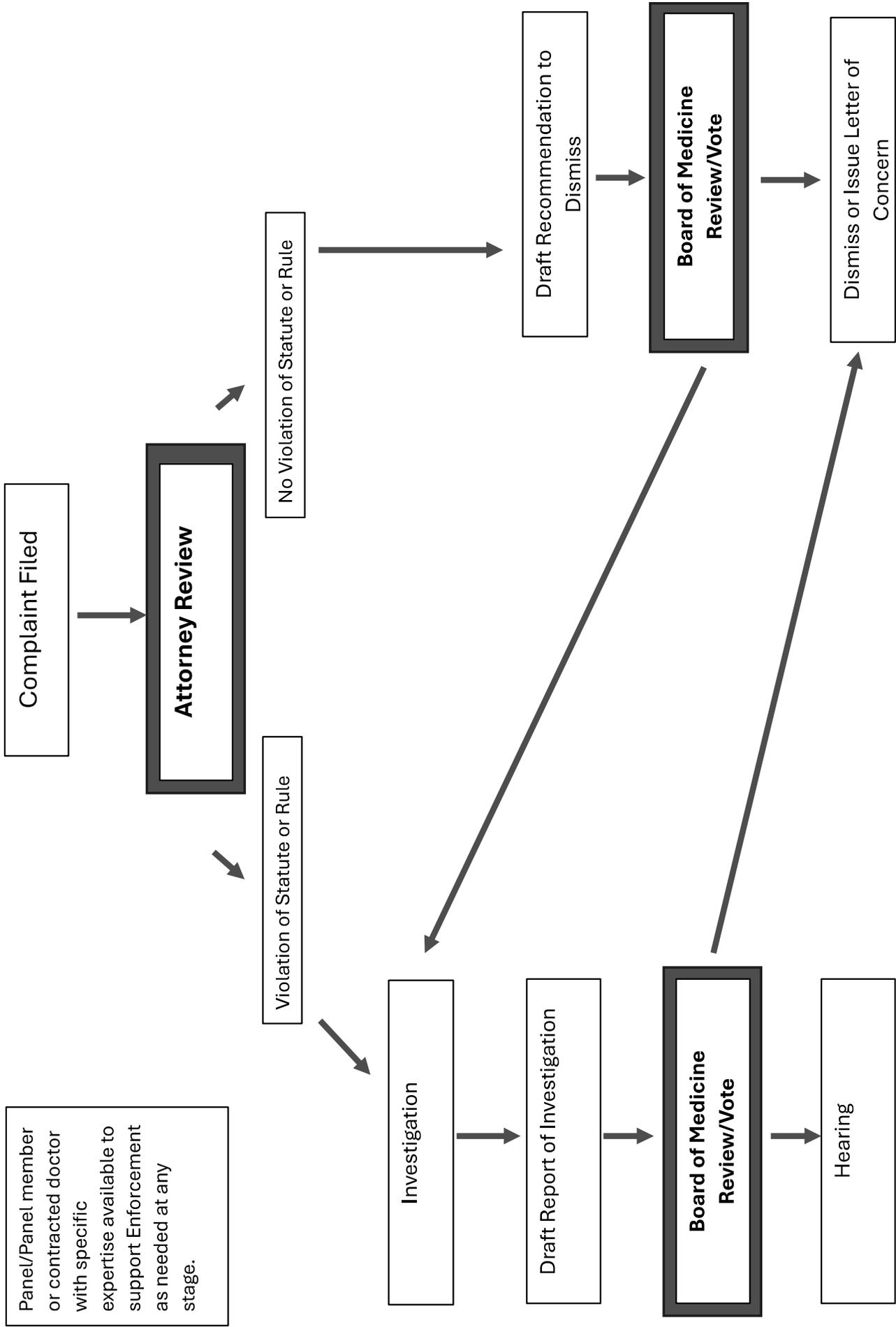




# Emergency Suspension Process



# Board of Medicine Enforcement Process



# APPENDIX C



CONSENT

**Readopt with amendment Med 101 effective 4/11/00 (Document #7230, to read as follows:**

PART Med 101 PURPOSE AND SCOPE

Med 101.01 Purpose and Scope.

(a) The rules of this title implement the statutory responsibilities of the New Hampshire board of medicine under the following chapters:

(1) RSA 329, [P]physicians and [S]surgeons; and

(2) RSA 328-D, [P]physician [A]assistants.

(b) The board's statutory responsibilities include, but are not limited to:

(1) The examination and licensing of all practitioners listed in (a) above;

(2) The development of ethical and other professional standards to be followed by licensees under those chapters;

(3) Hearing allegations of misconduct and imposing disciplinary sanctions on licensees [~~when appropriate~~]; and

(4) The development of continuing professional education requirements and other requirements for demonstrating professional competence.

**Repeal Med 102.01, effective 7/31/17 (Document #6554) and renumber Med 102.02 as Med 102.01, as follows:**

~~[Med 102.01 "Administrator" means the person designated by the board under RSA 329:2 IV to represent their interests and to direct the staff and operations of the board in an efficient manner.]~~

**Adopt Med 102.02 to read as follows:**

Med 102.02 "Clinician licensee panel" means a panel of licensed clinicians [tø] that assists the office of professional licensure and certification (OPLC) in carrying out its investigative obligations under RSA 310:9.

**Readopt with amendment Med 102.03, effective 7/31/97 (Document #6554), to read as follows:**

Med 102.03 "Licensee" means any person holding a valid license or certification issued by OPLC in accordance with the rules of the board.

**Repeal Med 102.07, effective 7/31/97 (Document #6554), as follows:**

~~[Med 102.07 "Tentative decision" means a board action which instructs the board's staff or a board committee to prepare a draft document which satisfies generally stated policy objectives, subject to subsequent review and approval by the board.]~~

**Repeal Med 102.08, effective 10/1/23 (Document #13712), as follows:**

~~[Med 102.08 "Medical Review Subcommittee (MRSC)" means the medical review subcommittee of the board as described in RSA 329:17, V-a.]~~

**Readopt Med 103.02, effective 5/9/12 (Document #10125-A), to read as follows:**

Med 103.02 Officers.

- (a) In December of each year, the board shall elect one member to serve as president and one member to serve as vice president.
- (b) The president shall chair the board's meetings and establish the order of its business.
- (c) The vice-president shall assume the duties of the president in their absence.
- (d) If neither the president or vice-president are in attendance at a meeting another board member shall be appointed to serve as acting president.

**Repeal Med 103.03, effective 5/9/12 (Document #10125-A), as follows:**

~~[Med 103.03 Staff. The board shall employ an executive director, an administrator and such other staff as is necessary to conduct the board's day-to-day operations and to fulfill its statutory duties.]~~

**Readopt with amendment Med 104, effective 10/1/23 (Document #13712), to read as follows:**

PART Med 104 PUBLIC INFORMATION

Med 104.01 Access to Public Records.

- (a) Requests for information and access to public records shall be available as described in Plc 103.
- (b) Minutes of all board and committee meetings shall be taken and shall be available for inspection during the OPLC's regular business hours within 144 hours of the date of the meeting or vote in questions, unless the 72-hour availability requirements of RSA 91-A:3, III is applicable.
- (c) Board records which contain both public and confidential information shall be provided with the confidential information deleted.
- (d) Final orders in disciplinary matters shall be retained indefinitely by the OPLC.

**Repeal Med 105.03, effective 10/1/2023 (Document #13712), as follows:**

~~[Med 105.03 Board Decisions.~~

~~— (a) Draft decisions shall not be binding upon the board. Changes in the form or the substance of a draft decision shall be made as often as necessary to produce a final document which satisfactorily sets forth the final result the board intends to reach.~~

~~— (b) A majority of the board shall take action when an emergency meeting is required by an imminent peril to the public health or safety or when the physical presence of a quorum is not reasonably practical for immediate board action pursuant to RSA 329:7, III, by telephone poll or written ballot provided that such action is ratified at a subsequent meeting of the board. The minutes and the procedures for emergency meetings shall comply with RSA 91-A:2.~~

~~— (c) The board's final decision shall be issued only after the necessary majority has voted on the final document.~~

~~— (d) A board member who was absent from the meeting at which a draft decision was reached shall be eligible to vote on the final decision prepared in accordance with the board's direction if the member is not otherwise recused from the matter in question.]~~

**Adopt Med 107 to read as follows:**

PART Med 107 CLINICIAN LICENSEE PANEL

Med 107.01 Clinician Licensee Panel Requirements.

(a) A panel of clinician licensees shall be established to work in conjunction with the OPLC in carrying out its investigation obligations under RSA 310:**9**.

(b) The panel shall consist of a minimum of 3 members, appointed by the executive director of the OPLC, that meet the following criteria:

- (1) Hold an active New Hampshire license;
- (2) Have no disciplinary actions taken against their license in any state or jurisdiction;
- (3) Have no pending disciplinary actions on their license in any state or jurisdiction;
- (4) Hold an active board certification issued by the American Board of Medical Specialties (ABMS) or American Osteopathic Association (AOA);
- (5) Have practiced as a physician, physician assistant, or surgeon for at least 5 years post residency; and

~~[(c)](c)~~ Preferential consideration shall be given to those interested in being appointed to the panel who have prior peer review experience.

~~[(d)](d)~~ The panel shall meet once a month or as necessary to meet their statutory obligations under RSA 329:9, XVII.

**Repeal Med 408.01 and Med 408.02, effective 1/10/20 (Document #12972), and renumber Med 408.03 as Med 408.01, as follows:**

~~[PART Med 408 – DISCIPLINARY MATTERS~~

~~— Med 408.01 – Initiation of Action.~~

~~— (a) The board shall instruct the MRSC to investigate possible misconduct in accordance with RSA 329:17, II, III, III a, III b(a), IV, and V, RSA 151:6 b, and in response to written complaints.~~

~~— (b) Except as required by Med 408.01(a), the MRSC shall undertake misconduct investigations, and recommend the settlement of misconduct investigations and the assessment of administrative fines as a matter of prosecutorial discretion, based upon its assessment of the allegations and the nature of the evidence. The board shall review any and all recommendations made by the MRSC and commence disciplinary actions on its own motion.~~

~~— Med 408.02 – Action on Complaints.~~

~~— (a) Upon receipt of a written complaint, the MRSC shall investigate the allegations contained therein pursuant to the procedures outlined in Med 205.02 and Med 205.03.~~

~~— (b) The board shall take final action on complaints in the manner provided by Med 205.02 and Med 205.03.]~~

**APPENDIX I**

<b>RULE</b>	<b>STATUTE</b>
Med 101.01	RSA 329:2; RSA 329:9; RSA 541-A:16, I(a)
Med 102.01 (repealed)	RSA 541-A:16, I(a)
Med 102.02	RSA 541-A:16, I(a); RSA 329:9
Med 102.03	RSA 329:9; RSA 541-A:16, I(a)
Med 102.04 - Med 102.06	RSA 541-A:16, I(a)
Med 102.07 (repealed)	RSA 541-A:16, I(a)
Med 102.08 (repealed)	RSA 329:17, V-a; RSA 541-A:16, I(a)
Med 103.02	RSA 329:2; RSA 329:3; RSA 329:7
Med 103.03	RSA 329:2, IV
Med 104	RSA 329:8; RSA 541-A:16, I(a)
Med 105.03 (repealed)	RSA 541-A:16, I(a)
Med 107	RSA 329:9, XVII
Med 408 (repealed)	RSA 329:9, XV, XVII; RSA 329:17