

**CHAPTER 34**  
**HB 469 – FINAL VERSION**

8Jan2014... 2374h  
30Apr2014... 1565EBA

2014 SESSION

13-0805  
10/01

HOUSE BILL            **469**

AN ACT                relative to time limits for certain regulatory boards and commissions to hold hearings on disciplinary proceedings, and establishing a statute of limitations for the initiation of disciplinary actions against an occupational licensee.

SPONSORS:            Rep. C. McGuire, Merr 29

COMMITTEE:          Executive Departments and Administration

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AMENDED ANALYSIS

This bill provides that certain occupational and professional regulatory boards shall commence a hearing on disciplinary proceedings within one year of the date of the notice of complaint. The bill also establishes a 5-year statute of limitations for the initiation of disciplinary actions against occupational licensees.

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                          Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                   relative to time limits for certain regulatory boards and commissions to hold hearings on disciplinary proceedings, and establishing a statute of limitations for the initiation of disciplinary actions against an occupational licensee.

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

1           34:1 New Sections; Regulatory Boards and Commissions; Time Limits for Hearings on  
2 Disciplinary Actions; Limitations on Actions. Amend RSA 332-G by inserting after section 7 the  
3 following new sections:

4           332-G:8 Time Limits for Hearings on Disciplinary Actions. For all disciplinary actions under  
5 this title which do not require a hearing to be held within one year of the date upon which notice of  
6 the complaint was received by the accused, the notice of a hearing on a disciplinary action pursuant  
7 to a written complaint or initiation of formal disciplinary proceedings before any board or  
8 commission under this title shall be issued by the board or commission within 2 years of the date the  
9 notice of complaint or initiation of formal disciplinary proceeding was received by the accused in the  
10 disciplinary action, unless otherwise agreed to by the parties in the disciplinary action.

11           332-G:9 Limitations on Actions.

12           I. No disciplinary proceeding against an occupational licensee shall be initiated by a  
13 regulatory board or commission unless such action is commenced within 5 years of the date upon  
14 which the alleged violation of an applicable statute or rule occurred, or within 5 years of the date  
15 upon which the violation could reasonably have been discovered.

16           II. The time limitation provided in paragraph I shall be tolled (1) during the period of time  
17 during which a criminal action on the matter is pending in a trial court of this state, or of another  
18 state, or of the United States, (2) during the time in which a complainant is a minor or incapacitated,  
19 and (3) during any time which the accused prevents discovery of the subject matter of the alleged  
20 violation.

21           III. The time limitations established in this section shall not apply to the commencement of  
22 actions initiated by the real estate appraiser board under RSA 310-B.

23           34:2 Administrative Procedures Act; Adjudicatory Proceedings; Statute of Limitations. Amend  
24 RSA 541-A:31, II to read as follows:

25           II.(a) An agency may commence an adjudicative proceeding at any time with respect to a  
26 matter within the agency's jurisdiction, ***except that no disciplinary proceeding against an***  
27 ***occupational licensee shall be initiated unless such action is commenced within 5 years of***

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1 *the date upon which the alleged violation of an applicable rule or statute occurred, or*  
2 *within 5 years of the date upon which the violation could reasonably have been discovered.*

3 *(b) The time limitation provided in subparagraph (a) shall be tolled (1) during*  
4 *the period of time during which a criminal action on the matter is pending in a trial court*  
5 *of this state, or of another state, or of the United States, (2) during the time in which a*  
6 *complainant is a minor or incapacitated, and (3) during any time which the accused*  
7 *prevents discovery of the subject matter of the alleged violation.*

8 *(c) The time limitations established in this paragraph shall not apply to the*  
9 *commencement of actions initiated by the real estate appraiser board under RSA 310-B.*

10 34:3 Architects; Hearings. Amend RSA 310-A:48, I to read as follows:

11 I. The board shall take no disciplinary action without a hearing. At least 14 days prior to  
12 hearing, both parties to a disciplinary proceeding shall be served, either personally or by certified  
13 mail, return receipt requested, with a written copy of the complaint filed and notice of the time and  
14 place for hearing. All complaints shall be objectively received and fairly heard by the board, but no  
15 complaint shall be acted upon unless in writing. A hearing shall be held on all written complaints  
16 received by the board within [~~3 months~~] **one year** of the date notice of a complaint was received by  
17 the accused, unless otherwise agreed to by the parties. Written notice of all disciplinary decisions  
18 made by the board shall be given to both parties to the proceeding upon their issuance.

19 34:4 Land Surveyors; Hearings. Amend RSA 310-A:71 to read as follows:

20 310-A:71 Hearings. The board shall take no disciplinary action without a hearing. At least 14  
21 days prior to hearing, both parties to a disciplinary proceeding shall be served, either personally or  
22 by certified mail, return receipt requested, with a written copy of the complaint filed and notice of  
23 the time and place for hearing. All complaints shall be objectively received and fairly heard by the  
24 board, but no complaint shall be acted upon unless in writing. A hearing shall be held on all written  
25 complaints received by the board within [~~3 months~~] **one year** of the date notice of a complaint was  
26 received by the accused, unless otherwise agreed to by the parties. Written notice of all disciplinary  
27 decisions made by the board shall be given to both parties to the proceeding upon their issuance.  
28 Orders of the board shall be subject to rehearing and appeal in the manner prescribed by RSA 541.

29 34:5 Natural Scientists; Hearings. Amend RSA 310-A:94 to read as follows:

30 310-A:94 Hearings. The board shall take no disciplinary action without a hearing. At least 14  
31 days prior to a hearing, all parties to a disciplinary proceeding shall be served, either personally or  
32 by certified mail, return receipt requested, with a written copy of the complaint filed and notice of  
33 the time and place for hearing. All complaints shall be objectively received and fairly heard by the  
34 board, but no complaint shall be acted upon unless in writing. A hearing shall be held on all written  
35 complaints received by the board within [~~3 months~~] **one year** of the date of notice of a complaint  
36 received by the accused, unless otherwise agreed to by the parties. Written notice of all disciplinary

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1 decisions made by the board shall be given to both parties to the proceeding upon their issuance.  
2 Orders of the board shall be subject to rehearing and appeal in the manner prescribed by RSA 541.

3 34:6 Foresters; Hearings. Amend RSA 310-A:113 to read as follows:

4 310-A:113 Hearings. The board shall take no disciplinary action without a hearing. At least 14  
5 days prior to a hearing, all parties to a disciplinary proceeding shall be served, either personally or  
6 by certified mail, return receipt requested, with a written copy of the complaint filed and notice of  
7 the time and place for hearing. All complaints shall be objectively received and fairly heard by the  
8 board, but no complaint shall be acted upon unless in writing. A hearing shall be held on all written  
9 complaints received by the board within [~~3 months~~] **one year** of the date of notice of a complaint  
10 received by the licensee, unless otherwise agreed to by the parties. Written notice of all disciplinary  
11 decisions made by the board shall be given to both parties to the proceeding upon their issuance.  
12 Orders of the board shall be subject to rehearing and appeal in the manner prescribed by RSA 541.

13 34:7 Court Reporters; Hearings. Amend RSA 310-A:175 to read as follows:

14 310-A:175 Hearings. The board shall take no disciplinary action without a hearing. At least 14  
15 days prior to the hearing, the board shall serve all parties in a disciplinary proceeding, either  
16 personally or by registered mail, with a written copy of the complaint filed and notice of the time and  
17 place for hearing. All complaints shall be objectively received and fairly heard by the board, but no  
18 complaint shall be acted upon unless in writing. A hearing shall be held on all written complaints  
19 received by the board within [~~3 months~~] **one year** of the date notice of a complaint was received by  
20 the accused, unless otherwise agreed to by the parties. Written notice of all disciplinary decisions  
21 made by the board shall be given to all parties to the proceeding upon their issuance.

22 34:8 Real Estate Appraiser; Hearings. Amend RSA 310-B:19 to read as follows:

23 310-B:19 Hearings; Investigations. The board may undertake investigations of allegations of  
24 misconduct. The form of an investigation is a matter of discretion of the board. The board shall take  
25 no disciplinary action without a hearing. At least 14 days prior to hearing, all parties to a  
26 disciplinary proceeding shall be served, either personally or by certified mail, return receipt  
27 requested, with a written copy of the complaint filed and notice of the time and place for hearing. All  
28 complaints shall be objectively received and fairly heard by the board, but no complaint shall be  
29 acted upon unless in writing. A hearing shall be held on all written complaints not dismissed by the  
30 board within [~~180 days~~] **one year** after the date notice of a complaint was received by the accused,  
31 unless otherwise agreed to by the parties. Disciplinary hearings shall be conducted within [~~180~~  
32 ~~days~~] **one year** of receipt of the complaint before at least 4 members of the board. Written notice of  
33 all disciplinary decisions made by the board shall be given to all parties to the proceeding upon their  
34 issuance. Orders of the board shall be subject to the contested case provisions of RSA 541-A.

35 34:9 Chiropractic; Hearings. Amend RSA 316-A:23 to read as follows:

36 316-A:23 Notice and Hearing Procedure. The board shall take no disciplinary action without a

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1 hearing. At least 14 days prior to hearing, both parties to a disciplinary proceeding shall be served,  
2 either personally or by certified mail, with a written copy of the complaint filed and notice of the time  
3 and place for hearing. All complaints shall be objectively received and fairly heard by the board, but  
4 no complaint shall be acted upon unless in writing. A hearing shall be held on all written complaints  
5 received by the board within [~~3 months~~] **one year** of the date notice of a complaint was received by  
6 the accused, unless otherwise agreed to by the parties. Written notice of all disciplinary decisions  
7 made by the board shall be given to both parties to the proceeding upon their issuance.

8 34:10 Electricians; Hearings. Amend RSA 319-C:12-a to read as follows:

9 319-C:12-a Hearings. The board shall take no disciplinary action, except for failure to renew a  
10 certificate, without a hearing. At least 14 days prior to hearing, both parties to a disciplinary  
11 proceeding shall be served, either personally or by registered mail, with a written copy of the  
12 complaint filed and notice of the time and place for hearing. All complaints shall be objectively  
13 received and fairly heard by the board. A hearing shall be held on all written complaints received by  
14 the board within [~~3 months~~] **one year** of the date notice of a complaint was received by the accused,  
15 unless otherwise agreed to by the parties. Written notice of all disciplinary decisions made by the  
16 board shall be given to both parties to the proceeding upon their issuance.

17 34:11 Dieticians; Hearings. Amend RSA 326-H:17, I to read as follows:

18 I. The board shall take no disciplinary action without providing an opportunity for a  
19 hearing. At least 14 days prior to hearing, both parties to a disciplinary proceeding shall be served,  
20 either personally or by registered mail, with a written copy of the complaint filed and notice of the  
21 time and place for hearing. All complaints shall be objectively received and fairly heard by the  
22 board, but no complaint shall be acted upon unless in writing. A hearing shall be held on all written  
23 complaints received by the board within [~~3 months~~] **one year** of the date notice of a complaint was  
24 received by the accused, unless otherwise agreed to by the parties. Written notice of all disciplinary  
25 decisions made by the board shall be given to both parties to the proceeding upon their issuance.

26 34:12 Interpreters for the Deaf and Hard of Hearing; Hearings. Amend RSA 326-I:15 to read as  
27 follows:

28 326-I:15 Hearings. The board shall take no disciplinary action without a hearing. At least 14  
29 days prior to hearing, both parties to a disciplinary proceeding shall be served, either personally or  
30 by registered mail, with a written copy of the complaint filed and notice of the time and place for  
31 hearing. All complaints shall be objectively received and fairly heard by the board, but no complaint  
32 shall be acted upon unless in writing or formally presented to the board. A hearing shall be held on  
33 all formal complaints received by the board within [~~3 months~~] **one year** of the date notice of a  
34 complaint was received by the accused, unless otherwise agreed to by the parties. Official notice of  
35 all disciplinary decisions made by the board shall be given to both parties to the proceeding upon  
36 their issuance.

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1           34:13 Optometrists; Hearings. Amend RSA 327:22, I to read as follows:

2           I. The board shall take no disciplinary action without a hearing. At least 14 days prior to  
3 hearing, both parties to a disciplinary proceeding shall be served, either personally or by certified  
4 mail, with a written copy of the complaint filed and notice of the time and place of hearing. All  
5 complaints shall be objectively received and fairly heard by the board, but no complaint shall be  
6 acted upon unless in writing. A hearing shall be held on all written complaints received by the  
7 board, within [~~3 months~~] **one year** of the date notice of a complaint was received by the accused,  
8 unless otherwise agreed to by the parties. Written notice of all disciplinary decisions made by the  
9 board shall be given to both parties to the proceeding upon their issuance.

10          34:14 Acupuncture; Hearings. Amend RSA 328-G:13 to read as follows:

11          328-G:13 Hearings. The board shall take no disciplinary action without a hearing. At least 14  
12 days prior to hearing, both parties to a disciplinary proceeding shall be served, either personally or  
13 by registered mail, with a written copy of the complaint filed and notice of the time and place for  
14 hearing. All complaints shall be objectively received and fairly heard by the board, but no complaint  
15 shall be acted upon unless in writing. A hearing shall be held on all written complaints received by  
16 the board within [~~3 months~~] **one year** of the date notice of a complaint was received by the accused,  
17 unless otherwise agreed to by the parties. Written notice of all disciplinary decisions made by the  
18 board shall be given to both parties to the proceeding upon their issuance.

19          34:15 Effective Date. This act shall take effect January 1, 2015.

20 Approved: May 27, 2014

21 Effective Date: January 1, 2015