CHAPTER 364
HB 518 - FINAL VERSION

4Jan2024... 2426h
4Jan2024... 0023h
05/23/2024 2017s
05/23/2024 2127s
13Jun2024... 2293CofC
13Jun2024... 2373EBA

2024 SESSION

23-0727
04/08

HOUSE BILL ***518***

AN ACT relative to the administration of occupations by the office of professional licensure and certification.

SPONSORS: Rep. Merchant, Sull. 6; Rep. Rochefort, Graf. 1

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill makes various changes to the administrative statutes of the office of professional licensure and certification including definitions, lapse and reinstatement of licenses, disciplinary proceedings, and sanctions.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to the administration of occupations by the office of professional licensure and certification.

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

364:1 Office of Professional Licensure and Certification; Definitions; Establishment. RSA 310:2, I is repealed and reenacted to read as follows:

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

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

(b) "Expire" shall mean a license has not been renewed within the term of the license from the date of issuance in accordance with RSA 310:8. An individual with an expired license may not practice until their license has been reinstated, or they have applied for and received a new license to practice.

(c) "Investigation" shall mean investigation of allegations and complaints of misconduct in accordance with RSA 310:9.

(d) "Good standing" as applied to licensure shall mean a license that is active and has not been suspended, revoked, surrendered, conditioned, or restricted in any way.

(e) "Lapse" when referring to licenses shall mean a license that has been expired for one or more years. A licensee may no longer reinstate a lapsed license and must apply for a new license.

(f) "License" shall have the same meaning as license under RSA 541-A:1, XIII, and include licenses, certifications, or registrations required to practice a regulated profession, and shall include apprentice registrations, or those licensed pursuant to RSA 332-G:14.

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

(h) "Reinstate" means reactivation of a license for an individual whose license has expired, and has not yet lapsed, or the reactivation of a license to an individual who was unable to practice because of license revocation.

(i) "Renewal" shall mean the continuation of an existing license in accordance with RSA 310:8.

364:2 Establishment of Fees. Amend RSA 310:5, I to read as follows:

I. The executive director of the office of professional licensure and certification shall establish and collect all license[~~, certification, and~~]***,*** renewal***, and reinstatement*** fees, as well as any necessary administrative fees for each ***license type and*** 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. *If the office denies the issuance of a license, renewal, or reinstatement to any applicant, any fee shall be retained as an application fee. A licensee possessing a license in good standing may, if to the best of the licensee's knowledge the licensee is not the subject of an ongoing investigation or disciplinary action, surrender their license and receive a pro-rated refund in accordance with rules adopted by the office pursuant to RSA 541-A.*

364:3 License Renewals; Lapse. RSA 310:8 is repealed and reenacted to read as follows:

310:8 License Renewals and Reinstatements; Expiration and 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 issued by the office 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 RSA 541-A. The validity of issued licenses shall be in accordance with RSA 541-A:30 and subject to restrictions imposed through disciplinary and non-disciplinary remedial proceedings. The licensing terms established in this section shall supersede any conflicting terms established in a statute administered by a board listed in RSA 310:2.

III. Applicants shall submit completed applications for renewal, the renewal fee, and any supporting documents required for renewal on or before the expiration of the license. Licenses shall expire when completed renewal applications, renewal fee, and supporting documents have not been filed by the expiration of the license and the holders of an expired license are not authorized to practice until the licenses have been reinstated. Expired licenses shall lapse one year from expiration. Holders of expired 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 notice of the need to complete their renewal applications at least 2 months before the date of expiration of their license. 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.

364:4 Disciplinary Proceedings. Amend RSA 310:10 to read as follows:

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 ***and non-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~~] ***matters*** before the boards ***including disciplinary proceedings, non-disciplinary proceedings, the order of an immediate suspension of a license pursuant to RSA 310:12, IV, and unlicensed practice hearings held pursuant to RSA 310:13***. The presiding officer shall have the authority to preside [~~at such hearing~~] ***on such matters,*** [~~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***, including those held pursuant to this section, RSA 310:12, IV, and RSA 310:13, the presiding officer*** 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, ***including those held pursuant to RSA 310:10, RSA 310:12, IV, and RSA 310:13,*** 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~~] *office* shall furnish the respondent at least 15 days' written notice [~~of the date, time and place~~] of a hearing *in accordance with RSA 541-A:31, III*. 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, 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.

XIV. In any proceeding held pursuant to RSA 310 or RSA 541-A, a board may direct that evidence be received solely by a presiding officer who, in addition to exercising the authority given to the presiding officer under RSA 310 and RSA 541-A, shall be charged with making findings of fact, determining appropriate sanctions or action, or denying or accepting settlement agreements.

XV. In instances where a board lacks sufficient members to meet quorum, the executive director, or designee, may initiate proceedings held pursuant to RSA 310 or RSA 541-A and direct that evidence be received solely by the presiding officer who, in addition to exercising the authority given to the presiding officer under RSA 310 and RSA 541-A, shall be charged with making findings of fact, determining appropriate sanctions or action, or denying or accepting settlement agreements.

364:5 Licensing Proceedings. Amend RSA 310:11 to read as follows:

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 *is denied* 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.~~] *The office shall employ sufficient personnel qualified by reason of education, competence, and relevant experience to serve as presiding officer in all licensing 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.*

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.

VI. 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; administer oaths and affirmations; and render legal opinions and make conclusions of law. The boards shall be the triers of fact.

VII. In any proceeding held pursuant to RSA 310 or RSA 541-A, a board may direct that evidence be received solely by a presiding officer who, in addition to exercising the authority given to the presiding officer under RSA 310 and RSA 541-A, shall be charged with making findings of fact, determining appropriate sanctions or action, or denying or accepting settlement agreements.

VIII. In instances where a board cannot meet quorum, the executive director, or designee, may initiate proceedings held pursuant to RSA 310 or RSA 541-A and direct that evidence be received solely by the presiding officer who, in addition to exercising the authority given to the presiding officer under RSA 310 and RSA 541-A, shall be charged with making findings of fact, determining appropriate sanctions or action, or denying or accepting settlement agreements.

364:6 Sanctions; Disciplinary Actions. Amend RSA 310:12, I to read as follows:

I. *In addition to any grounds provided by any board's practice act, misconduct sufficient to support disciplinary proceedings brought by a board shall include:*

(a) The practice of fraud or deceit in procuring or attempting to procure a license to practice under this chapter.

(b) Conviction of any crime, provided that no board shall take disciplinary action against a licensee because of a conviction of a crime in and of itself. A board may only discipline a licensee because of a conviction after:

(1) Considering the nature of the crime, and any information provided as to the current circumstances of the convicted person, including but not limited to their rehabilitation, completion of the criminal sentence, amount of time that has passed since the conviction or release, testimonials, employment history, and employment aspirations; and

(2) Determining, by clear and convincing evidence, that:

(A) The conviction has a substantial and direct relationship to the occupation, trade, vocation, profession, or business for which the person has applied for or obtained state recognition; and

(B) Disciplining the licensee based upon that conviction serves the purpose of protecting public safety.

(c) Unfitness or incompetency to practice the profession or any particular aspect or specialty thereof as evidenced by negligent or willful acts performed in a manner inconsistent with the health, safety, or wellbeing of any person.

(d) Any unprofessional conduct, or dishonorable conduct unworthy of, and affecting the practice of, the profession.

(e) Addiction to the use of alcohol or other habit-forming drugs to a degree which renders the person unfit to practice their profession.

(f) Mental or physical incompetency to practice the profession.

(g) Willful or repeated violation of the provisions of the applicable practice act, any related statutory obligations, or any administrative rule adopted thereunder.

I-a. 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.

364:7 Sanctions; Costs; Emergencies. Amend RSA 310:12, IV to read as follows:

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. ***When determining whether to emergently suspend a license, the board shall act as fact finder and the presiding officer shall make conclusions of law.***

364:8 Unlicensed Practice. Amend RSA 310:13 to read as follows:

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. ***The office may, for purposes of verifying licensure, request to see the license of anyone who advertises oneself as engaging in a profession licensed by the office, 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, at the place of business, or where such business is being conducted, of such individual.*** After providing notice and opportunity to be heard ***in accordance with RSA 310:10***, 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.

364:9 Rehearings. Amend RSA 310:14, I to read as follows:

I. Any person who has been denied a license or certification by the office or a board ***without a hearing*** shall have the right to a [~~rehearing~~] ***hearing*** before the appropriate board. Requests for a [~~rehearing~~] ***hearing*** shall be made in writing to the appropriate board within 30 days of receipt of the original final decision.

I-a. Any person who has been denied a license or certification by the office or board after a hearing shall have the right to petition in writing for a rehearing within 30 days of receipt of the original final decision.

364:10 Physicians and Surgeons; Continuing Medical Education Requirement. Amend RSA 329:16-g as follows:

329:16-g Continuing Medical Education Requirement. [~~As a condition of renewal of license,~~] The board shall require each licensee to show proof at least at every biennial license renewal that the licensee has completed 100 hours of approved continuing medical education program within the preceding 2 years. For the purposes of this section, an approved continuing medical education program is a program designed to continue the education of the licensee in current developments, skills, procedures, or treatment in the licensee's field of practice, which has been certified by a national, state, or county medical society or college or university. [~~There shall be a complete audit of all continuing education credits annually by the New Hampshire Medical Society.~~] Each licensee shall submit a continuing medical education report with copies of continuing medical education course certificates earned by the licensee and other documents which establish that continuing medical education course requirements have been met, using a form approved by the board. [~~The complete audit shall include the collection, review, verification, and preservation of the continuing medical education documentation of each licensed physician and a report which records the credits awarded to each licensee during the 2-year period applicable to each licensee. The fee charged to licensees for continuing medical education verification shall not exceed 125 percent of the actual cost of providing the service. The New Hampshire Medical Society is prohibited from using any information from this program for promotional purposes or any other purpose not necessary for continuing education verification.~~]

364:11 Disciplinary Action; Remedial Proceedings. Amend RSA 329:17 to read as follows:

329:17 Disciplinary Action; Remedial Proceedings.

I. [~~[Repealed].~~

~~I-a. [Repealed].~~

~~II.~~] Every clerk of the superior court shall report to the board the filing and final disposition of any action for medical injury as defined in paragraph III within 30 days after such filing and within 30 days after such final disposition.

[~~III.~~] ***II.*** Every insurer, including self-insurers, providing professional liability insurance to a licensee of the board shall send a complete report to the board as to all reservable claims coincident with medical injury that take place in this state or in any other state within 30 days after establishing the reserve. For the purpose of this paragraph, medical injury means any adverse, untoward or undesired consequences arising out of or sustained in the course of professional services rendered by a medical care provider, whether resulting from negligence, error or omission in the performance of such services; from rendition of such services without informed consent or in breach of warranty or in violation of contract; from failure to diagnose; from premature abandonment of a patient or of a course of treatment; from failure properly to maintain equipment or appliances necessary to the rendition of such services; or otherwise arising out of or sustained in the course of such services.

[~~III-a. The board shall instruct the medical review subcommittee to conduct an investigation of any person licensed by the board who has had 3 reservable claims, written complaints, or actions for medical injury, as defined by paragraph I, II, or III, or any combination thereof, which pertain to 3 different acts or events within any consecutive 5-year period.~~

~~III-b.~~] ***III.***(a) ***The office shall investigate*** any referral by the insurance commissioner under RSA 420-J:5-e, VIII or any complaint alleging that a medical director has committed misconduct as set forth in paragraph [~~VI~~] ***VII*** of this section shall be received and reviewed by the board in accordance with the provisions of this section for potential disciplinary action. For the purposes of this paragraph, "medical director" means a physician licensed under this chapter who is employed by a health carrier or medical utilization review entity and is responsible for the utilization review techniques and methods of the health carrier or medical utilization review entity and their administration and implementation.

(b) Any complaint received by the [~~board~~] ***office*** regarding an insurance coverage decision by a medical director shall be forwarded [~~by the board~~] to the insurance commissioner for review.

IV. Every facility administrator, or designee, for any licensed hospital, health clinic, ambulatory surgical center, or other health care facility within the state shall report to the [~~board~~] ***office*** any disciplinary or adverse action, within 30 days after such action is taken, including situations in which allegations of misconduct are settled by voluntary resignation without adverse action, against a [~~person~~] licensed [~~by the board~~] ***individual***. Disciplinary or adverse action shall include the requirement that a licensee undergo counseling or be subject to any policy with regard to disruptive behavior.

V. Every professional society within the state comprised primarily of [~~persons licensed by the board~~] ***licensees*** shall report to the [~~board~~] ***office*** any disciplinary action against a member relating to professional ethics, medical incompetence, [~~moral turpitude,~~] or drug or alcohol abuse within 30 days after such disciplinary action is taken.

[~~V-a. A medical review subcommittee of 13 members shall be nominated by the board of medicine and appointed by the governor and council. The subcommittee shall consist of 13 persons, 9 of whom shall be physicians, one of whom shall be a physician assistant, and 3 of whom shall be public members. One of the physician members shall practice in the area of pain medicine and anesthesiology. No public member of the subcommittee shall be or ever have been a member of the medical profession or the spouse of a member of the medical profession. No public member shall have or ever have had a material financial interest in either the provision of medical services or an activity directly related to medicine, including the representation of the board or profession for a fee. The terms of the public members shall be staggered so that no 2 public members' terms expire in the same year. The subcommittee members shall be appointed for 3-year terms, and shall serve no more than 2 terms. Upon referral by the board, the subcommittee shall review disciplinary actions reported to the board under paragraphs II-V of this section, except that matters concerning a medical director involved in a current internal or external grievance pursuant to RSA 420-J shall not be reviewed until the grievance process has been completed. Following review of each case, the subcommittee shall make recommendations to the board. The state of New Hampshire, by the board and the office of professional licensure and~~

~~certification, and with the approval of governor and council, shall contract with a qualified physician to serve as a medical review subcommittee investigator.~~]

[~~V-b~~] *VI.* When a threat to public health, safety, or welfare may exist, the [~~board of medicine~~] *office* shall notify the facility, a practice's managing physician or administrator, or the hospital chief executive officer of any pending disciplinary proceedings, non-disciplinary remedial proceedings, recommended corrective actions, or concerns for informational purposes or referral to the facility, practice, or hospital's credentials and quality assurance committees or their equivalent. The entity receiving notification shall report back to the board of medicine with a progress or final report within 45 days.

[~~VI.~~] *VII.* The board, after hearing, may take disciplinary action against any person licensed by it upon finding that the person:

(a) Has knowingly provided false information during any application for professional licensure or hospital privileges, whether by making any affirmative statement which was false at the time it was made or by failing to disclose any fact material to the application.

(b) Is a habitual user of drugs or intoxicants.

(c) Has displayed medical practice which is incompatible with the basic knowledge and competence expected of persons licensed to practice medicine or any particular aspect or specialty thereof.

(d) Has engaged in dishonest or unprofessional conduct or has been grossly or repeatedly negligent in practicing medicine or in performing activities ancillary to the practice of medicine or any particular aspect or specialty thereof, or has intentionally injured a patient while practicing medicine or performing such ancillary activities.

(e) Has employed or allowed an unlicensed person to practice in the licensee's office.

(f) Has failed to provide adequate safeguards in regard to aseptic techniques or radiation techniques.

(g) Has included in advertising any statement of a character tending to deceive or mislead the public or any statement claiming professional superiority.

(h) Has advertised the use of any drug or medicine of an unknown formula or any system of anesthetic that is unnamed, misnamed, misrepresented, or not in reality used.

(i) Has willfully or repeatedly violated any provision of this chapter or any substantive rule of the board.

(j) Has been convicted of a felony under the laws of the United States or any state.

(k) Has failed to maintain adequate medical record documentation on diagnostic and therapeutic treatment provided or has unreasonably delayed medical record transfer, or violated RSA 332-I.

(l) Has knowingly obtained, attempted to obtain or assisted a person in obtaining or attempting to obtain a prescription for a controlled substance without having formed a valid physician-patient relationship pursuant to RSA 329:1-c.

[~~VI-a.~~] *VIII.* The board may take non-disciplinary remedial action against any person licensed by it upon finding that the person is afflicted with physical or mental disability, disease, disorder, or condition

deemed dangerous to the public health. Upon making an affirmative finding, the board, may take non-disciplinary remedial action:

(a) By suspension, limitation, or restriction of a license for a period of time as determined reasonable by the board.

(b) By revocation of license.

(c) By requiring the person to submit to the care, treatment, or observation of a physician, counseling service, health care facility, professional assistance program, or any combination thereof which is acceptable to the board.

(d) By requiring the person to practice under the direction of a physician in a public institution, public or private health care program, or private practice for a period of time specified by the board.

[~~VI-b~~] *IX.* The state of New Hampshire confirms its strong support for shared decision making between health care professionals and their patients. A licensee may lawfully prescribe an FDA approved drug product for an off-label indication and be held to the same standard of care as when prescribing for on-label indication when:

(a) Off-label use of the drug product for this indication has longstanding common use;

(b) There is medical evidence to support this use and no known evidence contraindicating such use, including but not limited to, peer reviewed studies and practice guidelines from relevant medical societies; or

(c) The licensee has provided and the patient, or if the patient is a minor, the patient's parent or guardian, has signed an informed consent form that includes the known potential benefits, known potential risks, alternative treatment options, expected prognosis without treatment, and a disclosure that a prescription is for an off-label indication. The signed informed consent form shall remain part of the patient's medical record.

~~[VII. [Repealed.]~~

~~VII-a. [Repealed.]~~

~~VIII. [Repealed.]~~

~~IX~~] *X.* No civil action shall be maintained against the board or any member of the board or its agents or employees with regard to any action or activity taken in the performance of any duty or authority established by this chapter. No civil action shall be maintained against any organization or its members or against any other person for or by reason of any good faith statement, report, communication, or testimony to the board or determination by the board in relation to proceedings under this chapter.

[~~IX-a.~~] *XI.* Any persons who have had their licenses to practice medicine revoked or suspended shall be barred from practicing any other human health care activities, including psychotherapy, whether or not such other activity is licensed or certified by another licensing agency.

~~[X, XI. [Repealed.]~~

~~XII. [Repealed.]~~

~~XIII. [Repealed.]]~~

364:12 Inspectors. Amend RSA 313-A:21, III to read as follows:

III. Sanitary inspections of all salons, barbershops, and schools shall be made at least [~~twice~~] ***once*** each year.

364:13 Directors; Appointments and Salaries. Amend RSA 310:3, IV-V to read as follows:

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~~] ***of staff***. 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~~] ***chief*** legal officer, ***chief of staff***, the chief pharmacy investigator, and each pharmacy investigator shall be as specified in RSA 94:1-a.

364:14 Executive Director Responsibilities. Amend RSA 310:4, II(a) to read as follows:

(a) Supervision of the division directors***,*** [~~and~~] chief legal [~~officers~~] ***officer, and chief of staff***.

364:15 Training Education and Service; Military Occupational Specialty. Amend RSA 332-G:7, IV(a) to read as follows:

(a) What constitutes military education, training, or service acceptable for ***each military occupational specialty (MOS) related to*** the specific regulated occupation or profession, as required under paragraph I.

364:16 Training Education and Service; Military Occupational Specialty. Amend RSA 332-G:7 by inserting after paragraph IV the following new paragraph:

V. Every board or commission under this title shall complete the rulemaking requirements in paragraph IV by January 1, 2026.

364:17 Effective Date. This act shall take effect 60 days after its passage.

Approved: August 23, 2024
Effective Date: October 22, 2024