

Readopt with amendments Plc 100, eff. 10-26-23 (doc. #13797), to read as follows:

CHAPTER Plc 100 ORGANIZATIONAL RULES

PART Plc 101 PURPOSE AND APPLICABILITY

Plc 101.01 Purpose. The purpose of this chapter is to:

(a) Adopt the rules required by RSA 541-A:16, I(a), namely a description of the office of professional licensure and certification (OPLC) and the methods by which the public may obtain information from, or make submissions or requests to, the OPLC; and

(b) Establish definitions of terms that apply: *throughout the Plc rules*.

~~(1) In Plc 100; and~~

~~(2) In more than one chapter of title Plc.~~

Plc 101.02 Applicability. These rules shall apply to all persons who interact with the OPLC.

PART Plc 102 DEFINITIONS

Plc 102.01 “Advisory board” means a board for a profession for which the practice act confers regulatory authority on the executive director in consultation with a board.

Plc 102.02 “Applicable board” means the board that regulates the profession for which any application related to licensure is made, or in which an inspection, investigation, disciplinary proceeding, or non-disciplinary remedial proceeding is initiated, provided that for those professions for which the applicable board is advisory, the term means the executive director in consultation with the advisory board, and for any profession for which no board exists, the term means the executive director.

Plc 102.03 “Applicable law” means the state and federal statute(s), rules, standing orders, and case law, if any, that apply to regulate a profession in New Hampshire.

Plc 102.04 “Board” means “board” as defined in RSA 310:2, I(a), reprinted in Appendix B. The term includes the executive director for any board that is advisory and for any profession for which the practice act does not establish a board *or otherwise confers authority on the executive director*.

Plc 102.05 “Contact information” means:

(a) For an individual, the individual’s designated email address, home or other personal telephone number, home physical address, and home mailing address if not the same as the physical address; and

(b) For a legal entity, the legal entity’s designated email address, telephone number, physical address, and mailing address if not the same as the physical address.

Plc 102.06 “Cooperate” means to provide the OPLC with any information requested during an inspection or investigation and to answer any questions posed *that relate to a licensee’s practices in the profession* in order to enable the OPLC to determine compliance with applicable law.

Plc 102.07 “Continuing competence” means the requirements established in applicable law for activities or education, or both, that are intended to strengthen a licensee’s knowledge and skills in the regulated profession. The term includes “continuing education”, “continuing professional education”, and any other terms used in applicable law to mean the same thing.

Plc 102.08 “Criminal records check” means the process undertaken by the NH department of safety (NHDOS) that requires live scanned prints to be taken digitally and submitted electronically to the NH criminal records unit and the FBI. The term includes a “criminal history record” and “criminal history records check” but does not include an “online NH criminal conviction check”.

Plc 102.09 “Designated email address” means the email address identified by an applicant or licensee as the address for the OPLC to use when sending notifications and licenses.

Plc 102.10 “Executive director” means the executive director of the OPLC or designee.

Plc 102.11 “Expire” as applied to a license means ~~the expiration date identified in applicable law has passed and either no application for renewal was filed, or an incomplete application for renewal was filed but was not completed by the expiration date of the license~~ ***“expire” as defined in RSA 310:2, I(b), reprinted in Appendix B.***

Plc 102.12 ~~“In g~~***Good standing***” means ~~a license is not temporary and is not encumbered by any conditions, limitations, or restrictions, and has is not been currently suspended, revoked, or surrendered~~ ***“good standing” as defined in RSA 310:2, I(d), reprinted in Appendix B.***

Plc 102.14***13*** “Inspection” means an examination of the conditions and records at a regulated place of business to determine compliance with applicable law, that is not undertaken to investigate a complaint or other information received by the OPLC suggesting that conditions do not meet requirements. The term includes “routine inspection”.

Plc 102.14***14*** “Inspection assignment coordinator (IAC)” means any individual designated by the executive director to assign inspectors to conduct inspections.

Plc 102.15 “Inspector” means an individual designated by the executive director via the IAC to conduct an inspection.

Plc 102.16 “Investigation” means “investigation” as defined in RSA 310:2, I(~~b~~***c***), reprinted in Appendix B.

Plc 102.17 “Investigator” means an individual authorized by the executive director via the director of the division of enforcement to conduct an investigation into allegations of potential violations by a licensee of applicable law.

Plc 102.18 “Lapse” means “lapse” as defined in RSA 310:2, I(~~e~~***e***), reprinted in Appendix B.

Plc 102.19 “License” means “license” as defined in RSA 310:2, I(~~d~~***f***), reprinted in Appendix B. The term includes initial, renewal, conditional, and temporary licenses issued to practitioners or apprentices, and any similar form of approval required to practice a regulated profession in any jurisdiction.

Plc 102.20 “Licensee” means a person who holds a permit, license, certification, registration, or other form of approval required by law to engage in a profession regulated by a board . The term includes the authorized representative of a licensee that is an entity and any other term, such as “permit holder”, used in an applicable board’s rules to mean the same thing.

Plc 102.21 “Licensing bureau” means the organizational unit within the OPLC’s division of licensing and board administration that is responsible for, among other duties, accepting and processing applications and issuing licenses on behalf of the executive director and the boards.

Plc 102.22 “Live programming” means educational programming presented by an instructor or by a panel of instructors that is available to attendees at the time it is being originally presented. The term includes a program attended remotely using a computer or other audio-visual telecommunications equipment, provided the attendee has an opportunity during the program to ask questions about the material presented that are answered by the instructor(s).

Plc 102.23 “Military spouse” means an individual who is legally married to an individual who is on active military duty.

Plc 102.24 “Office of the executive director” means the legal authority conferred by law on the executive director as implemented by OPLC staff who are not assigned to the division of licensing and board administration or the division of enforcement.

Plc 102.25 “Office or other place of business” means:

(a) The primary location where a licensee practices or otherwise engages in the occupation or profession; or

(b) For those occupations and professions for which the licensee goes to the client’s premises or otherwise has a mobile operation, the location that serves as a licensee’s base of operations.

Plc 102.26 “On active military duty” means on active duty in the U.S. armed forces. The term includes “active military”.

Plc 102.27 “Online NH criminal conviction check” means a review of New Hampshire criminal conviction records that does not require fingerprinting.

Plc 102.28 “Person” means an individual or a legal entity such as a corporation or professional association, whether operating as a for-profit or non-profit organization.

Plc 102.29 “Plan of correction” means a written representation of a revised policy or practice that reflects how a licensee will correct one or more violations of applicable law to come into compliance with applicable law.

Plc 102.30 “Policy-autonomous board” means a board for a profession for which the practice act confers the authority to establish substantive requirements, such as requirements for licensure, directly on the board.

Plc 102.31 “Practice act” means the statute(s) that confers authority on the executive director or a board to regulate a specific profession.

Plc 102.32 “Reinstatement” means: ***“reinstatement” as defined in RSA 310:2, I(h), reprinted in Appendix B.***

~~(a) The issuance of a license to a person whose license has been expired for not more than one year; or
(b) The reactivation, prior to expiration or not more than one year after expiration, of a license that was suspended.~~

Plc 102.33 “Regulated profession” means an occupation or profession for which a license is required to be obtained from the OPLC based on criteria established in applicable law, including rules adopted by the applicable board, prior to engaging in the occupation or profession in New Hampshire.

Plc 102.34 “Renewal” means “renewal” as defined in RSA 310:2, I(i), reprinted in Appendix B.

Plc 102.3435 “Self-directed study program” means a program that is presented via audio, video, or computer programming at a time chosen by the licensee, which requires successful completion of an examination to obtain proof of completing the self-study program.

Plc 102.3536 “Telephone number” means a 10-digit number that is assigned to a particular telephone and used in making connections to it.

Plc 102.3637 “Violation” means any action, failure to act, or other set of circumstances that causes noncompliance with applicable law.

Plc 102.3738 “Working day” means any Monday through Friday, excluding days on which state offices are closed in observance of ***state*** holidays.

PART Plc 103 DESCRIPTION OF OFFICE

Plc 103.01 Office of Professional Licensure and Certification - Purpose. The OPLC's purpose is to safeguard the public health, safety, welfare, environment, and the public trust of the citizens of the State of New Hampshire by promoting efficiency and economy in the administration of the business processing, recordkeeping, and other administrative and clerical operations of the boards identified in RSA 310:2, II.

Plc 103.02 Authority of the Executive Director.

(a) RSA 310:4, I, authorizes the executive director to:

- (1) Employ such clerical or other assistants as are necessary for the proper performance of the office's work;
- (2) Make expenditures for any purpose that the executive director determines are reasonably necessary for the proper performance of the OPLC's duties under RSA 310; and
- (3) Contract for the services of investigators, presiding officers, legal counsel, and industry experts as necessary and in consultation with the appropriate board.

(b) RSA 310:4, II authorizes the executive director to, among other duties:

- (1) Examine applicants, process applications, and issue or deny licenses for all license types, based on objective standards developed by the boards and adopted as rules in accordance with RSA 541-A;
- (2) Investigate all complaints of professional misconduct in accordance with RSA 310:9; and
- (3) Draft and coordinate rulemaking for all boards in accordance with RSA 541-A, with the advice and recommendations of the boards.

(c) RSA 310:5, ***I*** authorizes the executive director to establish and collect all license, renewal, and reinstatement fees, as well as any necessary administrative fees for each license type and professional regulatory board administered by the OPLC. ***This authority is subject to RSA 310:6, I relative to consulting with the boards when setting fees.***

(d) RSA 310:6 authorizes the executive director to adopt rules pursuant to RSA 541-A for:

- (1) All fees set forth in RSA 310:5, with the advice and recommendations of the respective board;
- (2) Such organizational and procedural rules necessary to administer the boards, including rules governing the administration of complaints and investigations, hearings, disciplinary and non-disciplinary proceedings, inspections, payment processing procedures, and application procedures;
- (3) The rate of per diem compensation and reimbursable expenses for all boards;
- (4) Rules governing the professionals' health program as set forth in RSA 310:5; and
- (5) Temporary licensure of out-of-state health care professionals who present evidence of an active license in good standing from another jurisdiction.

(e) Various other statutes authorize the executive director to regulate a profession without a board, including:

- (1) ***RSA 310-A:222 relative to douglas and lactation support providers;***

- (2) RSA 326-M relative to nurse agencies;
- (3) *RSA 326-N relative to community health workers;*
- (24) RSA 327-A relative to ophthalmic dispensers; and
- (35) RSA 598-A relative to professional bondsmen.

Plc 103.03 Office Hours, Office Location, and Contact Information.

- (a) The OPLC's offices are located at 7 Eagle Square, Concord, New Hampshire.
- (b) The OPLC's normal business hours, during which it is open to the public, are 8:00 a.m. to 4:00 p.m. on weekdays, excluding days on which state offices are closed in observance of *state* holidays.
- (c) Correspondence that is not directed to a specific board shall be addressed to the OPLC at:
 - New Hampshire Office of Professional Licensure and Certification
 - 7 Eagle Square
 - Concord, NH 03301-4980.
- (d) Correspondence to a specific board shall be addressed to that board in care of the OPLC at the address listed in (c), above.
- (e) The OPLC's main telephone number is (603) 271-2152.
- (f) The OPLC's TDD access number is relay NH 1-800-735-2964.
- (g) The OPLC's website URL is www.oplc.nh.gov.
- (h) General inquiries may be directed to CustomerSupport@oplc.nh.gov.

Plc 103.04 OPLC Organizational Structure. The OPLC comprises:

- (a) The office of the executive director, described in Plc 103.05;
- (b) The division of licensing and board administration, described in Plc 103.06; and
- (c) The division of enforcement, described in Plc 103.07.

Plc 103.05 Office of the Executive Director. The office of the executive director is responsible for implementing the authority conferred on the executive director by RSA 310 that has not been delegated to the division of licensing and board administration or the division of enforcement, including but not limited to:

- (a) Human resource functions;
- (b) All business administration and accounting functions, including but not limited to:
 - (1) Supervision of the purchase of all equipment, materials, supplies, and services;
 - (2) Management of the agency's fleet vehicles; and
 - (3) Maintenance of the OPLC's equipment and consumable inventory;
- (c) Establishing a retention policy for the retention and disposal of records of the OPLC and the boards;
- (d) Adopting, maintaining, and implementing the rules authorized by RSA 310:6 and by the statutes that apply to specific professions for which a policy-autonomous board is not established; *and*

(e) Managing and conducting hearings if a board cannot meet quorum as provided in RSA 310:10, XV and RSA 310:11, VIII.

Plc 103.06 Division of Licensing and Board Administration.

(a) The division of licensing and board administration supports the licensing and administrative functions of the OPLC and the boards, including but not limited to:

- (1) Processing applications for licensure;
- (2) Issuing licenses to qualified applicants and referring applicants whose applications cannot be approved to the relevant board;
- (3) Notifying licensees of the pending expiration of their licenses as required by RSA 310:8, IV;
- (4) Coordinating routine inspections of places where regulated professions are practiced to determine compliance with the standards established by the boards, whether in connection with an application for licensure or on an on-going basis;
- (5) Coordinating inspections of mechanical and electrical installations in locations where the local authority has requested assistance;
- (6) Supporting the meetings held by each board, including ensuring that the notice required by RSA 91-A is given;
- (7) Supporting adjudicative proceedings initiated in accordance with Plc 200; and
- (8) Maintaining the records of each board as required by RSA 91-A.

(b) Policy-autonomous boards are separate and distinct for the purpose of regulating various professions and protecting the public health, safety, welfare, environment, and the public trust.

Plc 103.07 Division of Enforcement. The division of enforcement supports the compliance, investigative, and disciplinary functions of the OPLC and the boards, including but not limited to:

- (a) Reviewing allegations of misconduct to determine whether the allegation is viable and recommending the board dismiss the allegation if it is not viable, in accordance with RSA 310:9, II;
- (b) Investigating viable allegations of misconduct, whether on its own initiative or upon receiving a written complaint, in accordance with RSA 310:9, III; and
- (c) Supporting the prosecution of adjudicative proceedings initiated in accordance with Plc 200.

PART Plc 104 REQUESTS FOR INFORMATION AND ACCESS TO RECORDS

Plc 104.01 Requests for Information or Access to Records.

(a) Requests for access to governmental records pursuant to RSA 91-A:4 shall be made directly to the executive director by sending a request with the information specified in Plc ~~403~~**104.02** either:

- (1) Electronically, to righttoknow@oplcnh.gov; or
- (2) By mail or other delivery to the address specified in Plc ~~402~~**103.03(c)**.

(b) Requests for access to other records shall be addressed to the executive director or directly to the division that is responsible for the records being requested.

Plc 104.02 Contents of Requests for Access to Records. The request for access to governmental records shall contain as much information as the requestor can provide to reasonably describe the records, including but not limited to:

- (a) The type of record(s) sought, such as meeting minutes, orders, or reports;
- (b) The date or date range the records were created, such as “April 2021” or “from January 1, 2019 through December 31, 2022”;
- (c) The board, specific profession, or topic to which the records relate, for example “the Funeral Board”, “midwives”, or “reports filed with the Legislature or Governor’s Office”; and
- (d) If records of a specific licensee are sought, as much information as the requestor has to identify the licensee, including name, location of practice, and license number.

APPENDIX A: STATE STATUTES IMPLEMENTED

Rule	State Statute(s) Implemented
Plc 101	RSA 310:1
Plc 102	RSA 310:2
Plc 103	RSA 310:4, I & II, RSA 310:5, RSA 310:6; RSA 541-A:16, I(a)
Plc 104	RSA 91-A:4; RSA 541-A:16, I(a)

Appendix B: Statutory Definitions

310:2 Definitions; Establishment. –

I. In this chapter, and as appropriate when used in any chapter listed in paragraph II:

- (a) “Board” shall mean a board, council, commission, committee, or other regulatory body with jurisdiction over professions listed in paragraph II.
- (b) “Expire” shall mean a license has not been renewed within the term of the license from the date of issuance in accordance with RSA 310:8. An individual with an expired license may not practice until their license has been reinstated, or they have applied for and received a new license to practice.
- (c) “Investigation” shall mean investigation of allegations and complaints of misconduct in accordance with RSA 310:9.
- (d) “Good standing” as applied to licensure shall mean a license that is active and has not been suspended, revoked, surrendered, conditioned, or restricted in any way.
- (e) “Lapse” when referring to licenses shall mean a license that has been expired for one or more years. A licensee may no longer reinstate a lapsed license and must apply for a new license.
- (f) “License” shall have the same meaning as license under RSA 541-A:1, VIII, and include licenses, certifications, or registrations required to practice a regulated profession, and shall include apprentice registrations, or those licensed pursuant to RSA 332-G:14.
- (g) “Office” or “OPLC” shall mean the office of professional licensure and certification.
- (h) “Reinstate” means reactivation of a license for an individual whose license has expired, and has not yet lapsed, or the reactivation of a license to an individual who was unable to practice because of license revocation.
- (i) “Renewal” shall mean the continuation of an existing license in accordance with RSA 310:8.