

May 11, 2023  
No. 22A

# STATE OF NEW HAMPSHIRE

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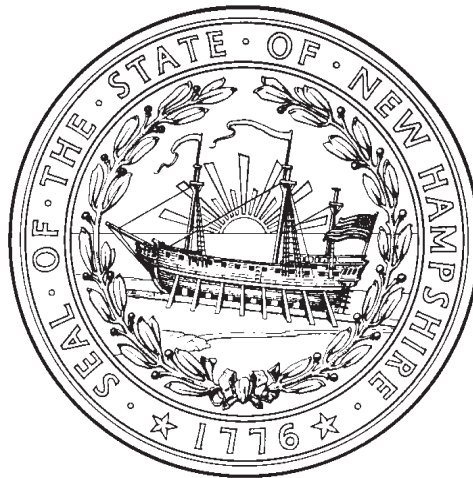
Senate Meeting Schedule Website Address:

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**First Year of the 168<sup>th</sup> Session of the  
New Hampshire General Court**

## **SENATE CALENDAR ADDENDUM**

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**THE SENATE WILL MEET IN SESSION ON THURSDAY,  
MAY 18, 2023 AT 10:00 A.M. IN THE SENATE CHAMBER**

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The Senate Session on Thursday, May 18, 2023, in the Senate Chamber will be  
live streamed at the following link:

<https://youtube.com/live/58uAbsijj4o?feature=share>

Please note, this link will not be live until the Senate Session on  
Thursday, May 18, 2023 at 10:00 A.M.

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## CONSENT CALENDAR REPORTS

### **COMMERCE**

**HB 467-FN**, relative to public playground accessibility.

Ought to Pass with Amendment, Vote 5-0.

Senator Ricciardi for the committee.

This bill would require playgrounds constructed for use on or after January 1, 2024, to meet ADA accessibility standards. Often times, engineered wood fibers do not meet accessibility standards, especially when they are no longer compacted or flattened. To address stakeholder concerns, the Committee Amendment would remove the requirement that resilient rubber or a urethane rubber composite surfacing be used; instead, a resilient solid surface material that is not a loose fill or aggregate could be used.

**HB 584**, relative to the Uniform Commercial Code's article on controllable electronic records.

Ought to Pass with Amendment, Vote 5-0.

Senator Avarad for the committee.

This bill would update the Uniform Commercial Code statute related to controllable electronic records. These updates were recommended by the Governor's Commission on Cryptocurrencies and Digital Assets to promote stability and predictability in transactions dealing with digital assets. To address concerns raised about the potential establishment of a central bank digital currency (CBDC), the Committee Amendment would make definitional changes, remove references to electronic money, and reduce a CBDC to a least favored status.

### **ENERGY AND NATURAL RESOURCES**

**HB 119-FN**, relative to homestead food operation licensure.

Ought to Pass with Amendment, Vote 5-0.

Senator Pearl for the committee.

House Bill 119-FN creates guidelines for the sale of meat harvested from a bison, elk, or red deer. This bill contains provisions which clearly state how meat from an uninspected bison, elk, or red deer, shall be labeled and packaged to ensure safety for both customers and business owners. HB 119-FN will ensure that there are measures to protect public health and safety when purchasing and consuming meat from an uninspected animal. The Senate Energy and Natural Resources Committee voted unanimously to pass HB 119-FN.

**HB 139**, relative to the definition of "municipal host" for purposes of limited electrical energy producers.

Ought to Pass with Amendment, Vote 5-0.

Senator Watters for the committee.

House Bill 139 incorporates the substance of SB167, since the subject of HB139 is now included in HB281. HB 139 establishes a hydrogen advisory committee in the Department of Energy. Hydrogen derived from a clean energy source has the potential to not only be a low-carbon source of energy but also has the potential to serve as a storage fuel. With the appropriate infrastructure, hydrogen will enable New Hampshire businesses to develop generation and manufacturing facilities to take advantage of this resource. The committee established in HB 139 will identify opportunities to integrate hydrogen as a fuel source, study potential forms of hydrogen infrastructure, and recommend legislation to promote hydrogen as a future fuel source. The Senate Energy and Natural Resources Committee voted unanimously to pass House Bill 139.

**HB 385**, relative to the approval of community electric aggregation plans by the department of energy.  
Ought to Pass, Vote 5-0.

Senator Birdsall for the committee.

House Bill 385 creates a process to resolve complaints filed against the community power aggregation organization within the Department of Energy. If a filed complaint is not resolved to a satisfactory level, there is an avenue in this legislation to open an adjudicative proceeding. Additionally, any complaint that the department receives will be reviewable by the public. The Senate Energy and Natural Resources Committee voted unanimously to pass House Bill 385.

**HB 576-FN-A-L**, relative to administration of a commercial property assessed clean energy (C-PACE) program in a clean energy efficiency and clean energy district.

Ought to Pass, Vote 5-0.

Senator Altschiller for the committee.

House Bill 576-FN-A-L clarifies the use of a commercial property assessed clean energy (C-PACE) model in a clean energy efficiency and clean energy district under RSA 53-F. Additionally this bill elevates a C-PACE lien to senior lien status. HB 576-FN-A-L will enable the C-PACE program to be utilized to its full potential and allow for more investments in clean energy in New Hampshire. The Senate Energy and Natural Resources Committee voted unanimously to pass House Bill 576-FN-A-L.

## **JUDICIARY**

**HB 307-FN**, relative to attorney's fees in actions under the right to know law.

Re-refer to Committee, Vote 5-0.

Senator Carson for the committee.

House Bill 307-FN would require the court to issue a final judgment in favor of the requester before attorney's fees are awarded under the Right to Know law. The Committee found this issue to be very complex and would like more time to delve into this issue before it goes to the Senate floor.

# **REGULAR CALENDAR REPORTS**

## **COMMERCE**

**HB 74-FN**, relative to an employee's unused earned time.

Inexpedient to Legislate, Vote 3-2.

Senator Ricciardi for the committee.

**HB 150**, relative to the certification of a collective bargaining unit.

Inexpedient to Legislate, Vote 3-2.

Senator Gannon for the committee.

## **ENERGY AND NATURAL RESOURCES**

**HB 231-FN**, prohibiting the removal of claws from cats.

Inexpedient to Legislate, Vote 3-2.

Senator Pearl for the committee.

**HB 257**, relative to telephone carrier of last resort obligations.

Re-refer to Committee, Vote 5-0.

Senator Pearl for the committee.

**HB 281**, relative to least cost integrated resource plan of utilities.

Ought to Pass with Amendment, Vote 4-1.

Senator Avarad for the committee.

**HB 442-FN**, establishing a scuba diver recreational lobster license and relative to lobster trap location tracking.

Ought to Pass with Amendment, Vote 4-1.

Senator Pearl for the committee.

## **EXECUTIVE DEPARTMENTS AND ADMINISTRATION**

**HB 250-FN**, relative to the accidental death benefit payable for a retirement system member.

Re-refer to Committee, Vote 5-0.

Senator Altschiller for the committee.

**HB 337-FN**, relative to directing the office of professional licensure and certification to provide notice of public meetings and an opportunity for comment from the public.

Ought to Pass with Amendment, Vote 5-0.

Senator Carson for the committee.

**HB 409-FN**, relative to nonresident licensure by the board of barbering, cosmetology, and esthetics.

Ought to Pass with Amendment, Vote 5-0.

Senator Perkins Kwoka for the committee.

**HB 532-FN**, relative to the licensure and regulation of music therapists.

Ought to Pass with Amendment, Vote 5-0.

Senator Altschiller for the committee.

### **FINANCE**

**HB 330-FN-A**, relative to the national guard recruitment incentive program and its funding and rulemaking.

Ought to Pass, Vote 6-0.

Senator Pearl for the committee.

**HB 461-FN**, establishing a committee to study elimination by political subdivision employers of a retirement system position.

Ought to Pass, Vote 6-0.

Senator Pearl for the committee.

**HB 534-FN-A**, relative to water assistance for natural disasters.

Ought to Pass with Amendment, Vote 4-2.

Senator Birdsell for the committee.

**HB 594-FN**, relative to the licensure of out-of-state applicants to boards or commissions organized under the office of professional licensure and certification.

Ought to Pass, Vote 6-0.

Senator Gray for the committee.

**HB 655-FN**, relative to the office of professional licensure and certification.

Ought to Pass, Vote 6-0.

Senator Pearl for the committee.

### **JUDICIARY**

**HB 596-FN**, prohibiting the use of racial profiling in law enforcement activities and in sentencing.

Re-refer to Committee, Vote 3-2.

Senator Gannon for the committee.

**HB 611-FN**, relative to eligibility criteria for the therapeutic cannabis program.

Ought to Pass, Vote 5-0.

Senator Carson for the committee.

### **RULES AND ENROLLED BILLS**

**HB 269-FN**, relative to limiting the authority of New Hampshire delegates to policymaking conventions.

Inexpedient to Legislate, Vote 5-0.

Senator Avard for the committee.

### **WAYS AND MEANS**

**HB 607-FN**, relative to the regulation of games of chance.

Ought to Pass with Amendment, Vote 5-0.

Senator Lang for the committee.

## **AMENDMENTS**

Energy and Natural Resources

May 16, 2023

2023-1895s

08/07

Amendment to HB 119-FN

Amend the bill by replacing the title with the following:

AN ACT relative to homestead food operation licensure and making provisions for the sale of meat from uninspected bison, elk, or red deer.

Amend the bill by replacing all after section 1 with the following:

2 Food Services Licensure; Exemption. Amend RSA 143-A:5, IX to read as follows:

IX. A farm owned or operated by any person, firm, or corporation that raises bison, **elk, or red deer** for human consumption, and the direct sale within this state of the carcasses, parts, meat, and meat food products of such animals, when slaughtered and processed in accordance with RSA 427:2-a, IV, to the consumer from such farm, at the producer's farm stand, and by the producer at farmers' markets, or when sold to a licensed restaurant in accordance with RSA 143-A:20.

3 Meat from Uninspected Bison, Elk, and Red Deer. Amend the subdivision heading preceding RSA 143-A:18 to read as follows:

Meat from Uninspected Bison, **Elk, or Red Deer**

4 Food Services Licensure; Cervidae Animals Added. Amend RSA 143-A:18 through RSA 143-A:20 to read as follows:

143-A:18 Definition of Uninspected Bison, **Elk, or Red Deer**. For purposes of this subdivision, "uninspected **bison, elk, or red deer**" means carcasses, parts, meat, and meat food products of bison, **elk, or red deer** slaughtered and processed in accordance with RSA 427:16, XII and sold or to be sold as provided in RSA 427:2-a, IV.

143-A:19 Labeling; Meat from Uninspected Bison, **Elk, or Red Deer**. All packaging containing uninspected bison, **elk, or red deer** shall be clearly labeled to include a description of the product, the name, address, and telephone number of the farm where the product originates, and the date of slaughter.

143-A:20 Purchase of Uninspected Bison, **Elk, or Red Deer** by Licensed Restaurants.

I. A licensed restaurant, as defined in RSA 143-A:14, II, may purchase from bison, **elk, or red deer** producers uninspected bison, **elk or red deer** that is labeled in accordance with RSA 143-A:19.

II. For at least 90 days from the date of each purchase, the licensed restaurant shall keep on file the receipt of purchase to include the product purchased, the date of purchase, the name of the producer, the name and address of the farm, and phone number.

III. The licensed restaurant shall clearly label any menu item containing uninspected bison, **elk, or red deer** with the following statement: "This product was slaughtered at the farm and is exempt from state and federal inspection."

5 Meat Inspection; Exemptions. Amend RSA 427:2-a, IV to read as follows:

IV. The slaughter of bison, **elk, or red deer** on a farm for purposes of sale, as provided in RSA 143-A:5, IX, shall be exempt from the provisions of this subdivision requiring inspection of the slaughter of animals and preparation of the carcasses, parts thereof, meat, and meat food products for sale within this state to the public. The slaughter of a bison, **elk, or red deer** under this paragraph shall be permitted only:

- (a) When the owner of the bison, **elk, or red deer** designates a slaughter area on the farm premises.
- (b) When the bison, **elk, or red deer** is slaughtered in a humane method, as defined in RSA 427:33, III, by the owner or the owner's full time or seasonal employee.
- (c) From September 1 to April 30.
- (d) When no more than 12 hours passes from the time of slaughter to the placement of the carcass in a refrigerated facility at or below 41 degrees Fahrenheit.
- (e) When a veterinarian licensed under RSA 332-B conducts an ante-mortem examination of each ~~[bison on the day of slaughter, witnesses the slaughter, conducts a post-mortem examination of the carcass, and documents his or her examinations in the report required under subparagraph (f).]~~ **herd on an annual basis and the documents related to his or her examination are kept on file with all relevant information including:**
  - (1) **Species being inspected;**
  - (2) **Herd condition; and**
  - (3) **Location and time of inspection.**
- ~~(f) When the veterinarian and owner make a report of the slaughter on a form or forms provided by the state veterinarian which contains the following:~~

- (1) Name, address, and phone number of animal owner and the location of the farm.
- (2) Identification number on animal to assure same carcass arrives at the processing facility.
- (3) Date and time of slaughter and the time of each examination.
- (4) Statement that examinations were visual.
- (5) Statement that live animal was examined both at rest and in motion.

(6) Ante-mortem examination stating live animal is free from any observed abnormalities, including but not limited to:

- (A) No observed lameness, stiffness, abnormal body positions (e.g. tucked abdomen, arched back, extended neck or tail, etc.).
- (B) No abnormal discharges or odors.
- (C) No blisters or vesicles observed.
- (D) No abnormal growths, swellings, enlargements, injuries, loss of hair or other skin lesions, infestations (e.g. maggots), labored breathing, or diarrhea.
- (E) Animal did not appear abnormally nervous or restless, excessively anxious or upset, depressed, disinterested, or blind.
- (F) Animal did not stagger, circle, head press, salivate excessively, rub or scratch excessively.
- (G) Both eyes present and normal.

(7) Post-mortem examination stating carcass is free from any observed abnormalities, including but not limited to:

- (A) Mouth, tongue, and eyes appear normal.
- (B) Lymph nodes appear normal.
- (C) No observed lumps, bumps, or growths.
- (D) No abnormal odors or discharges.
- (E) No adhesions or ongoing infectious processes.

(8) This statement: "A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered in good faith under the provisions of RSA 427:16, XII. Such a veterinarian is, therefore, protected from a lawsuit for his or her part in any illness, product quality failure, or other concern resulting from the products of this animal." Liability for any illness or product quality failure shall rest solely and completely with the animal owner.

(9) A certification by the animal owner that this animal is free from antibiotic, dewormer, and chemical residues, and that the label instructions were followed regarding the withdrawal of such substances.

- (10) Signature blocks for both the veterinarian and the animal owner, signed by both.

(g) ~~(f)~~ When such animal is transported to and processed at a facility that is eligible to conduct custom exempt activities as regulated by the USDA pursuant to 21 U.S.C. section 623(a) and associated Departmental regulations.

~~[(h)]~~ **(g)** When the owner of the bison, *elk*, or *red deer* retains the original copy of the report made in subparagraph ~~[(f)]~~ **(e)**. A copy of such report shall accompany the *bison, elk, or red deer* carcass to the processing facility. The processing facility shall retain a copy of the report for one year.

~~[(i)]~~ **(h)** When bison, *elk*, or *red deer* meat is ground for sale, ~~[it is]~~ **ground meat from every second animal processed shall be** tested by the processing facility for *Escherichia coli* and salmonella at the ~~[bison]~~ owner's expense. All aspects of the testing, including sampling, shall be done in a manner that complies with standards and procedures of the USDA, and may include the services of an outside laboratory. The owner of the meat shall not sell it until he or she is in receipt of the test result that indicates the product is safe to eat. The test result shall be kept by the owner for at least one year.



~~[(j)]~~ (i) Prior to sale, as provided in RSA 143-A:5, IX, it is labeled as required in RSA 143-A:19.

6 Effective Date. This act shall take effect 60 days after its passage.

2023-1895s

#### AMENDED ANALYSIS

This bill allows homestead food operations to sell food, excluding potentially hazardous food, from the homestead residence, at the owner's farm stand, or at farmers' markets. It also expands food service and meat inspection regulations to cover bison, elk, and red deer.

Energy and Natural Resources

May 16, 2023

2023-1875s

10/07

#### Amendment to HB 139

Amend the title of the bill by replacing it with the following:

AN ACT relative to hydrogen energy and establishing a hydrogen advisory committee.

Amend the bill by replacing all after the enacting clause with the following:

##### 1 Legislative Findings.

I. The use of hydrogen derived from a clean energy resource has the potential to be a zero- or very low-carbon source of energy for use in a variety of sectors, including high-heat industrial applications, zero-carbon electricity generation, and the gas distribution system. The use of hydrogen will contribute to clean energy jobs in the solar energy, wind energy, energy efficiency, energy storage, electric vehicle industries, and other renewable energy industries.

II. Hydrogen has the potential to serve as a storage fuel, especially for offshore wind energy, to increase reliability in electricity generation, and to promote the transition of other forms of power generation to a zero-or very low-carbon source of energy. Hydrogen can play a substantial role as a transportation fuel and as an industrial fuel.

III. Hydrogen infrastructure will enable New Hampshire businesses to develop generation and manufacturing facilities and take advantage of federal funding and investments from the offshore wind industry.

2 New Sections; Fuel Diversity; Hydrogen Advisory Committee; Definitions. Amend RSA 362-H inserting after section 2 the following new sections:

362-H:3 Hydrogen Advisory Committee Established. There is a hydrogen advisory committee established in the department of energy.

##### I. The advisory committee shall consist of:

- (a) The commissioner of the department of energy, or designee.
- (b) The commissioner of the department of business and economic affairs, or designee.
- (c) The commissioner of the department of environmental services, or designee.
- (d) The chair of the site evaluation committee, or designee.
- (e) The commissioner of the department of transportation, or designee.
- (f) The chair of the New Hampshire port authority, or designee

##### II. The advisory committee shall have the following duties:

- (a) Examine the production of hydrogen from any renewable energy source.
- (b) Investigate and evaluate existing state and federal laws, regulations and funding sources and recommend legislation related to the production, use, distribution and storage of hydrogen.
- (c) Identify opportunities to integrate hydrogen in the transportation, energy, industrial, and other sectors.

(d) Identify barriers to the widespread development of hydrogen and recommend government policies to catalyze the deployment of hydrogen in the state economy.

(e) Consider a plan to create, support, develop, or partner with a Hydrogen Hub in this state, under federal funding provisions, and determine, how to maximize federal financial incentives to support Hub development.

(f) Consider the construction of a dedicated hydrogen pipeline or network of pipelines to serve users of hydrogen in this state, including power generation, transportation, manufacturing, and energy storage facilities.

(g) Consider facilities that result in the blending of hydrogen into existing natural gas transmission and distribution systems that serve residential, commercial, transportation, and industrial uses, and consider policy recommendations for inclusion of hydrogen production from fossil fuel feedstock.

(h) Streamline the permitting processes for hydrogen facilities and infrastructure, including other carbon use applications and any other issues that the committee deems necessary.

(i) Examine cost-effective industrial rates for hydrogen production and flexible energy generation configurations to maximize federal funding for hydrogen facilities, and serves the long-term interests of ratepayers, and cost-effectively avoids or defers distribution system costs.

(j) Review the safety standards regarding the production, use, distribution and storage of hydrogen by state agencies.

(k) Consider regenerative fuel cell generation by utilities or private entities that provides distribution system benefits, including, but not limited to, avoiding or deferring distribution capacity upgrades, and enhancing distribution system reliability, including, but not limited to, voltage or frequency improvements.

(l) Determine whether hydrogen energy and infrastructure projects with a capacity to generate over 20 MW of energy should be evaluated and approved by the site evaluation committee under RSA 162-H.

III. The advisory committee shall report to the governor, the president of the senate, the speaker of the house of representatives, the chair of senate energy and natural resources committee, the chair of house science, technology, and energy committee on October 1 of each year on its activities, findings, and recommendations.

362-H:4 Definitions; Hydrogen Electricity Generation. For purposes of RSA 362-H:3:

I. "Hydrogen" means hydrogen derived from a clean energy resource that uses water as the source of the hydrogen. For purposes of hydrogen electricity generation and hydrogen transmission, a hydrogen project may include associated clean energy generation, including regenerative fuel cells, transmission, and other infrastructure. Hydrogen electricity generation means a power plant technology in which an electrical generating unit creates electric power exclusively from electrolytic hydrogen, in a manner that produces zero carbon and co-pollutant emissions, using hydrogen fuel that is electrolyzed using a 100 percent zero carbon emission energy source. The term does not include hydrogen produced using steam reforming or any other conversion technology that produces hydrogen from fossil fuel feedstock.

II. "Hydrogen facility" means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce 20 average megawatts or more of electric power, in order to:

(a) Produce hydrogen through electrolysis technology;

(b) Store or transport hydrogen by means of a hydrogen pipeline for the transport or storage of hydrogen or a hydrogen storage system for the temporary storage of hydrogen in a vessel, pipeline, or geologic formation; or

(c) Convert hydrogen back to electricity through a hydrogen-capable power generation source.

III. "Regenerative fuel cell" means a device that produces hydrogen and oxygen from electricity and water and alternately produces electrical energy and water from stored hydrogen and oxygen.

3 New Paragraph; Division of Fire Safety; Hydrogen Facilities. Amend RSA 21-P:12 by inserting after paragraph VIII the following new paragraph:



IX. Participation in an advisory capacity in state agency siting of hydrogen facilities, transportation, and storage, and the permitting and coordination of state agency response to accidents at facilities that produce more than 20 MW of electricity, involving hydrogen and hydrogen gas safety, in coordination with the hydrogen advisory committee in RSA 362-H:3.

4 Prospective Repeals; 2030. The following are repealed:

I. RSA 362-H:3 and 4, relative to the hydrogen advisory committee and definitions.

II. RSA 21-P:12, IX, relative to the division of fire safety advisory capacity on hydrogen facilities.

5 Effective Date.

I. Section 4 of this act shall take effect November 1, 2030.

II. The remainder of this act shall take effect July 1, 2023.

2023-1875s

#### AMENDED ANALYSIS

This bill establishes a hydrogen advisory committee in the department of energy.

Energy and Natural Resources

May 16, 2023

2023-1879s

10/08

#### Amendment to HB 281

Amend the title of the bill by replacing it with the following:

AN ACT relative to least cost integrated resource plans of utilities; municipal hosts for purposes of limited electrical energy producers; the cost of compliance with disclosure of electric renewable portfolio standards; repealing the energy efficiency and sustainable energy board; and procedures for energy facility siting by the site evaluation committee.

Amend the bill by replacing all after the enacting clause with the following:

1 Repeal; Public Utilities Commission; Integrated Least Cost Resource Plans. RSA 378:38 through RSA 378:40, relative to plans and compliance procedures for filing least cost integrated resource plans with the public utilities commission, are repealed.

2 Limited Electrical Energy Producers Act; Definitions. Amend RSA 362-A:1-a, II-c to read as follows:

II-c. "Municipal host" means a customer generator with a total peak generating capacity of greater than one megawatt and less than 5 megawatts used to offset the electricity requirements of a group consisting exclusively of one or more customers who are political subdivisions, provided that all customers are located within the same utility franchise service territory. ~~[A municipal host shall be located in the same municipality as all group members if the facility began operation after January 1, 2021.]~~ A municipal host may be owned by either a public or private entity. For this definition, "political subdivision" means the state of New Hampshire or any city, town, county, school district, chartered public school, village district, school administrative unit, or any district or entity created for a special purpose administered or funded by any of the above-named governmental units.

3 Public Utilities Commission; Disclosure of Cost of Compliance. Amend RSA 378:49, II(c) to read as follows:

(c) Provide such information to electric customers at least annually in conjunction with billing, whether distributed through the mail or online, or other mailed or online communication to customers, as approved by the ~~[commission]~~ **department**, including the ~~[commission's]~~ **department's** estimated cost on a per kilowatt-hour basis **and estimated annual cost for the average residential ratepayer** for compliance with the electric renewable portfolio standard under RSA 362-F for the prior compliance year. The estimated cost for the compliance year shall be calculated once per year and provided in the customer's December bill, whether distributed through the mail or online. Each customer's bill shall identify the cost as an estimate and provide a link to information about the electric renewable portfolio standard, including its benefits, at the ~~[public utilities commission's]~~ **department's** website. **Utilities shall also be required to include an annual estimated cost to be calculated by multiplying the average per kilowatt hour cost of the electric**

**renewable portfolio standard under RSA 362-F for the prior compliance year by the average residential monthly consumption of 625 kilowatt hours.** The costs for a utility to provide this information shall be recovered from electric customers through the distribution rates of the respective electric distribution utility.

4 New Paragraphs; Department of Energy; Establishment; Purpose. Amend RSA 12-P:2 by inserting after paragraph IV the following new paragraphs:

V. The department shall develop strategies, concepts, and tools to enhance outreach and education programs to increase knowledge and awareness about energy efficiency and sustainable energy among New Hampshire residents and businesses.

VI. The department shall expand upon the state government's efficiency programs to ensure that the state is providing leadership on energy efficiency and sustainable energy including reduction of its energy use and fuel costs.

5 Restructuring Policy Principles. Amend RSA 374-F:3, VI-a(b) to read as follows:

(b) Up to \$400,000 of system benefits charge funds collected annually shall be used to promulgate the benefits of energy efficiency according to guidelines developed as specified in RSA ~~[125-O:5-a, I(c)]~~ **12-P:2, V** as determined by the department of energy.

6 Repeal. RSA 125-O:5-a, relative to energy efficiency and sustainable energy board, is repealed.

7 Definitions. Amend RSA 162-H:2 to read as follows:

162-H:2 Definitions.

I. "Acceptance" means a determination by the committee that it finds that the application is complete and ready for consideration.

I-a. "Administrator" means the administrator of the committee established by this chapter.

I-b. "Affected municipality" means any municipality or unincorporated place in which any part of an energy facility is proposed to be located and any municipality or unincorporated place from which any part of the proposed energy facility will be visible or audible.

II. ~~[Repealed.]~~

~~H-a.]~~ "Certificate" or "certificate of site and facility" means the document issued by the committee, containing such terms and conditions as the committee deems appropriate, that authorizes the applicant to proceed with the proposed site and facility.

III. "Commencement of construction" means any clearing of the land, excavation or other substantial action that would adversely affect the natural environment of the site of the proposed facility, but does not include land surveying, optioning or acquiring land or rights in land, changes desirable for temporary use of the land for public recreational uses, or necessary borings to determine foundation conditions, or other preconstruction monitoring to establish background information related to the suitability of the site or to the protection of environmental use and values.

~~[IV. Repealed.]~~

~~[V.]~~ IV. "Committee" means the site evaluation committee established by this chapter.

**V. "Department" means the department of energy.**

VI. "Energy" means power, including mechanical power, useful heat, or electricity derived from any resource, including, but not limited to, oil, coal, and gas.

VII. "Energy facility" means:

(a) Any industrial structure that may be used substantially to extract, produce, manufacture, transport or refine sources of energy, including ancillary facilities as may be used or useful in transporting, storing or otherwise providing for the raw materials or products of any such industrial structure. This shall include, but not be limited to industrial structures such as oil refineries, gas plants, equipment and associated facilities designed to use any, or a combination of, natural gas, propane gas and liquefied natural gas, which store on site a quantity to provide 7 days of continuous operation at a rate equivalent to the energy requirements of a

30 megawatt electric generating station and its associated facilities, plants for coal conversion, onshore and offshore loading and unloading facilities for energy sources and energy transmission pipelines that are not considered part of a local distribution network.

(b) Electric generating station equipment and associated facilities designed for, or capable of, operation at any capacity of 30 megawatts or more.

(c) An electric transmission line of design rating of 100 kilovolts or more, associated with a generating facility under subparagraph (b), over a route not already occupied by a transmission line or lines.

(d) An electric transmission line of a design rating in excess of 100 kilovolts that is in excess of 10 miles in length, over a route not already occupied by a transmission line.

(e) A new electric transmission line of design rating in excess of 200 kilovolts.

(f) A renewable energy facility.

(g) An electrical storage facility with a peak storage capacity of 30 megawatt-hours or greater.

(h) Any other facility and associated equipment that the committee determines requires a certificate, consistent with the findings and purposes of RSA 162-H:1, either on its own motion or by petition of the applicant or 2 or more petitioners as defined in RSA 162-H:2, XI.

[VH-a.] **VIII.** “Energy facility proceeding time and expenses” means time spent in hearings, meetings, preparation, and travel related to any application or other proceeding before the committee concerning an energy facility, either existing or proposed, and related reasonable out-of-pocket expenses.

[VH:] **IX.** “Filing” means the date on which the application is first submitted to the committee.

[IX:] **X.** “Person” means any individual, group, firm, partnership, corporation, cooperative, municipality, political subdivision, government agency or other organization.

[X-~~Repealed.~~]

X-a-~~[Repealed.]~~

**XI.** “Petitioner” means a person filing a petition meeting any of the following conditions:

(a) A petition endorsed by 100 or more registered voters in the host community or host communities.

(b) A petition endorsed by 100 or more registered voters from abutting communities.

(c) A petition endorsed by the governing body of a host community or 2 or more governing bodies of abutting communities.

(d) A petition filed by the potential applicant.

**XII.** “Renewable energy facility” means electric generating station equipment and associated facilities designed for, or capable of, operation at a nameplate capacity of greater than 30 megawatts and powered by wind energy, geothermal energy, hydrogen derived from biomass fuels or methane gas, ocean thermal, wave, current, or tidal energy, methane gas, biomass technologies, solar technologies, or hydroelectric energy. “Renewable energy facility” shall also include electric generating station equipment and associated facilities of 30 megawatts or less nameplate capacity, but at least 5 megawatts which the committee determines requires a certificate, consistent with the findings and purposes set forth in RSA 162-H:1, either on its own motion or by petition of the applicant or 2 or more petitioners as defined in RSA 162-H:2, XI.

8 Powers and Duties of Committee. Amend RSA 162-H:4, I through III-b to read as follows:

I. The committee shall:

(a) Evaluate and issue any certificate under this chapter for an energy facility.

(b) Determine the terms and conditions of any certificate issued under this chapter.

~~[(c) Monitor the construction and operation of any energy facility granted a certificate under this chapter to ensure compliance with such certificate.~~

~~(d) Enforce the terms and conditions of any certificate issued under this chapter.]~~

**(c) Adjudicate enforcement matters.**

~~[(e)]~~ **(d)** Assist the public in understanding the requirements of this chapter.

II. The committee shall hold hearings as required by this chapter and such additional hearings as it deems necessary and appropriate and in addition to the requirements under RSA 91-A, ensure adequate and timely public notice of no less than 7 calendar days.

~~[III. The committee may delegate the authority to monitor the construction or operation of any energy facility granted a certificate under this chapter to the administrator or such state agency or official as it deems appropriate, but shall ensure that the terms and conditions of the certificate are met. Any authorized representative or delegate of the committee shall have a right of entry onto the premises of any part of the energy facility to ascertain if the facility is being constructed or operated in continuing compliance with the terms and conditions of the certificate. During normal hours of business administration and on the premises of the facility, such a representative or delegate shall also have a right to inspect such records of the certificate-holder as are relevant to the terms or conditions of the certificate.]~~

~~[HH-a.]~~ **III.** The committee may delegate to the administrator or such state agency or official as it deems appropriate the authority to specify the use of any technique, methodology, practice, or procedure approved by the committee within a certificate issued under this chapter, or the authority to specify minor changes in the route alignment to the extent that such changes are authorized by the certificate for those portions of a proposed electric transmission line or energy transmission pipeline for which information was unavailable due to conditions which could not have been reasonably anticipated prior to the issuance of the certificate.

~~[HH-b.]~~ **III-a.** The committee may not delegate its authority or duties, except as provided under this chapter.

9 Application for Certificate. Amend RSA 162-H:7, IV-IX to read as follows:

IV. Each application shall contain sufficient information to satisfy the application requirements of each state agency having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility, and shall include each agency's completed application forms, ***which shall be contemporaneously filed with the state agency having jurisdiction.*** ~~[Upon the filing of an application, the committee shall expeditiously forward a copy to the state agencies having permitting or other regulatory authority and to other state agencies identified in administrative rules.]~~ Upon receipt of a copy, each agency shall conduct a preliminary review to ascertain if the application contains sufficient information for its purposes. If the application does not contain sufficient information for the purposes of any of the state agencies having permitting or other regulatory authority, that agency shall, in writing, notify the committee ***and the applicant*** of that fact and specify what information the applicant must supply; ~~thereupon the committee shall provide the applicant with a copy of such notification and specification].~~ Notwithstanding any other provision of law, for purposes of the time limitations imposed by this section, any application made under this section shall be deemed not accepted either by the committee or by any of the state agencies having permitting or other regulatory authority if the applicant is reasonably notified that it has not supplied sufficient information for any of the state agencies having permitting or other regulatory authority in accordance with this paragraph.

V. Each application shall also:

(a) Describe in reasonable detail the type and size of each major part of the proposed facility.

(b) Identify both the applicant's preferred choice and other alternatives it considers available for the site and configuration of each major part of the proposed facility and the reasons for the applicant's preferred choice.

(c) Describe in reasonable detail the impact of each major part of the proposed facility on the environment for each site proposed.

(d) Describe in reasonable detail the applicant's proposals for studying and solving environmental problems.

(e) Describe in reasonable detail the applicant's financial, technical, and managerial capability for construction and operation of the proposed facility.

(f) Document that written notification of the proposed project, including appropriate copies of the application, has been given to the appropriate governing body of each affected municipality, as defined in RSA 162-H:2, I-b. The application shall include a list of the affected municipalities.

(g) Describe in reasonable detail the elements of and financial assurances for a facility decommissioning plan.

(h) Provide such additional information as the committee may require to carry out the purposes of this chapter.

VI. The committee shall decide whether or not to accept the application *as administratively complete* within 60 days of filing. ***Notice of acceptance of the application shall be simultaneously provided to the applicant and the applicable state agency.*** If the committee rejects an application because it determines it to be administratively incomplete, the applicant may choose to file a new and more complete application or cure the defects in the rejected application within 10 days of receipt of notification of rejection.

VI-a. Public information sessions shall be held in accordance with RSA 162-H:10.

VI-b. All state agencies having permitting or other regulatory authority shall report their progress to the committee within 150 days of the acceptance of the application, outlining draft permit conditions and specifying additional data requirements necessary to make a final decision on the parts of the application that relate to its permitting or other regulatory authority.

VI-c. All state agencies having permitting or other regulatory authority shall make and submit to the committee a final decision on the parts of the application that relate to its permitting and other regulatory authority, no later than 240 days after the application has been accepted.

VI-d. Within 365 days of the acceptance of an application, the committee shall issue or deny a certificate for an energy facility.

~~VI-e. [Repealed.]~~

~~VII. Notwithstanding any other provision of law, the application shall be in lieu of separate applications that may be required by any other state agencies.~~

~~VIII.] VII.~~ This chapter shall not preclude an agency from imposing its usual statutory fees.

~~[IX.] VIII.~~ The applicant shall immediately inform the committee *and applicable state agency* of any substantive modification to its application.

10 Disclosure of Ownership. Amend RSA 162-H:8 to read as follows:

162-H:8 Disclosure of Ownership. Any application for a certificate, *or for change in ownership and transfer of certificate*, shall be signed and sworn to by the person or executive officer of the association or corporation making such application and shall contain the following information:

I. Full name and address of the person, association, or corporation.

II. If an association, the names and residences of the members of the association.

III. If a corporation, the name of the state under which it is incorporated with its principal place of business and the names and addresses of its directors, officers and stockholders.

IV. The location or locations where an applicant is to conduct its business.

V. A statement of assets and liabilities of the applicant and other relevant financial information of such applicant.

***VI. The committee shall administratively approve changes of ownership and transfers of certificates within 90 days of a petition if it determines the new certificate holder has adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of the certificate.***

11 Public Hearing; Studies; Rules. Amend RSA 162-H:10, I-c to read as follows:

I-c. Within 90 days after acceptance of an application for a certificate, pursuant to RSA 162-H:7, the site evaluation committee shall hold at least one public hearing in each county in which the proposed facility is to be located and the applicant shall publish a public notice not less than 14 days before such hearing in one or more newspapers having a regular circulation in the county in which the hearing is to be held, describing the nature and location of the proposed facilities. Not fewer than 10 days before such session, the applicant shall provide a copy of the public notice to the presiding officer of the committee. The applicant shall arrange



for a transcript of such session to be prepared. ~~[The committee shall also send a copy of the public notice, not less than 14 days before the hearing, by first class mail to the governing body of each affected municipality. The]~~ ***Except for state agencies and programs that are required by state or federal law or regulation to comply with program specific public notice and public hearing requirements, the*** public hearings ~~[shall]~~ ***may*** be joint hearings, with representatives of the agencies that have permitting or other regulatory authority over the subject matter and shall be deemed to satisfy all initial requirements for public hearings under statutes requiring permits relative to environmental impact. ~~[Notwithstanding any other provision of law,]~~ The hearing ~~[shall]~~ ***may*** be a joint hearing with the other state agencies ~~[and shall be in lieu of all hearings otherwise required by any of the other state agencies];~~ provided, however, if any of such other state agencies does not otherwise have authority to conduct hearings, it may not join in the hearing under this chapter; provided further, however, the ability or inability of any of the other state agencies to join shall not affect the composition of the committee under RSA 162-H:3 nor the ability of any member of the committee to act in accordance with this chapter.

12 Enforcement. Amend RSA 162-H:12 to read as follows:

162-H:12 ***Monitoring and Enforcement.***

I. ~~[Whenever the committee, or the administrator as designee, makes a preliminary determination that any term or condition of any certificate issued under this chapter is being violated, it shall, in writing, notify the certificate holder of the specific violation and order the person to immediately terminate the violation. If, 15 days after receipt of the order, the person has failed or neglected to terminate the violation, the committee may suspend the person's certificate, or impose a fine not to exceed \$10,000 per day until the violation is corrected. Except for emergencies, prior to any suspension, the committee shall give written notice of its consideration of suspension and of its reasons therefor and shall provide opportunity for a prompt hearing.]~~ ***The department shall monitor the construction and operation of any energy facility granted a certificate under this chapter or prior law to ensure compliance with such certificate and enforce the terms and conditions of any such certificate. With the exception of the authority retained by the state agencies in accordance with paragraph V, the department may delegate the authority to monitor the construction or operation of any energy facility granted a certificate under this chapter to such state agency or official as it deems appropriate, but shall ensure that the terms and conditions of the certificate are met. Any authorized representative or delegate of the department shall have a right of entry onto the premises of any part of the energy facility to ascertain if the facility is being constructed or operated in continuing compliance with the terms and conditions of the certificate. During normal hours of business administration and on the premises of the facility, such a representative or delegate shall also have a right to inspect such records of the certificate-holder as are relevant to the terms or conditions of the certificate.***

II. ***Whenever the department administratively determines, on its own or in response to a complaint, that any term or condition of any certificate issued under this chapter or prior law is being violated, it shall, in writing, notify the certificate holder of the specific violation and order the person to immediately terminate the violation. If, 15 days after receipt of the order, the person has failed or neglected to terminate the violation, the department shall notify the committee, which may suspend the person's certificate, or impose a fine not to exceed \$10,000 per day until the violation is corrected. Except for emergencies, prior to any suspension or imposition of a fine, the committee shall give written notice of its consideration of suspension or imposition of a fine and of its reasons therefor and shall provide opportunity for a prompt hearing.***

III. ~~[The]~~ ***Upon petition of the department, the*** committee may suspend a certificate if the committee determines that a person has made a material misrepresentation in the application, or in the supplemental or additional statements of fact, or studies required of the applicant, or if the committee determines that the person has violated the provisions of this chapter, or any rule adopted under this chapter. Except for emergencies, prior to any suspension, the committee shall give written notice of its consideration of suspension and of its reasons therefor and shall provide an opportunity for a prompt hearing.

~~[III. The]~~ ***IV. Upon petition of the department, the*** committee may revoke any certificate that is suspended after the person holding the suspended certificate has been given at least 90 days' written notice of the committee's consideration of revocation and of its reasons therefor and has been provided an opportunity for a full hearing.

~~[IV.]~~ ***V.*** Notwithstanding any other provision of this chapter, each of the other state agencies having permitting, or other regulatory authority shall retain all of its powers and duties of enforcement.



[V:] **VI.** The full amount of costs and expenses incurred by the **department and** committee in connection with any enforcement action against a person holding a certificate, including any action under this section and any action under RSA 162-H:19, in which the person is determined to have violated any provision of this chapter, any rule adopted by the **department or** committee, or any of the terms and conditions of the issued certificate, shall be assessed to the person and shall be paid by the person to the committee. Any amounts paid by a person to the committee pursuant to this paragraph shall be deposited in the site evaluation committee fund established in RSA 162-H:21.

**VII. The department may adopt rules in furtherance of its monitoring and enforcement responsibilities under this chapter.**

13 Records. Amend RSA 162-H:13 to read as follows:

162-H:13 Records. Complete verbatim records shall be kept by the committee of all hearings, and records of all other actions, proceedings, and correspondence of the committee, including submittals of information and reports by members of the public, shall be maintained, all of which records shall be open to the public inspection and copying as provided for under RSA 91-A. [Records] **Committee records** regarding pending applications for a certificate shall also be made available on a website.

14 Findings and Certificate Issuance. Amend RSA 162-H:16 to read as follows:

162-H:16 Findings and Certificate Issuance.

I. The committee shall incorporate in any certificate such terms and conditions **in their entirety and without addition, deletion, or change**, as may be specified to the committee by any of the state agencies having permitting or other regulatory authority, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility; provided, however, the committee shall not issue any certificate under this chapter if any of the state agencies denies authorization for the proposed activity over which it has permitting or other regulatory authority. The denial of any such authorization shall be based on the record and explained in reasonable detail by the denying agency.

II. Any certificate issued by the site evaluation committee shall be based on the record. The decision to issue a certificate in its final form or to deny an application once it has been accepted shall be made by a majority of the full membership. A certificate shall be conclusive on all questions of siting, land use, air and water quality.

III. The committee may consult with interested regional agencies and agencies of border states in the consideration of certificates.

IV. After due consideration of all relevant information regarding the potential siting, or routes of a proposed energy facility, including potential significant impacts and benefits, the site evaluation committee shall determine if issuance of a certificate will serve the objectives of this chapter. In order to issue a certificate, the committee shall find that:

(a) The applicant has adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of the certificate.

(b) The site and facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal governing bodies.

(c) The site and facility will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and public health and safety.

(d) [Repealed.]

(e) Issuance of a certificate will serve the public interest.

V. [Repealed.] **The committee shall issue an order granting or denying a certificate. Such order shall summarize issues of concern expressed during public information sessions and hearings to ensure that the public's voice has been heard and recorded.**

VI. A certificate of site and facility may contain such reasonable terms and conditions, including, but not limited to the authority to require bonding, as the committee deems necessary [and may provide for such reasonable monitoring procedures as may be necessary]. Such certificates, when issued, shall be final and subject only to judicial review.

VII. The committee may condition the certificate upon the results of ***applicable federal approvals or appeal processes and*** required federal and state agency studies whose study period exceeds the application period.

15 Fund Established; Funding Plan. Amend RSA 162-H:21 to read as follows:

162-H:21 Fund Established; Funding Plan. There is hereby established in the office of the state treasurer a nonlapsing, special fund to be known as the site evaluation committee fund. All application and other filing fees received by the committee under RSA 162-H:8-a shall be deposited in the fund. All moneys in the fund shall be continually appropriated to the site evaluation committee and shall only be used to pay for operating costs of the committee, including, but not limited to, compensation and reimbursements made under RSA 162-H:22 for energy facility proceeding time and expenses, and administrator and other committee support costs under RSA 162-H:3, VII and RSA 162-H:3-a, except those costs paid by applicants under RSA 162-H:10, ***and all monitoring and enforcement costs of the department, except those costs charged directly to applicants or owners.*** In the event lawful expenditures ***of the committee and department*** in a fiscal year are greater than the total fees and charges held in the site evaluation committee fund, the chair of the site evaluation committee[,] may request, with prior approval of the fiscal committee, that the governor and council authorize additional funding from general funds not otherwise appropriated. ***Notwithstanding any other provision of law, the department may engage additional technical, legal, or administrative support to fulfill the requirements of this chapter, the cost of which shall be charged directly to the applicant or energy facility owner.***

16 New Section; Transition. Amend RSA 162-H by inserting after section 23 the following new section:

162-H:24 Transition. On the effective date of this act, the department shall assume responsibility for all monitoring and enforcement activities under this chapter, except for proceedings opened by the committee prior to the effective date of this act, including enforcement complaints, in which case the proceeding shall continue pursuant to any existing procedural order of the committee.

17 Role of State Agencies. Amend RSA 162-H:7-a, I(c)-(d) to read as follows:

(c) Identify issues of concern on the proposal or permit request or notify the committee that the application raises no issues of concern; ***and***

(d) When issues of concern are identified by the agency or committee, designate one or more witnesses to appear before the committee at a hearing to provide input and answer questions of parties and committee members[; ~~and~~].

18 Repeal. RSA 162-H:7-a, I(e), relative to role of state agencies, is repealed.

19 Effective Date. This act shall take effect 60 days after its passage.

2023-1879s

#### AMENDED ANALYSIS

This bill:

I. Repeals the requirement for electric and natural gas utilities to submit least cost integrated resource plans with the public utilities commission and have the commission evaluate the plans and maintain them on file.

II. Removes the requirement that a municipal host under the limited electrical energy producers act be located in the same municipality as all group members.

III. Requires the department of energy to provide an estimated annual cost of compliance with electric renewable portfolio standards in customer's electric bills.

IV. Repeals the establishment of the energy efficiency and sustainable energy board and transfer some of the board's responsibilities to the department of energy.

V. Makes various changes to the energy facility site evaluation committee and permitting process.

Senate Executive Departments and Administration

May 17, 2023

2023-1908s

06/10

Amendment to HB 337-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to directing the office of professional licensure and certification to provide notice of public meetings and an opportunity for comment from the public, and creating a new attorney II position.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Office of Professional Licensure and Certification; Notifications. Amend RSA 310-A:1-d by inserting after paragraph V the following new paragraphs:

VI. All boards, councils, and commissions within the office of professional licensure and certification shall notify the public of any public meeting no less than 14 calendar days prior to the meeting. All governmental records, as defined in RSA 91-A:1-a, III, distributed to the board, council, or commission for the meeting shall be available to the public no less than 7 calendar days prior to the meeting, provided the governmental records do not contain information exempt from disclosure under RSA 91-A:5 or other applicable law. The chair of the board, council, or commission shall add items to the agenda within 7 calendar days of a meeting if, at the chair's discretion, the public's interest in the board addressing the matter outweighs the public's interest in timely access to governmental records associated with the new agenda item. In such circumstances, governmental records shall be available to the public as soon as reasonably practicable. If it is not practicable to make available to the public at least one day prior to a meeting, then paper copies of governmental records associated with the new agenda item shall be available at the meeting location upon request, provided the governmental records to be considered have undergone legal review to identify information exempt from disclosure. In such instances, materials associated with the new agenda item shall undergo legal review and be made available to the public with 7 calendar days of the public meeting. This section shall not apply to emergency meetings conducted pursuant to RSA 91-A:2; emergency hearings conducted pursuant to RSA 541-A:30, III; and disciplinary and non-disciplinary adjudicative or remedial proceedings conducted by boards, councils, and commissions within the office of professional licensure and certification.

VII. All boards, councils, and commissions within the office of professional licensure and certification shall provide an opportunity for comment from the public, virtually or in person, at public meetings, in a manner established by the board, council, or commission chair. This section shall not apply to emergency hearings conducted pursuant to RSA 541-A:30, III; and disciplinary and non-disciplinary remedial proceedings conducted by boards, councils, and commissions within the office of professional licensure and certification.

VIII. All boards, councils, and commissions within the office of professional licensure and certification shall provide an opportunity for the public to submit written comments on matters before the board, council, or commission. This section shall not apply to emergency hearings conducted pursuant to RSA 541-A:30, III; and disciplinary and non-disciplinary remedial proceedings conducted by boards, councils, and commissions within the office of professional licensure and certification.

## 2 Office of Professional Licensure and Certification; New Classified Position; Appropriation

I. One attorney II position, labor grade 28, is hereby established as a classified position in the office of professional licensure and certification.

II. The amount necessary to pay for the position established in paragraph I is hereby appropriated to the executive director of the office of professional licensure and certification. Salaries and necessary expenses shall be a charge against the office of professional licensure and certification fund.

## 3 Effective Date. This act shall take effect 60 days after its passage.

2023-1908s

## AMENDED ANALYSIS

This bill directs the office of professional licensure and certification to provide to the public notice of its meetings and an opportunity to comment in such meetings. This bill also establishes an attorney II position for the office of professional licensure and certification.

Senate Executive Departments and Administration

May 17, 2023

2023-1921s

02/05

## Amendment to HB 409-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to the organization of the office of professional licensure and certification and adoption of the interstate social work licensure compact.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Social Work; Conditional License. Amend RSA 330-A:2 by inserting after paragraph X the following new paragraph:

XI. "Regulated Social Worker" means clinical social workers, school social workers, licensed social workers, and licensed social work associates licensed under this chapter.

2 New Paragraph; Medical Imaging and Radiation Therapy; Applications; Temporary License. Amend RSA 328-J:13 by inserting after paragraph II-b the following new paragraph:

II-c. The executive director may issue a temporary license to any person who has submitted a complete application for licensure, but whose criminal history check results are pending. A temporary license shall be issued only if the applicant has satisfied all requirements, excluding the criminal history check. The temporary license shall be valid until the criminal history check results are received by the office, or for 120 days, whichever occurs first.

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

I. The board of nursing shall comprise ~~[11]~~ **13** members to be appointed by the governor with the consent of the council. Any interested individual, association, or entity may make ~~[recommendation]~~ **recommendations** to the governor. The members of the board shall include ~~[5]~~ **6** registered nurses, one of whom shall be an advanced practice registered nurse, 2 licensed practical nurses, ~~[2]~~ **3** licensed nursing assistants, one of whom shall be a medication licensed nursing assistant if possible, and 2 representative members of the public. The terms of members shall be staggered as determined by the governor and council. All terms shall be for 3 years, and no member of the board shall be appointed to more than 3 consecutive terms.

II. Each RN member shall be a resident of this state, licensed in good standing under the provisions of this chapter, and currently engaged in the practice of nursing as an RN and shall have no fewer than 5 years of experience as an RN, at least 3 of which shall have immediately preceded appointment. RN members of the board shall represent the various areas of nursing practice including education, administration, and clinical practice. ***One of the RN members of the board shall specifically represent nursing education; this member shall have a minimum of a master's degree in nursing or a health-related field and at least 5 years of educational experience in a nursing program offering a degree leading to a registered nurse license.***

4 New Paragraph; Authority of the Board of Nursing to Establish Subcommittees. Amend RSA 326-B:4 by inserting after paragraph XIV the following new paragraph:

XV. Establish a liaison committee, a practice and education committee, and such additional subcommittees as may be appropriate to assist the board in the performance of its duties.

5 Barbering, Cosmetology, and Esthetics; Penalty for Operating without a License. Amend RSA 313-A:9, II(b) to read as follows:

(b) Hire, ~~[or]~~ employ, ***or otherwise allow*** any person to engage in a practice regulated by this chapter, unless such person then holds a valid license or a temporary permit issued by the board to practice the respective profession.

6 Barbering, Cosmetology, and Esthetics; Shop Licensure. Amend RSA 313-A:19, II to read as follows:

II.~~[(a)]~~ Any licensed barber, cosmetologist, manicurist, or esthetician shall, upon written application accompanied by the required fees, receive a license to operate a salon, barbershop, or mobile barbershop in this state, provided that the salon, barbershop, or mobile barbershop meets all requirements established in the rules of the board.

~~[(b) Booths attached to or within a salon or barbershop that are operated independently of the salon or barbershop shall be subject to licensure in the same manner as an independent establishment, except that each independently operated booth shall not be required to have a separate sink or shampoo bowl.]~~

7 Optometry, Continuing Education Courses Required for Pharmaceutical and Glaucoma Certification. Amend RSA 327:33-a, I to read as follows:

I. An optometrist certified to use pharmaceutical agents in the practice of optometry shall complete a minimum of 50 hours of continuing education every year in order to maintain pharmaceutical certification. A minimum of 20 hours shall be by participation in formal courses and the remainder by independent study. Each optometrist shall report continuing education hours to the board [annually] in accordance with rules adopted by the board for the implementation of this section. Such continuing education courses and activities shall satisfy the requirements of RSA 327:33.

8 New Chapter; Office of Professional Licensure and Certification. RSA 310 is repealed and reenacted to insert the following new chapter:

## CHAPTER 310

### OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION

310:1 Purpose. The purpose of the office of professional licensure and certification is to promote efficiency and economy in the administration of the business processing, record keeping, and other administrative and clerical operations of professional licensing and certification boards, including both professional healthcare licensing and professional technical licensing. The individual licensing and certification boards that are organized under the office of professional licensure and certification have specialized knowledge and experience and are separate and distinct for the purpose of regulating their various professions. Notwithstanding the unique regulatory role of each board, the legislature finds that there are opportunities for improving efficiency and customer service by providing for the joint administration of the boards' administrative, clerical, business processing, and record keeping functions. Except as provided in this section, the licensing and certification boards and entities organized under the office of professional licensure and certification shall exercise the powers, duties, functions, and responsibilities granted by statute.

#### 310:2 Definitions; Establishment.

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

(a) "Board" means a board, council, commission, committee, or other regulatory body with jurisdiction over professions listed in paragraph II.

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

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

(d) "License" shall 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.

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

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

(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 certification board under RSA 310-C.

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

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

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

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

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

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

### 310:4 Duties of Executive Director.

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

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

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

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

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

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

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

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

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

(h) Submitting, by November 1, to the speaker of the house of representatives, the president of the senate, the chairpersons of the house and senate executive departments and administration committees, and

the governor, an annual report summarizing the transactions of the preceding fiscal year and a complete statement of the receipts and expenditures of the office of professional licensure and certification. The report shall be posted on the website of the office of professional licensure and certification immediately upon submission.

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

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

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

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

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

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

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

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

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

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

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

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

#### 310:7 Telemedicine and Telehealth Services.

I. For this section:

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

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

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

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

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

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

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

- (a) Use the same standard of care as used in an in-person encounter;
- (b) Maintain a medical record;
- (c) Subject to the patient’s consent, forward the medical record to the patient’s primary care or treating provider, if appropriate; and
- (d) Provide meaningful language access if the individual is practicing in a facility that is required to ensure meaningful language access to limited-English proficient speakers pursuant to 45 C.F.R. section 92.101 or RSA 354-A, or to deaf or hard of hearing individuals pursuant to 45 C.F.R. section 92.102, RSA 521-A, or RSA 354-A.

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

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

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

#### 310:8 License Renewals; Lapse.

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

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

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

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

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

#### 310:9 Complaints and Investigations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

(e) For the purposes of this paragraph:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

VIII. Any board member who has had a personal relationship or has worked in a professional capacity with a complainant or with a licensee against whom a complaint has been filed or whose personal or professional views regarding the licensee or the complainant could prevent the board member from being impartial in considering the complaint shall recuse himself or herself from any investigation or disciplinary action against such licensee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 310:11 Licensing Proceedings.

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

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

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

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

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

V. Licensing proceedings shall be open to the public in accordance with RSA 91-A.

### 310:12 Sanctions.

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

- (a) By reprimand.
- (b) By suspension of a license for a period of time as determined reasonable by the board.
- (c) By revocation of license.
- (d) By placing the licensee on probationary status. The board may require the person to submit to any of the following:
  - (1) Regular reporting to the board concerning the matters which are the basis of the probation.
  - (2) Continuing professional education until a satisfactory degree of skill has been achieved in those areas which are the basis of probation.
  - (3) Submitting to the care, counseling, or treatment of a physician, counseling service, health care facility, professional assistance program, or any comparable person or facility approved by the board.
  - (4) Practicing under the direct supervision of another licensee for a period of time specified by the board.

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

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

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

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

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

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

#### 310:14 Rehearing; Appeals.

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

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

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

#### 310:15 Oversight Committee; Establishment; Purpose.

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

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

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

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

III. The committee shall provide legislative oversight and informational meetings on the policies and rules of the office as brought to its attention by office personnel, legislators, members of the boards, councils,

committees, and commissions overseen by OPLC, and members of the professions under the jurisdiction of OPLC. The committee's work shall include analyzing the division of duties between administration and the boards in order to promote more productive and efficient interactions.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

III. The office of professional licensure and certification shall establish fees for examination of applicants, for licenses, for certificates of authorization, for reissuance of licenses, for renewal and reinstatement of licenses and certificates to practice under this chapter, for late renewals, for verification of licensure or examination, and for transcribing and transferring records and other services. All moneys collected by the office of professional licensure and certification from fees authorized under this chapter shall be received and accounted for by the office of professional licensure and certification, shall be deposited in the office of professional licensure and certification fund established in RSA ~~[310-A:1-e]~~ **310:5**. Administration expenses shall be limited to the funds collected and may include, but shall not be limited to, the costs of conducting investigations and of taking testimony and procuring the attendance of witnesses before the board or its committees; all legal proceedings taken under this chapter for the enforcement of this chapter; and educational programs for the benefit of the public or licensees and their employees.

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

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

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

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

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

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

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

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

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

XV-a. "Practitioner-patient relationship" means a medical connection between a licensed practitioner 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**, provided the health care practitioner: (i) verifies the identity of the patient receiving health care services through telemedicine; (ii) discloses to the patient the health care practitioner's name, contact information, and the type of health occupation license held by the health care practitioner; (iii) obtains oral or written consent from the patient or from the patient's parent or guardian, if state law requires the consent of a parent or guardian for use of telemedicine services; and (iv) meets the standard of care. A health care practitioner shall complete or review a history, a diagnosis, a treatment plan appropriate for the practitioner's scope of practice, and documentation of all prescription drugs including name and dosage. A practitioner may prescribe for a patient whom the practitioner does not have a practitioner-patient relationship under the following circumstances: for a patient of another practitioner for whom the prescriber is taking call; for a patient examined by another New Hampshire licensed practitioner; or for medication on a short-term basis for a new patient prior to the patient's first appointment. The definition of a practitioner-patient relationship shall not apply to a practitioner licensed in another state who is consulting to a New Hampshire licensed practitioner with whom the patient has a relationship.

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

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

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

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

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

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

22 Reference Changed; Physicians. Amend RSA 329:1-c to read 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**, provided the physician: (i) verifies the identity of the patient receiving health care services through telemedicine; (ii) discloses to the patient the physician’s name, contact information, and the type of health occupation license held by the physician; (iii) obtains oral or written consent from the patient or from the patient’s parent or guardian, if state law requires the consent of a parent or guardian for use of telemedicine services; and (iv) meets the standard of care. A physician shall complete or review a history, a diagnosis, a treatment plan appropriate for the licensee’s medical specialty, and documentation of all prescription drugs including name and dosage. A licensee may prescribe for a patient whom the licensee does not have a physician-patient relationship under the following circumstances: writing admission orders for a newly hospitalized patient; for a patient of another licensee for whom the prescriber is taking call; for a patient examined by a physician assistant, nurse practitioner, or other licensed practitioner; or for medication on a short-term basis for a new patient prior to the patient’s first appointment or when providing limited treatment to a family member in accordance with the American Medical Association Code of Medical Ethics. Prescribing drugs to individuals without a physician-patient relationship shall be unprofessional conduct subject to discipline under RSA 329:17, VI. The definition of a physician-patient relationship shall not apply to a physician licensed in another state who is consulting to a New Hampshire licensed physician with whom the patient has a relationship.

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

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

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

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

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

I. If an agency fails to take any required action on an application, petition, or request within the time limits prescribed by RSA 541-A:29 or any other provisions of law, the application, petition, or request shall be deemed approved and any permit, approval or other item requested shall be deemed granted to or received by the applicant, petitioner, or requestor, except as provided in RSA ~~[310-A:1-d, V]~~ **310**.

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

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

27 New Section; Social Work Licensure Compact. Amend RSA 330-A by inserting after section 18-d the following new section:

330-A:18-e Social Work Licensure Compact Adopted. The state of New Hampshire hereby adopts the provisions of the Social Work Licensure Compact as follows:

#### SECTION 1: PURPOSE

The purpose of this Compact is to facilitate interstate practice of Regulated Social Workers by improving public access to competent Social Work Services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

A. Increase public access to Social Work Services;

B. Reduce overly burdensome and duplicative requirements associated with holding multiple licenses;

- C. Enhance the Member States' ability to protect the public's health and safety;
- D. Encourage the cooperation of Member States in regulating multistate practice;
- E. Promote mobility and address workforce shortages by eliminating the necessity for licenses in multiple States by providing for the mutual recognition of other Member State licenses;
- F. Support military families;
- G. Facilitate the exchange of licensure and disciplinary information among Member States;
- H. Authorize all Member States to hold a Regulated Social Worker accountable for abiding by a Member State's laws, regulations, and applicable professional standards in the Member State in which the client is located at the time care is rendered; and
- I. Allow for the use of telehealth to facilitate increased access to regulated Social Work Services.

## SECTION 2. DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

- A. "Active Military Member" means any individual with full-time duty status in the active armed forces of the United States including members of the National Guard and Reserve.
- B. "Adverse Action" means any administrative, civil, equitable or criminal action permitted by a State's laws which is imposed by a Licensing Authority or other authority against a Regulated Social Worker, including actions against an individual's license or Multistate Authorization to Practice such as revocation, suspension, probation, monitoring of the Licensee, limitation on the Licensee's practice, or any other Encumbrance on licensure affecting a Regulated Social Worker's authorization to practice, including issuance of a cease and desist action.
- C. "Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a Licensing Authority to address practitioners with an Impairment.
- D. "Charter Member States" - Member States who have enacted legislation to adopt this Compact where such legislation predates the effective date of this Compact as described in Section 14.
- E. "Compact Commission" or "Commission" means the government agency whose membership consists of all States that have enacted this Compact, which is known as the Social Work Licensure Compact Commission, as described in Section 10, and which shall operate as an instrumentality of the Member States.
- F. "Current Significant Investigative Information" means:
  - 1. Investigative information that a Licensing Authority, after a preliminary inquiry that includes notification and an opportunity for the Regulated Social Worker to respond has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction as may be defined by the Commission; or
  - 2. Investigative information that indicates that the Regulated Social Worker represents an immediate threat to public health and safety, as may be defined by the Commission, regardless of whether the Regulated Social Worker has been notified and has had an opportunity to respond.
- G. "Data System" means a repository of information about Licensees, including, continuing education, examination, licensure, Current Significant Investigative Information, Disqualifying Event, Multistate License(s) and Adverse Action information or other information as required by the Commission.
- H. "Domicile" means the jurisdiction in which the Licensee resides and intends to remain indefinitely.
- I. "Disqualifying Event" means any Adverse Action or incident which results in an Encumbrance that disqualifies or makes the Licensee ineligible to either obtain, retain or renew a Multistate License.
- J. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of Social Work licensed and regulated by a Licensing Authority.
- K. "Executive Committee" means a group of delegates elected or appointed to act on behalf of, and within the powers granted to them by, the compact and Commission.
- L. "Home State" means the Member State that is the Licensee's primary Domicile.

M. “Impairment” means a condition(s) that may impair a practitioner’s ability to engage in full and unrestricted practice as a Regulated Social Worker without some type of intervention and may include alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

N. “Licensee(s)” means an individual who currently holds a license from a State to practice as a Regulated Social Worker.

O. “Licensing Authority” means the board or agency of a Member State, or equivalent, that is responsible for the licensing and regulation of Regulated Social Workers.

P. “Member State” means a state, commonwealth, district, or territory of the United States of America that has enacted this Compact.

Q. “Multistate Authorization to Practice” means a legally authorized privilege to practice, which is equivalent to a license, associated with a Multistate License permitting the practice of Social Work in a Remote State.

R. “Multistate License” means a license to practice as a Regulated Social Worker issued by a Home State Licensing Authority that authorizes the Regulated Social Worker to practice in all Member States under Multistate Authorization to Practice.

S. “Qualifying National Exam” means a national licensing examination approved by the Commission.

T. “Regulated Social Worker” means any clinical, master’s or bachelor’s Social Worker licensed by a Member State regardless of the title used by that Member State.

U. “Remote State” means a Member State other than the Licensee’s Home State.

V. “Rule(s)” or “Rule(s) of the Commission” means a regulation or regulations duly promulgated by the Commission, as authorized by the Compact, that has the force of law.

W. “Single State License” means a Social Work license issued by any State that authorizes practice only within the issuing State and does not include Multistate Authorization to Practice in any Member State.

X. “Social Work” or “Social Work Services” means the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities through the care and services provided by a Regulated Social Worker as set forth in the Member State’s statutes and regulations in the State where the services are being provided.

Y. “State” means any state, commonwealth, district, or territory of the United States of America that regulates the practice of Social Work.

Z. “Unencumbered License” means a license that authorizes a Regulated Social Worker to engage in the full and unrestricted practice of Social Work.

### SECTION 3. STATE PARTICIPATION IN THE COMPACT

A. To be eligible to participate in the compact, a potential Member State must currently meet all of the following criteria:

1. License and regulate the practice of Social Work at either the clinical, master’s, or bachelor’s category.
2. Require applicants for licensure to graduate from a program that is:
  - a. Operated by a college or university recognized by the Licensing Authority;
  - b. Accredited, or in candidacy by an institution that subsequently becomes accredited, by an accrediting agency recognized by either:
    - i. the Council for Higher Education Accreditation, or its successor; or
    - ii. the United States Department of Education; and
  - c. Corresponds to the licensure sought as outlined in Section 4.
3. Require applicants for clinical licensure to complete a period of supervised practice.
4. Have a mechanism in place for receiving, investigating, and adjudicating complaints about Licensees.

B. To maintain membership in the Compact a Member State shall:

1. Require that applicants for a Multistate License pass a Qualifying National Exam for the corresponding category of Multistate License sought as outlined in Section 4.
2. Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in Rules;
3. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Current Significant Investigative Information regarding a Licensee;
4. Implement procedures for considering the criminal history records of applicants for a Multistate License. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records.
5. Comply with the Rules of the Commission;
6. Require an applicant to obtain or retain a license in the Home State and meet the Home State's qualifications for licensure or renewal of licensure, as well as all other applicable Home State laws;
7. Authorize a Licensee holding a Multistate License in any Member State to practice in accordance with the terms of the Compact and Rules of the Commission; and
8. Designate a delegate to participate in the Commission meetings.

C. A Member State meeting the requirements of Section 3.A. and 3.B of this Compact shall designate the categories of Social Work licensure that are eligible for issuance of a Multistate License for applicants in such Member State. To the extent that any Member State does not meet the requirements for participation in the Compact at any particular category of Social Work licensure, such Member State may choose, but is not obligated to, issue a Multistate License to applicants that otherwise meet the requirements of Section 4 for issuance of a Multistate License in such category or categories of licensure.

D. The Home State may charge a fee for granting the Multistate License.

#### SECTION 4. SOCIAL WORKER PARTICIPATION IN THE COMPACT

A. To be eligible for a Multistate License under the terms and provisions of the Compact, an applicant, regardless of category must:

1. Hold or be eligible for an active, Unencumbered License in the Home State;
2. Pay any applicable fees, including any State fee, for the Multistate License;
3. Submit, in connection with an application for a Multistate License, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records.
4. Notify the Home State of any Adverse Action, Encumbrance, or restriction on any professional license taken by any Member State or non-Member State within 30 days from the date the action is taken.
5. Meet any continuing competence requirements established by the Home State;
6. Abide by the laws, regulations, and applicable standards in the Member State where the client is located at the time care is rendered.

B. An applicant for a clinical-category Multistate License must meet all of the following requirements:

2. Fulfill a competency requirement, which shall be satisfied by either:
  - a. Passage of a clinical-category Qualifying National Exam; or
  - b. Licensure of the applicant in their Home State at the clinical category, beginning prior to such time as a Qualifying National Exam was required by the Home State and accompanied by a period of continuous Social Work licensure thereafter, all of which may be further governed by the Rules of the Commission; or
  - c. The substantial equivalency of the foregoing competency requirements which the Commission may determine by Rule.
3. Attain at least a master's degree in Social Work from a program that is:



- a. Operated by a college or university recognized by the Licensing Authority; and
- b. Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:
  - i. the Council for Higher Education Accreditation or its successor; or
  - ii. the United States Department of Education.
- 4. Fulfill a practice requirement, which shall be satisfied by demonstrating completion of either:
  - a. A period of postgraduate supervised clinical practice equal to a minimum of three thousand hours; or
  - b. A minimum of two years of full-time postgraduate supervised clinical practice; or
  - c. The substantial equivalency of the foregoing practice requirements which the Commission may determine by Rule.
- C. An applicant for a master's-category Multistate License must meet all of the following requirements:
  - 1. Fulfill a competency requirement, which shall be satisfied by either:
    - a. Passage of a masters-category Qualifying National Exam;
    - b. Licensure of the applicant in their Home State at the master's category, beginning prior to such time as a Qualifying National Exam was required by the Home State at the master's category and accompanied by a continuous period of Social Work licensure thereafter, all of which may be further governed by the Rules of the Commission; or
    - c. The substantial equivalency of the foregoing competency requirements which the Commission may determine by Rule.
  - 2. Attain at least a master's degree in Social Work from a program that is:
    - a. Operated by a college or university recognized by the Licensing Authority; and
    - b. Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:
      - i. the Council for Higher Education Accreditation or its successor; or
      - ii. the United States Department of Education.
- D. An applicant for a bachelor's-category Multistate License must meet all of the following requirements:
  - 1. Fulfill a competency requirement, which shall be satisfied by either:
    - a. Passage of a bachelor's-category Qualifying National Exam;
    - b. Licensure of the applicant in their Home State at the bachelor's category, beginning prior to such time as a Qualifying National Exam was required by the Home State and accompanied by a period of continuous Social Work licensure thereafter, all of which may be further governed by the Rules of the Commission; or
    - c. The substantial equivalency of the foregoing competency requirements which the Commission may determine by Rule.
  - 2. Attain at least a bachelor's degree in Social Work from a program that is:
    - a. Operated by a college or university recognized by the Licensing Authority; and
    - b. Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:
      - i. the Council for Higher Education Accreditation or its successor; or
      - ii. the United States Department of Education.
- E. The Multistate License for a Regulated Social Worker is subject to the renewal requirements of the Home State. The Regulated Social Worker must maintain compliance with the requirements of Section 4(A) to be eligible to renew a Multistate License.

F. The Regulated Social Worker's services in a Remote State are subject to that Member State's regulatory authority. A Remote State may, in accordance with due process and that Member State's laws, remove a Regulated Social Worker's Multistate Authorization to Practice in the Remote State for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of its citizens.

G. If a Multistate License is encumbered, the Regulated Social Worker's Multistate Authorization to Practice shall be deactivated in all Remote States until the Multistate License is no longer encumbered.

H. If a Multistate Authorization to Practice is encumbered in a Remote State, the regulated Social Worker's Multistate Authorization to Practice may be deactivated in that State until the Multistate Authorization to Practice is no longer encumbered.

#### SECTION 5: ISSUANCE OF A MULTISTATE LICENSE

A. Upon receipt of an application for Multistate License, the Home State Licensing Authority shall determine the applicant's eligibility for a Multistate License in accordance with Section 4 of this Compact.

B. If such applicant is eligible pursuant to Section 4 of this Compact, the Home State Licensing Authority shall issue a Multistate License that authorizes the applicant or Regulated Social Worker to practice in all Member States under a Multistate Authorization to Practice.

C. Upon issuance of a Multistate License, the Home State Licensing Authority shall designate whether the Regulated Social Worker holds a Multistate License in the Bachelors, Masters, or Clinical category of Social Work.

D. A Multistate License issued by a Home State to a resident in that State shall be recognized by all Compact Member States as authorizing Social Work Practice under a Multistate Authorization to Practice corresponding to each category of licensure regulated in each Member State.

#### SECTION 6: AUTHORITY OF INTERSTATE COMPACT COMMISSION AND MEMBER STATE LICENSING AUTHORITIES

A. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Member State to enact and enforce laws, regulations, or other rules related to the practice of Social Work in that State, where those laws, regulations, or other rules are not inconsistent with the provisions of this Compact.

B. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

C. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Member State to take Adverse Action against a Licensee's Single State License to practice Social Work in that State.

D. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Remote State to take Adverse Action against a Licensee's Multistate Authorization to Practice in that State.

E. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Licensee's Home State to take Adverse Action against a Licensee's Multistate License based upon information provided by a Remote State.

#### SECTION 7: REISSUANCE OF A MULTISTATE LICENSE BY A NEW HOME STATE

A. A Licensee can hold a Multistate License, issued by their Home State, in only one Member State at any given time.

B. If a Licensee changes their Home State by moving between two Member States:

1. The Licensee shall immediately apply for the reissuance of their Multistate License in their new Home State. The Licensee shall pay all applicable fees and notify the prior Home State in accordance with the Rules of the Commission.

2. Upon receipt of an application to reissue a Multistate License, the new Home State shall verify that the Multistate License is active, unencumbered and eligible for reissuance under the terms of the Compact and the Rules of the Commission. The Multistate License issued by the prior Home State will be deactivated and all Member States notified in accordance with the applicable Rules adopted by the Commission.

3. Prior to the reissuance of the Multistate License, the new Home State shall conduct procedures for considering the criminal history records of the Licensee. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records.

4. If required for initial licensure, the new Home State may require completion of jurisprudence requirements in the new Home State.

5. Notwithstanding any other provision of this Compact, if a Licensee does not meet the requirements set forth in this Compact for the reissuance of a Multistate License by the new Home State, then the Licensee shall be subject to the new Home State requirements for the issuance of a Single State License in that State.

C. If a Licensee changes their primary State of residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, then the Licensee shall be subject to the State requirements for the issuance of a Single State License in the new Home State.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State License in multiple States; however, for the purposes of this Compact, a Licensee shall have only one Home State, and only one Multistate License.

E. Nothing in this Compact shall interfere with the requirements established by a Member State for the issuance of a Single State License.

## SECTION 8. MILITARY FAMILIES

An Active Military Member or their spouse shall designate a Home State where the individual has a Multistate License. The individual may retain their Home State designation during the period the service member is on active duty.

## SECTION 9. ADVERSE ACTIONS

A. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

1. Take Adverse Action against a Regulated Social Worker's Multistate Authorization to Practice only within that Member State, and issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Authority in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing Licensing Authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.

2. Only the Home State shall have the power to take Adverse Action against a Regulated Social Worker's Multistate License.

B. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine appropriate action.

C. The Home State shall complete any pending investigations of a Regulated Social Worker who changes their Home State during the course of the investigations. The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the Data System. The administrator of the Data System shall promptly notify the new Home State of any Adverse Actions.

D. A Member State, if otherwise permitted by State law, may recover from the affected Regulated Social Worker the costs of investigations and dispositions of cases resulting from any Adverse Action taken against that Regulated Social Worker.

E. A Member State may take Adverse Action based on the factual findings of another Member State, provided that the Member State follows its own procedures for taking the Adverse Action.

F. Joint Investigations:

1. In addition to the authority granted to a Member State by its respective Social Work practice act or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.

2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If Adverse Action is taken by the Home State against the Multistate License of a Regulated Social Worker, the Regulated Social Worker's Multistate Authorization to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the Multistate License. All Home State disciplinary orders that impose Adverse Action against the license of a Regulated Social Worker shall include a statement that the Regulated Social Worker's Multistate Authorization to Practice is deactivated in all Member States until all conditions of the decision, order or agreement are satisfied.

H. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the Home State and all other Member State's of any Adverse Actions by Remote States.

I. Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

J. Nothing in this Compact shall authorize a Member State to demand the issuance of subpoenas for attendance and testimony of witnesses or the production of evidence from another Member State for lawful actions within that Member State.

K. Nothing in this Compact shall authorize a Member State to impose discipline against a Regulated Social Worker who holds a Multistate Authorization to Practice for lawful actions within another Member State.

#### SECTION 10. ESTABLISHMENT OF SOCIAL WORK LICENSURE COMPACT COMMISSION

A. The Compact Member States hereby create and establish a joint government agency whose membership consists of all Member States that have enacted the compact known as the Social Work Licensure Compact Commission. The Commission is an instrumentality of the Compact States acting jointly and not an instrumentality of any one State. The Commission shall come into existence on or after the effective date of the Compact as set forth in Section 14.

##### B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's State Licensing Authority.

2. The delegate shall be either:

a. A current member of the State Licensing Authority at the time of appointment, who is a Regulated Social Worker or public member of the State Licensing Authority; or

b. An administrator of the State Licensing Authority or their designee.

3. The Commission shall by Rule or bylaw establish a term of office for delegates and may by Rule or bylaw establish term limits.

4. The Commission may recommend removal or suspension any delegate from office.

5. A Member State's State Licensing Authority shall fill any vacancy of its delegate occurring on the Commission within 60 days of the vacancy.

6. Each delegate shall be entitled to one vote on all matters before the Commission requiring a vote by Commission delegates.

7. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, videoconference, or other means of communication.

8. The Commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The Commission may meet by telecommunication, video conference or other similar electronic means.

C. The Commission shall have the following powers:

1. Establish the fiscal year of the Commission;
2. Establish code of conduct and conflict of interest policies;
3. Establish and amend Rules and bylaws;
4. Maintain its financial records in accordance with the bylaws;
5. Meet and take such actions as are consistent with the provisions of this Compact, the Commission's Rules, and the bylaws;
6. Initiate and conclude legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or be sued under applicable law shall not be affected;
7. Maintain and certify records and information provided to a Member State as the authenticated business records of the Commission, and designate an agent to do so on the Commission's behalf;
8. Purchase and maintain insurance and bonds;
9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;
10. Conduct an annual financial review
11. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
12. Assess and collect fees;
13. Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;
14. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;
15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;
16. Establish a budget and make expenditures;
17. Borrow money;
18. Appoint committees, including standing committees, composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;
19. Provide and receive information from, and cooperate with, law enforcement agencies;
20. Establish and elect an Executive Committee, including a chair and a vice chair;
21. Determine whether a State's adopted language is materially different from the model compact language such that the State would not qualify for participation in the Compact; and
22. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact.

#### D. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact. The powers, duties, and responsibilities of the Executive Committee shall include:
  - a. Oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its Rules and bylaws, and other such duties as deemed necessary;
  - b. Recommend to the Commission changes to the Rules or bylaws, changes to this Compact legislation, fees charged to Compact Member States, fees charged to Licensees, and other fees;
  - c. Ensure Compact administration services are appropriately provided, including by contract;
  - d. Prepare and recommend the budget;



- e. Maintain financial records on behalf of the Commission;
- f. Monitor Compact compliance of Member States and provide compliance reports to the Commission;
- g. Establish additional committees as necessary;
- h. Exercise the powers and duties of the Commission during the interim between Commission meetings, except for adopting or amending Rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the Commission by Rule or bylaw; and
- i. Other duties as provided in the Rules or bylaws of the Commission.

2. The Executive Committee shall be composed of up to eleven (11) members:

- a. The chair and vice chair of the Commission shall be voting members of the Executive Committee; and
- b. The Commission shall elect five voting members from the current membership of the Commission.
- c. Up to four (4) ex-officio, nonvoting members from four (4) recognized national Social Work organizations.
- d. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Committee as provided in the Commission's bylaws.

4. The Executive Committee shall meet at least annually.

- a. Executive Committee meetings shall be open to the public, except that the Executive Committee may meet in a closed, non-public meeting as provided in subsection F.2 below.
- b. The Executive Committee shall give seven (7) days' notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the Commission.
- c. The Executive Committee may hold a special meeting in accordance with subsection F.1.b. below.

E. The Commission shall adopt and provide to the Member States an annual report.

#### F. Meetings of the Commission

1. All meetings shall be open to the public, except that the Commission may meet in a closed, non-public meeting as provided in subsection F.2 below.

a. Public notice for all meetings of the full Commission of meetings shall be given in the same manner as required under the Rulemaking provisions in Section 12, except that the Commission may hold a special meeting as provided in subsection F.1.b below.

b. The Commission may hold a special meeting when it must meet to conduct emergency business by giving 48 hours' notice to all commissioners, on the Commission's website, and other means as provided in the Commission's Rules. The Commission's legal counsel shall certify that the Commission's need to meet qualifies as an emergency.

2. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting for the Commission or Executive Committee or other committees of the Commission to receive legal advice or to discuss:

- a. Non-compliance of a Member State with its obligations under the Compact;
- b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees;
- c. Current or threatened discipline of a Licensee by the Commission or by a Member State's Licensing Authority;
- d. Current, threatened, or reasonably anticipated litigation;
- e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- f. Accusing any person of a crime or formally censuring any person;
- g. Trade secrets or commercial or financial information that is privileged or confidential;
- h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

- i. Investigative records compiled for law enforcement purposes;
- j. Information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact;
- k. Matters specifically exempted from disclosure by federal or Member State law; or
- l. Other matters as promulgated by the Commission by Rule.

3. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

#### G. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources as provided in subsection C(13).

3. The Commission may levy on and collect an annual assessment from each Member State and impose fees on Licensees of Member States to whom it grants a Multistate License to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for Member States shall be allocated based upon a formula that the Commission shall promulgate by Rule.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the Commission.

#### H. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Commission shall not in any way compromise or limit the immunity granted hereunder.

2. The Commission shall defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the Commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

4. Nothing herein shall be construed as a limitation on the liability of any Licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable State laws.

5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Member State's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation.

6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Member States or by the Commission.

#### SECTION 11. DATA SYSTEM

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated Data System.

B. The Commission shall assign each applicant for a Multistate License a unique identifier, as determined by the Rules of the Commission.

C. Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse Actions against a license and information related thereto;
4. Non-confidential information related to Alternative Program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under Member State law;
5. Any denial of application for licensure, and the reason(s) for such denial;
6. The presence of Current Significant Investigative Information; and
7. Other information that may facilitate the administration of this Compact or the protection of the public, as determined by the Rules of the Commission.

D. The records and information provided to a Member State pursuant to this Compact or through the Data System, when certified by the Commission or an agent thereof, shall constitute the authenticated business records of the Commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial or administrative proceedings in a Member State.

E. Current Significant Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

1. It is the responsibility of the Member States to report any Adverse Action against a Licensee and to monitor the database to determine whether Adverse Action has been taken against a Licensee. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.

F. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

G. Any information submitted to the Data System that is subsequently expunged pursuant to federal law or the laws of the Member State contributing the information shall be removed from the Data System.

#### SECTION 12. RULEMAKING

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and administer the purposes and provisions of the Compact. A Rule shall be invalid and have no force or effect

only if a court of competent jurisdiction holds that the Rule is invalid because the Commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the Compact, or the powers granted hereunder, or based upon another applicable standard of review.

B. The Rules of the Commission shall have the force of law in each Member State, provided however that where the Rules of the Commission conflict with the laws of the Member State that establish the Member State's laws, regulations, and applicable standards that govern the practice of Social Work as held by a court of competent jurisdiction, the Rules of the Commission shall be ineffective in that State to the extent of the conflict.

C. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Rules shall become binding on the day following adoption or the date specified in the rule or amendment, whichever is later.

D. If a majority of the legislatures of the Member States rejects a Rule or portion of a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

E. Rules shall be adopted at a regular or special meeting of the Commission.

F. Prior to adoption of a proposed Rule, the Commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.

G. Prior to adoption of a proposed Rule by the Commission, and at least thirty (30) days in advance of the meeting at which the Commission will hold a public hearing on the proposed Rule, the Commission shall provide a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform;
2. To persons who have requested notice of the Commission's notices of proposed rulemaking, and
3. In such other way(s) as the Commission may by Rule specify.

H. The Notice of Proposed Rulemaking shall include:

1. The time, date, and location of the public hearing at which the Commission will hear public comments on the proposed Rule and, if different, the time, date, and location of the meeting where the Commission will consider and vote on the proposed Rule;
2. If the hearing is held via telecommunication, video conference, or other electronic means, the Commission shall include the mechanism for access to the hearing in the Notice of Proposed Rulemaking;
3. The text of the proposed Rule and the reason therefor;
4. A request for comments on the proposed Rule from any interested person; and
5. The manner in which interested persons may submit written comments.

I. All hearings will be recorded. A copy of the recording and all written comments and documents received by the Commission in response to the proposed Rule shall be available to the public.

J. Nothing in this section shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

K. The Commission shall, by majority vote of all members, take final action on the proposed Rule based on the Rulemaking record and the full text of the Rule.

1. The Commission may adopt changes to the proposed Rule provided the changes do not enlarge the original purpose of the proposed Rule.
2. The Commission shall provide an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that were recommended by commenters.
3. The Commission shall determine a reasonable effective date for the Rule. Except for an emergency as provided in Section 12.L, the effective date of the rule shall be no sooner than 30 days after issuing the notice that it adopted or amended the Rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with 48 hours' notice, with opportunity to comment, provided that the usual Rulemaking procedures provided

in the Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or Member State funds;
3. Meet a deadline for the promulgation of a Rule that is established by federal law or rule; or
4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

N. No Member State's rulemaking requirements shall apply under this compact.

### SECTION 13. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

#### A. Oversight

1. The executive and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to implement the Compact.
2. Except as otherwise provided in this Compact, venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a Licensee for professional malpractice, misconduct or any such similar matter.
3. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission service of process shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

#### B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall provide written notice to the defaulting State. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the Commission may take, and shall offer training and specific technical assistance regarding the default.
2. The Commission shall provide a copy of the notice of default to the other Member States.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the delegates of the Member States, and all rights, privileges and benefits conferred on that State by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, the defaulting State's State Licensing Authority and each of the Member States' State Licensing Authority.

E. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.



F. Upon the termination of a State's membership from this Compact, that State shall immediately provide notice to all Licensees within that State of such termination. The terminated State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of six (6) months after the date of said notice of termination.

G. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

H. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

#### I. Dispute Resolution

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between Member and non-Member States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

#### J. Enforcement

1. By majority vote as provided by Rule, the Commission may initiate legal action against a Member State in default in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or the defaulting Member State's law.

2. A Member State may initiate legal action against the Commission in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. No person other than a Member State shall enforce this compact against the Commission.

### SECTION 14. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the seventh Member State.

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the first seven Member States ("Charter Member States") to determine if the statute enacted by each such Charter Member State is materially different than the model Compact statute.

a. A Charter Member State whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in Section 13.

b. If any Member State is later found to be in default, or is terminated or withdraws from the Compact, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Member States should be less than seven.

2. Member States enacting the Compact subsequent to the seven initial Charter Member States shall be subject to the process set forth in Section 10(C)(21) to determine if their enactments are materially different from the model Compact statute and whether they qualify for participation in the Compact.

3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated by the Commission.

4. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules and bylaws shall be subject to the Rules and bylaws as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

B. Any Member State may withdraw from this Compact by enacting a statute repealing the same.

1. A Member State's withdrawal shall not take effect until 180 days after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Licensing Authority to comply with the investigative and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.

3. Upon the enactment of a statute withdrawing from this compact, a State shall immediately provide notice of such withdrawal to all Licensees within that State. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing State shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

C. Nothing contained in this Compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

D. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

#### SECTION 15. CONSTRUCTION AND SEVERABILITY

A. This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of Rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes.

B. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Member State, a State seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby.

C. Notwithstanding subsection B of this section, the Commission may deny a State's participation in the Compact or, in accordance with the requirements of Section 13.B, terminate a Member State's participation in the Compact, if it determines that a constitutional requirement of a Member State is a material departure from the Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

#### SECTION 16. CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

A. A Licensee providing services in a Remote State under a Multistate Authorization to Practice shall adhere to the laws and regulations, including laws, regulations, and applicable standards, of the Remote State where the client is located at the time care is rendered.

B. Nothing herein shall prevent or inhibit the enforcement of any other law of a Member State that is not inconsistent with the Compact.

C. Any laws, statutes, regulations, or other legal requirements in a Member State in conflict with the Compact are superseded to the extent of the conflict.

D. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

28 Repeal of Former OPLC Administrative Provisions. RSA 310-A:1 through RSA 310-A:1-p, relative to the organization of the office of professional licensure and certification are repealed.

29 Repeals; OPLC Administrative Attachment; Obsolete References. The following are repealed:

I. RSA 5:13-a, relative to the administrative attachment of the real estate commission.

II. RSA 205-A:29-a, relative to the administrative attachment of the board of manufactured housing.

III. RSA 205-D:3-a, relative to the administrative attachment of the manufactured housing installation board.

- IV. RSA 309-B:4, VIII, relative to the administrative attachment of the board of accountancy.
- V. RSA 310-B:4, X, relative to the administrative attachment of the real estate appraiser's board.
- VI. RSA 319-C:4, III, relative to the administrative attachment of the electricians board.
- VII. RSA 328-C:13, relative to the administrative attachment of the board of family mediators.
- VIII. RSA 331-A:5, X, relative to the administrative attachment of the real estate commission.
- IX. RSA 332-B:3, IV, relative to the administrative attachment of the board of veterinary medicine.
- X. RSA 490-C:7, relative to the administrative attachment of the GAL board.

30 Effective Date. This act shall take effect July 1, 2023.

2023-1921s

#### AMENDED ANALYSIS

This bill reorganizes the office of professional licensure and certification and adopts the interstate social work licensure compact.

Energy and Natural Resources  
May 16, 2023  
2023-1885s  
08/07

#### Amendment to HB 442-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to the removal of derelict fishing gear.

Amend the bill by replacing all after the enacting clause with the following:

1 Findings. The general court finds that:

I. Derelict fishing gear in the coastal waters of New Hampshire presents a hazard to the marine ecosystem and proper removal and disposal of the abandoned or derelict fishing gear is a worthwhile project.

II. New Hampshire needs a rapid response to the call for a significant clean-up effort of all derelict fishing gear in our coastal waters.

III. A useful component to the clean-up effort is in the addition of stakeholders to assist in removal of the derelict fishing gear.

2 Department of Fish and Game; Derelict Fishing Gear.

I. The executive director of the department of fish and game shall schedule events and coordinate with volunteers to locate, remove, and dispose of derelict fishing gear off the coast of New Hampshire. Such events shall only be funded from the additional funding provided in section 3 of this act to derelict fishing gear and coastal clean up fund under RSA 211:77. The executive director shall schedule at least 3 such events in 2024 and 3 such events in 2025 unless funding is insufficient to execute such events.

II. Before disposal, the executive director shall attempt to notify the owner of retrieved derelict gear by information contained in department records and any contact information shown on trap tags indicating the owner. In the event that there is no identifying marker, the owner fails to claim the derelict gear within 30 days of being notified by the department, or the owner verbally dismisses their claim on the derelict gear to the executive director after notification, then the executive director may dispose of the derelict fishing gear or authorize the disposal in any suitable fashion at his or her discretion.

III. In this section, "derelict fishing gear" means:

(a) Any lobster pot, trap, warp, or live car found in New Hampshire waters that does not have a surface buoy connected directly or indirectly to the equipment.

(b) Fishing gear absent a valid trap tag indicating the owner's name and contact information.

(c) Fishing gear that is plainly visible to law enforcement to be abandoned, lost, or derelict.

3 Department of Fish and Game; Appropriation. The sum of \$100,000 for the fiscal year ending June 30, 2024 and the sum of \$100,000 for the fiscal year ending June 30, 2025, is hereby appropriated to the derelict fishing gear and coastal cleanup fund established in RSA 211:77 and administered by the department of fish and game to provide funding for the removal of derelict fishing gear. Such funds shall be expended by December 31 of the corresponding calendar year. Said appropriation shall be in addition to any other sums appropriated for this purpose, shall not be transferred or expended for any other purpose. Any unexpended funds shall lapse to the general fund. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

4 Effective Date. This act shall take effect July 1, 2023.

2023-1885s

#### AMENDED ANALYSIS

This bill requires the executive director of the department of fish and game to schedule events for the collection, retrieval, and disposal of derelict fishing gear in coastal waters and making an appropriation therefor.

Commerce  
May 16, 2023  
2023-1874s  
07/08

#### Amendment to HB 467-FN

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Public Playground Accessibility. Amend RSA 155 by inserting after section 82 the following new subdivision:

#### Public Playground Accessibility

155:83 Public Playground Accessibility. Any public playground constructed on or after January 1, 2024 shall, in addition to meeting general safety standards and Americans With Disabilities Act standards, include accessible pathways made from resilient solid surface material that is not a loose fill or aggregate, beginning at the entrance of the playground, continuing to each piece of playground equipment, and extending to the playground exit.

2023-1874s

#### AMENDED ANALYSIS

This bill requires public playgrounds in use on or after January 1, 2024 to have resilient solid surface materials for accessibility to the playground and each piece of equipment.

Senate Executive Departments and Administration  
May 17, 2023  
2023-1919s  
05/08

#### Amendment to HB 532-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to the licensure and regulation of music therapists and other occupations and professions.

Amend the bill by replacing all after section 6 with the following:

7 Office of Professional Licensure and Certification; New Classified Position; Appropriation.

I. One program assistant II position, labor grade 15, is hereby established as a classified position in the office of professional licensure and certification.

II. The amount necessary to pay for the position established in paragraph I and for the per diem and travel reimbursement as required under RSA 328-F:6 for the music therapy governing board established in this act is hereby appropriated to the executive director of the office of professional licensure and certification. Salaries and necessary expenses shall be a charge against the office of professional licensure and certification fund.

8 New Paragraph; Physicians and Surgeons; Limitations Upon Operation of Chapter; Persons Excepted. Amend RSA 329:21 by inserting after paragraph IV the following new paragraph:

IV-a. To a physician licensed in another state providing care to a patient in New Hampshire when there is a physician-patient relationship in the physician's home state of licensing with in-person exams conducted by the physician at intervals appropriate for the patient and the patient's medical condition, but not less than annually; or

9 Effective Date. This act shall take effect July 1, 2023.

2023-1919s

#### AMENDED ANALYSIS

This bill:

I. Establishes the licensure and regulation of music therapists under the allied health professionals.

II. Provides a licensing exemption for some physicians licensed out of state to treat existing patients in New Hampshire.

Senate Finance

May 16, 2023

2023-1900s

10/08

#### Amendment to HB 534-FN-A

Amend the bill by replacing sections 3 and 4 with the following:

3 Appropriation; Water Assistance for Natural Disasters Fund. The sum of \$500,000 for the fiscal year ending June 30, 2023, which shall not lapse until June 30, 2025, is hereby appropriated to the water assistance for natural disasters fund established in RSA 485-J for use by the department of environmental services for the purpose of assisting to fund replacement, repair and treatment of water sources damaged during natural disasters. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

4 Effective Date. This act shall take effect June 30, 2023.

Commerce

May 16, 2023

2023-1882s

08/10

#### Amendment to HB 584

Amend the bill by replacing section 36 with the following:

36 After-Acquired Property; Future Advances. Amend RSA 382-A:9-204(b) to read as follows:

(b) When after-acquired property clause not effective. Subject to subsection [(c)] **(b.1)**, a security interest does not attach under a term constituting an after-acquired property clause to:

(1) consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within 10 days after the secured party gives value; or

(2) a commercial tort claim.

***(b.1) Limitation on subsection (b). Subsection (b) does not prevent a security interest from attaching:***

***(1) to consumer goods as proceeds under Section 9-315(a) or commingled goods under Section 336(c);***

***(2) to a commercial tort claim as proceeds under Section 9-315(a); or***

***(3) under an after-acquired property clause to property that is proceeds of consumer goods or a commercial tort claim.***



Amend the bill by replacing section 51 with the following:

51 Buyers that Receive Delivery. Amend RSA 382-A:9-317(b) to read as follows:

(b) Buyers that receive delivery. Except as otherwise provided in subsection (e), a buyer ***other than a secured party***, of goods, instruments, tangible documents, or a certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

Amend the bill by replacing section 82 with the following:

82 Definitions. Amend RSA 382-A:12-102(a)(3) to read as follows:

(3) “Transferable record” [means] ***has the meaning provided for that term in:***

(A) [~~“Transferable record” as defined in~~] ***Section 201(a)(1) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., as amended; or***

(B) “Transferable record” as defined in Uniform Electronic Transactions Act Section 16(a).

Amend the introductory paragraph RSA 382-A:12-106(b) as inserted by section 86 of the bill by replacing it with the following:

(b) ***Content and*** Effect of notification. Subject to subsection (d), [~~an~~] ***the*** account debtor may not discharge its obligation by paying a person that formerly had control of the controllable electronic record if the account debtor receives a notification that:

Amend the bill by replacing section 87 with the following:

87 Governing Law. Amend RSA 382-A: 12-107(b) to read as follows:

(b) Governing law: Section [~~12-106~~] ***12-107. For a controllable electronic record that evidences a controllable account or controllable payment intangible***, the local law of the controllable electronic record’s jurisdiction for a controllable electronic record that evidences a controllable account or controllable payment intangible governs a matter covered by Section 12-106 unless an effective agreement determines that the local law of another jurisdiction governs.

Amend the bill by replacing section 88 with the following:

88 Applicability; Relations; Rights. Amend RSA 382-A:12-107(d)-(f) to read as follows:

(d) Applicability of Article 12. If subsection (c)(5) applies and Article 12 is not in effect in the District of Columbia without material modification, the governing law for a matter covered by this article is the law of the District of Columbia as though Article 12 were in effect in the District of Columbia without material modification. In this ***sub-section***, “Article 12” means ***Article 12 of Uniform Commercial Code Amendments (2022) [Controllable Electronic Records (with Conforming Amendments to Articles 1 and 9), 2022 Official Text]***.

(e) Relation of ***matter or*** transaction to controllable electronic record’s jurisdiction not necessary. [~~Subsections (b) through (d) apply even if a transaction~~] ***To the extent subsections (a) and (b) provide that the local law of the controllable electronic record’s jurisdiction governs a matter covered by this article, that law governs even if the matter or a transaction to which the matter relates*** does not bear any relation to the controllable electronic record’s jurisdiction.

(f) Rights of purchasers determined at time of purchase. The rights acquired ***under Section 12-104*** by a purchaser or [a] qualifying purchaser [~~under Section 12-104~~] are governed by the law applicable under this section at the time of purchase.

Amend RSA 382-A:13-102(b) as inserted by section 90 of the bill by replacing it with the following:

(b) Definitions in other Articles. The following definitions in other articles of the Uniform Commercial Code apply to this article.

“Controllable account”. Section 9-102.

“Controllable electronic record”. Section 12-102.

“Controllable payment intangible”. Section 9-102.

“Financing statement”. Section 9-102.

Amend RSA 382-A:13-305(c) as inserted by section 91 of the bill by replacing it with the following:

(c) Determination of certain priorities on adjustment date. On the adjustment date, to the extent the priorities determined by Article 9 as amended by this act modify the priorities established before the effective date of this article, the priorities of claims to Article 12 property established before the effective date of this article shall cease to apply.

Amend the bill by inserting after section 91 the following and renumbering the original section 92 to read as 108:

92 Money; Definition. Amend RSA 382-A:1-201(b)(24) to read as follows:

(24) "Money" means a medium of exchange that is currently authorized or adopted by a domestic or foreign government **and is not in an electronic form**. ~~[The term does not include an electronic record that is a medium of exchange recorded and transferable in a system that existed and operated for the medium of exchange before the medium of exchange was authorized or adopted by a government, or organization or pursuant to such an agreement.]~~

93 Money; Definition. Amend RSA 382-A:9-102(a)(54A) to read as follows:

(54A) "Money" has the meaning provided in Section 1-201(24), but the term does not include [(i)] a deposit account ~~[or (ii) money in an electronic form that cannot be subjected to control under Section 9-105A]~~.

94 No Requirement to Acknowledge or Confirm; No Duties. Amend RSA 382-A:9-107B(a) to read as follows:

(a) No requirement to acknowledge. A person that has control under Section 9-104[; **or** 9-105 ~~or 9-105A~~] is not required to acknowledge that it has or will obtain control on behalf of another person.

95 Attachment and Enforceability of a Security Interest. Amend RSA 382-A:9-203(b) to read as follows:

(b) Enforceability. Except as otherwise provided in subsections (c) through (i), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(1) value has been given;

(2) the debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(3) one of the following conditions is met:

(A) the debtor has ~~[authenticated]~~ **signed** a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(B) the collateral is not a certificated security and is in the possession of the secured party under Section 9-313 pursuant to the debtor's security agreement;

(C) the collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under Section 8-301 pursuant to the debtor's security agreement; ~~[or]~~

(D) the collateral is **controllable accounts, controllable electronic records, controllable payment intangibles**, deposit accounts, electronic ~~[chattel paper]~~ **documents**, investment property, **or** letter-of-credit rights, ~~[or electronic documents;]~~ and the secured party has control under Section 7-106, 9-104, ~~[9-105;]~~ 9-106, ~~[or]~~ 9-107, **or 9-107A** pursuant to the debtor's security agreement; **or**

**(E) the collateral is chattel paper and the secured party has possession and control under Section 9-314A pursuant to the debtor's security agreement.**

96 Duties and Rights When Secured Party in Possession or Control. Amend the introductory paragraph of RSA 382-A:9-207(c) to read as follows:

(c) Duties and rights when secured party in possession or control. Except as otherwise provided in subsection (d), a secured party having possession of collateral or control of collateral under Section 7-106, 9-104, 9-105, ~~[9-105A;]~~ 9-106, 9-107, or 9-107A:

97 Additional Duties of Secured Party Having Control of Collateral. Amend RSA 382-A:9-208(b)(6)-(8) to read as follows:

(6) a secured party having control under Section 7-106 of an authoritative copy of an electronic document of title shall transfer control of the authoritative copy to the debtor or a person designated by the debtor; **and**

(7) ~~[a secured party having control under Section 9-105A of electronic money shall transfer control of the electronic money to the debtor or a person designated by the debtor; and~~

(8) a secured party having control under Section 12-105 of a controllable electronic record shall transfer control of the controllable electronic record to the debtor or a person designated by the debtor.

98 Law Governing Perfection and Priority of Security Interests. Amend the introductory paragraph of RSA 382-A:9-301(3) to read as follows:

(3) Except as otherwise provided in paragraph (4), while tangible negotiable documents, goods, instruments, or ~~[tangible]~~ money is located in a jurisdiction, the local law of that jurisdiction governs:

99 Perfection of Security Interests. Amend RSA 382-A:9-312(b)(2)-(4) to read as follows:

(2) and except as otherwise provided in Section 9-308(d), a security interest in a letter-of-credit right may be perfected only by control under Section 9-314; **and**

(3) a security interest in ~~[tangible]~~ money may be perfected only by the secured party's taking possession under Section 9-313~~;~~ **and**

~~(4) a security interest in electronic money may be perfected only by control under Section 9-314].~~

100 Perfection by Possession or Delivery. Amend RSA 382-A:9-313(a) to read as follows:

(a) Perfection by possession or delivery. Except as otherwise provided in subsection (b), a secured party may perfect a security interest in goods, instruments, negotiable tangible documents, or ~~[tangible]~~ money, by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under Section 8-301.

101 Perfection by Control. Amend RSA 382-A:9-314(a) and (b) to read as follows:

382-A:9-314 Perfection by Control.

(a) Perfection by control. A security interest in controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, ~~[electronic money;]~~ investment property, or letter-of-credit rights may be perfected by control of the collateral under Section 7-106, 9-104, ~~[9-105A;]~~ 9-106, 9-107, or 9-107A.

(b) Specified collateral: time of perfection by control; continuation of perfection. A security interest in controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, ~~[electronic money;]~~ or letter-of-credit rights is perfected by control under Section 7-106, 9-104, ~~[9-105A;]~~ 9-107, or 9-107A when the secured party obtains control and remains perfected by control only while the secured party retains control.

102 Licensees and Buyers of Certain Collateral. Amend RSA 382-A:9-317(d) to read as follows:

(d) Licensees and buyers of certain collateral. Subject to subsections (f), (g), (h), and (i) a licensee of a general intangible or a buyer, other than a secured party, of collateral other than ~~[electronic money, tangible documents;]~~ goods, instruments, **tangible documents**, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

103 Transfer of Money; Transfer of Funds from Deposit Account. Amend RSA 382-A:9-332 to read as follows:

382-A:9-332 Transfer of Money; Transfer of Funds From Deposit Account.

(a) Transferee of ~~[tangible]~~ money. A transferee of ~~[tangible]~~ money takes the money free of a security interest if the transferee receives ~~[delivery]~~ **possession** of the money without acting in collusion with the debtor in violating the rights of the secured party.

~~(b) [Transferee of electronic money. A transferee of electronic money takes the money free of a security interest if the transferee obtains control of the money without acting in collusion with the debtor in violating the rights of the secured party.]~~

(c) Transferee of funds from deposit account. A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account if the transferee receives the funds without acting in collusion with the debtor in violating the rights of the secured party.

104 Rights and Duties of Secured Party in Possession or Control. Amend RSA 382-A:9-601(b) to read as follows:

(b) Rights and duties of secured party in possession or control. A secured party in possession of collateral or control of collateral under Section 7-106, 9-104, 9-105, 9-106, [or] 9-107, **or 9-107A** has the rights and duties provided in Section 9-207.

105 Definitions Controllable Electronic Records. Amend RSA 382-A:12-102(a)(1) to read as follows:

(1) “Controllable electronic record” means a record stored in an electronic medium that can be subjected to control under Section 12-105. The term does not include a controllable account, a controllable payment intangible, a deposit account, an electronic copy of a record evidencing chattel paper, an electronic document of title, [electronic money,] investment property, [or] a transferable record, **or an electronic record that is currently authorized or adopted by a domestic or foreign government and is not a medium of exchange that was recorded and transferable in a system that existed and operated for the medium of exchange before the medium of exchange was authorized or adopted by a government.**

106 Definitions in Article 9. Amend RSA 382-A:12-102(b) to read as follows:

(b) Definitions in Article 9. The definitions in Article 9 of “account debtor”, “controllable account”, “controllable payment intangible”, “chattel paper”, “deposit account”, [“electronic money”,] and “investment property” apply to this article.

107 Repeal. The following are repealed:

- I. RSA 382-A:9-102(a)(31)(A), relative to electronic money.
- II. RSA 382-A:9-102(a)(79A), relative to tangible money.
- III. RSA 382-A:9-105A, relative to control of electronic money.

Senate Ways and Means

May 17, 2023

2023-1911s

02/05

#### Amendment to HB 607-FN

Amend the bill by replacing all after the enacting clause with the following:

1 Operation of Games of Chance. Amend RSA 287-D:14, XVII to read as follows:

XVII. For games of chance where chips have no monetary face value, ~~[the payback in prizes shall not exceed 80 percent of the total amount collected from players]~~ **a minimum of 20 percent or \$250.00 of the buy-in amount collected from players, whichever is less, shall be deducted from the buy-in amount with 35 percent of the total amount deducted paid to the charity and the balance retained by the game operator employer.**

2 Effective Date. This act shall take effect 60 days after its passage.

2023-1911s

#### AMENDED ANALYSIS

This bill amends the amount that must be paid to charity for games of chance where chips have no monetary face value.