



STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
OFFICE OF THE EXECUTIVE DIRECTOR

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Lindsey B. Courtney, J.D.
Executive Director

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Director

STANDING ORDER 2023-1

The Executive Director's Standing Orders in Licensing, Disciplinary, and non-Disciplinary Proceedings issued pursuant to RSA 310:10, effective July 1, 2023.

Recitals and Purpose

WHEREAS the legislature has passed, and the governor has signed New Hampshire HB 655 (2023), establishing RSA chapter "310, Office of Professional Licensure and Certification" ("Office"); and

WHEREAS this legislation applies, in part, to "Boards" as defined at RSA 310:2, II;¹ and

WHEREAS this legislation requires the Office to: 1) adopt procedural rules for all licensing, disciplinary, and non-disciplinary proceedings before the Boards;² 2) employ sufficient, qualified administrative prosecutors to serve as hearing counsel in all disciplinary matters before the boards;³ and 3) employ sufficient, qualified personnel to

¹ (a) Advisory board of body art practitioners under RSA 314-A; (b) Advisory board of court reporters under RSA 310-A:163; (c) Advisory board of massage therapists under RSA 328-B; (d) Advisory board of medical imaging and radiation therapy under RSA 328-J; (e) Advisory board of recreational therapists established under RSA 326-J; (f) Advisory board of respiratory care practitioners established under RSA 326-E; (g) Advisory board of reflexology, structural integration, and Asian bodywork therapy under RSA 328-H; (h) Board of accountancy under RSA 309-B; (i) Board of acupuncture licensing under RSA 328-G; (j) Board of architects under RSA 310-A:29; (k) Board of barbering, cosmetology, and esthetics under RSA 313-A; (l) Board of chiropractic examiners under RSA 316-A; (m) Board of dental examiners under RSA 317-A.; (n) Board of directors, office of licensed allied health professionals under RSA 328-F; (o) Board of examiners of nursing home administrators under RSA 151-A; (p) Board of family mediator certification under RSA 328-C; (q) Board of home inspectors under RSA 310-A:186; (r) Board of land surveyors under RSA 310-A:55; (s) Board of landscape architects under RSA 310-A:142; (t) Board of licensed dietitians under RSA 326-H; (u) Board of licensing for alcohol and other drug use professionals under RSA 330-C; (v) Board of licensing for foresters under RSA 310-A:100; (w) Board of manufactured housing under RSA 205-A:25; (x) Board of medicine under RSA 329; (y) Board of mental health practice under RSA 330-A; (z) Board of natural scientists under RSA 310-A:81; (aa) Board of nursing under RSA 326-B; (bb) Board of pharmacy under RSA 318; (cc) Board of podiatry under RSA 315; (dd) Board of psychologists under RSA 329-B:3; (ee) Board of professional engineers under RSA 310-A:3; (ff) Board of professional geologists under RSA 310-A:120; (gg) Board of psychologists under RSA 329-B; (hh) Board of registration of funeral directors and embalmers under RSA 325; (ii) Board of registration in optometry under RSA 327; (jj) Board of registration of medical technicians under RSA 328-I; (kk) Board of septic system evaluators under RSA 310-A:206; (ll) Board of veterinary medicine under RSA 332-B; (mm) Electricians' board under RSA 319-C; (nn) Electrology advisory committee under RSA 314; (oo) Genetic counselors governing board established under RSA 328-F and RSA 326-K; (pp) Governing board of athletic trainers established under RSA 328-F and RSA 326-G; (qq) Guardians ad litem board under RSA 490-C; (rr) Installation standards board under RSA 205-D; (ss) Mechanical licensing board under RSA 153:27-a; (tt) Midwifery council under RSA 326-D; (uu) Naturopathic board of examiners under RSA 328-E; (vv) Occupational therapy governing board established under RSA 326-F; and RSA 326-C; (ww) Physical therapy governing board established under RSA 328-F and 328-A; (xx) Real estate appraiser board under RSA 310-B; (yy) Real estate commission under RSA 331-A; (zz) Registration of ophthalmic dispensers under RSA 327-A; (aaa) Speech-language pathology and hearing care provider governing board established under RSA 328-F and 326-F; (bbb) Assessing standards board under RSA 310-C.

RSA 310:2, II.

² RSA 310:11, I and RSA 310:10, II.

³ RSA 310:10, III.

serve as presiding officer in all disciplinary or non-disciplinary remedial proceedings before the Boards;⁴ and

WHEREAS this legislation applies to licensing, disciplinary, and non-disciplinary proceedings already pending before the Boards;⁵ and

WHEREAS the Office has adopted the OPLC Chapter Plc 200 “Practice and Procedure,” effective August 4, 2022; and

WHEREAS the Office has employed attorneys admitted to practice law in the State of New Hampshire to serve as administrative prosecutors/hearing counsel in all disciplinary and non-disciplinary proceedings; and

WHEREAS the Office has also contracted with the New Hampshire Department of Justice, Consumer Protection and Antitrust Bureau (“CPAB”) for assistance in certain prosecutions from attorneys admitted to practice law in the State of New Hampshire; and

WHEREAS the Office has employed attorneys admitted to practice law in the State of New Hampshire to serve as counsel to all boards, councils, and commissions within the Office; and

WHEREAS the Office has employed attorneys admitted to practice law in the State of New Hampshire to serve as presiding officer in all licensing, disciplinary, and non-disciplinary proceedings; and

WHEREAS all such attorneys are qualified by reason of education, competence, and relevant experience;

NOW THEREFORE the Executive Director issues the following Standing Order with respect to the enactment of RSA 310:11 and RSA 310:10, II, III, and IV:

ORDER

1. Effective July 1, 2023, and applied retrospectively, the Boards shall conduct licensing, disciplinary, and non-disciplinary remedial proceedings in accordance with Chapter Plc 200 “Practice and Procedure,” effective August 4, 2022, and as may be amended and/or revised from time to time thereafter; and
2. Effective July 1, 2023, and applied retrospectively, the Chief Administrative Prosecutor within the Office’s Division of Enforcement shall assign New Hampshire licensed attorneys employed within the Division to serve as Hearings Counsel in all administrative law cases requiring prosecution. The Chief Administrative Officer shall refer cases alleging unlicensed conduct to the CPAB for consideration of criminal charges. If the CPAB declines to pursue criminal charges, the Chief Administrative

⁴ RSA 310:10, IV.

⁵ *In re M.M.*, 174 N.H. 281, 289 (2021) (internal citations and quotations omitted).

Officer shall assign a New Hampshire licensed attorney within the Division to pursue administrative action in such matters.

3. Effective July 1, 2023, and applied retrospectively, New Hampshire licensed attorneys employed by the Office as Hearings Examiners shall, in the first instance, serve as Presiding Officer in all disciplinary and non-disciplinary proceedings before the Boards. As necessary, the Executive Director may designate other New Hampshire licensed attorneys employed by the Office to serve as Presiding Officer in disciplinary and non-disciplinary proceedings before the Boards.
4. Effective July 1, 2023, and applied retrospectively, any policy autonomous Board may appoint the Office's designated Hearings Examiners to serve as Presiding Officer in all licensing proceedings before them.
5. Effective July 1, 2023, and applied retrospectively, the Office's designated Hearings Examiners shall serve as Presiding Officer in all licensing proceedings conducted under the regulatory authority of the Office and its advisory boards.⁶

So ordered this 29th day of July 2023.



Lindsey B. Courtney, Executive Director
New Hampshire Office Of Professional Licensure and Certification

⁶ Advisory board of body art practitioners under RSA 314-A; advisory board of court reporters under RSA 310-A:163; advisory board of massage therapists under RSA 328-B; advisory board of medical imaging and radiation therapy under RSA 328-J; advisory board of recreational therapists established under RSA 326-J; advisory board of respiratory care practitioners established under RSA 326-E; advisory board of reflexology, structural integration, and asian bodywork therapy under RSA 328-H; Electrology advisory committee under RSA 314; and, assessing standards board under RSA 310-C.