



STATE OF NEW HAMPSHIRE

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION

*OFFICE OF THE EXECUTIVE DIRECTOR*

7 EAGLE SQUARE, CONCORD, NH 03301-4980

Telephone: 603-271-2152

TDD Access: Relay NH 1-800-735-2964

www.oplc.nh.gov

Deanna E. Jurius  
Executive Director

Heather A. Kelley  
Director

**FP 2024-157, Plc 201-202 Clarifications, Incorporation of Definitions, and  
Removal of Duplicate Definitions in Practice And Procedure Rules  
Summary of Comments on Initial Proposal with OPLC Responses  
October 30, 2024**

Background

In a separate rulemaking, the Executive Director of the Office of Professional Licensure and Certification (OPLC) is proposing to readopt Plc 100, Organizational Rules, with amendments, in part to consolidate definitions into Plc 102 that are used throughout title Plc.

In this rulemaking, the Executive Director is proposing to (1) readopt Plc 201, Purpose and Applicability, with amendments to clarify the applicability of Plc 200, Practice and Procedure, and add a new Plc 201.03 to incorporate Plc 102; and (2) readopt Plc 202, Definitions, with amendments as Plc 202, Chapter-Specific Definitions, to (a) remove the definitions that are being consolidated in Plc 102; (b) amend the definition of “complainant”; and (c) adopt the definition of “oral adjudicative hearing” that was inadvertently deleted in a prior rulemaking.

One individual attended the public hearing held on September 24, 2024, but did not provide comments on Plc 200. Written comments were received from the Office of Legislative Services, Administrative rules. The comments received and the OPLC’s responses follow the list of revisions the OPLC made on its own initiative.

The OPLC made the following revisions on its own initiative:

Plc 201.02: in (a), deleted the repeated “by the” in the second line; in (b), clarified that there are different levels of regulation that result in a profession being subject to Plc 200.

Plc 201.03 (incorporated definitions): replaced incorporation of Plc 102 with a broader incorporation of the definitions of all terms relative to procedures, applications, inspections, and fees that are defined in Plc 100, Plc 300, Plc 400, or Plc 1000.

Plc 202.22 (definition of “presiding officer”): revised to reflect that presiding officers for adjudicative proceedings are designated by the Executive Director per Laws of 2024, 364:4, eff. October 22, 2024.

OLS Comments

**Plc 201.03 re: incorporated definitions**

Comment: “**Question for agency**: Any definition in an agency's organizational rules (the 100s) automatically apply to the entire title of rules. Is there a specific reason the OPLC is including this in their rules? If not, can just delete.” (Bold in original.)

Response: The language is intended to assist users of the rule who may not be aware of the “automatic” applicability of the definitions in Plc 102. Also, as noted above, the language has been revised to include terms defined in Plc 100, Plc 300, Plc 400, and Plc 1000.

**Plc 202.03 re: definition of “complainant”**

Comment: “**Edit**: Consider, “means, for the purpose of providing the opportunity for comment required by RSA 310:10, VIII(a), the individual...” ” (Bold in original.)

Response: Moving “means” to precede the modifying phrase has been considered, but doing so separates “means” from *what* it means by a lengthy phrase, so the word has not been moved. However, commas have been inserted around the descriptive (limiting) phrase.

#### **Plc 202.06 re: definition of “disciplinary proceeding”**

Comment: “**Edit:** Consider, “renew a license, or impose any other sanction(s) based on alleged misconduct.” Just makes it clearer that other sanctions is also based on alleged misconduct.” (Bold in original.)

Response: Sanctions can only be imposed in response to misconduct. However, a license can be suspended, refused renewal, or revoked based on the failure to meet the substantive requirements to qualify or based on misconduct. The phrase “based on alleged misconduct” is specifically intended to apply to license actions, so has not been moved.

#### **Plc 202.10 re: definition of “file electronically”**

Comment: “**Question for the agency:** OLS was under the impression that this was now available. Is that an incorrect assumption? If it electronic filing system is available, then can delete this language and rewrite the definition to delete paragraph (b), like so: “Plc 202.10 “File electronically” means, for other than applications for license and related documents that can be filed using the on-line licensing portal, to file a document using the electronic filing system available at <https://www.oplc.nh.gov>.”” (Bold in original.)

Response: The definition has been modified to show that the electronic filing system is available for some documents, but the language re: filing using email has been retained in case the electronic system is unavailable or using it is not practicable for the person wishing to do the filing. This language (use not being practicable) mirrors the language added to Plc 304.01(a) at the request of the JLCAR when those rules were being adopted. In reviewing the use of this term in the rules, it was determined that only the term “filed electronically” is used so “file” has been changed to “filed” in the term being defined.

#### **Appendix A: State Statutes Implemented**

Comment: “**Unclear/Legislative Intent:** Unclear/Legislative Intent: RSA 310 is a large chapter and the appendix needs to be more specific in its citations. RSA 541-A:3-a, I requires the agency to “identify the specific section or sections of the state or federal statute... which the rule is intended to implement...”, a requirement that is reiterated in the RSA 541-A:3-a, II: “If the specific section or sections of state or federal statute or regulation required by section I are not identified in the rule itself, the agency shall file the information in a separate cross-reference table with each filing of the proposed or adopted rule other than an emergency rule.” Citing to the entire statutory chapter is not a “specific section” in any plain meaning interpretation of the statute. ” (Bold in original.)

Response: Plc 201 and Plc 202 cannot be specifically tied to a particular section of RSA 310, as they support the implementation of the statute as a whole. Nevertheless, a good faith attempt has been made to identify the most appropriate specific section(s) for each part.

**Edits:** Plc 202.09 (inserted commas)

**Edits not made:** Plc 202.09, Plc 202.10 [“means” not relocated; see explanation at Plc 202.06]