

HB 214-FN - VERSION ADOPTED BY BOTH BODIES

26Mar2025... 0845h
05/01/2025 1794s

2025 SESSION

25-0107
09/08

HOUSE BILL

214-FN

AN ACT relative to the regulation of recreational therapists and respiratory care practitioners and relative to delaying the effective dates of various new procedures for criminal history records checks.

SPONSORS: Rep. C. McGuire, Merr. 27

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill clarifies the rulemaking authority of the executive director of the office of professional licensure and certification (OPLC) with regards to the regulation of recreational therapists and respiratory care practitioners and adds sections relating to criminal history records checks and privileged communications to the chapters on the regulation of recreational therapists and respiratory care practitioners to be more consistent with other OPLC-related chapters. This bill further delays the effective date of the change in procedures for criminal history records checks for various professions.

This bill is at the request of the OPLC.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to the regulation of recreational therapists and respiratory care practitioners and relative to delaying the effective dates of various new procedures for criminal history records checks.

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

1 1 Recreational Therapists; Advisory Board Established. Amend RSA 326-J:1-a, II to read as
2 follows:

3 II. The executive director, in consultation with the advisory board, shall adopt rules
4 pursuant to RSA 541-A relative to the practice of recreational therapy, including: ~~[rules regarding~~
5 ~~the procedure for granting, revoking, and reinstating a license]~~

6 ***(a) Eligibility requirements for initial licensure;***

7 ***(b) Eligibility requirements for licensure renewal, including any continuing***
8 ***competency requirements and any requirements for education, clinical experience, and***
9 ***training;***

10 ***(c) Conditional employment pending the results of a criminal history records***
11 ***check;***

12 ***(d) Eligibility requirements, including any continuing competency***
13 ***requirements, for the reinstatement of licenses;***

14 ***(e) Scope of practice in the field of recreational therapy;***

15 ***(f) Ethical standards pertaining to the practice of recreational therapy;***

16 ***(g) What constitutes, for disciplinary purposes, sexual relations with and sexual***
17 ***harassment of a client or patient;***

18 ***(h) The allocation of disciplinary sanctions;***

19 ***(i) Completion by licensees, as part of the renewal process, a survey and opt-out***
20 ***form provided by the office of rural health, the department of health and human services,***
21 ***for the purpose of collecting data regarding the New Hampshire primary care workforce,***
22 ***pursuant to the commission established in RSA 126-T, along with written notice to***
23 ***licensees of the opportunity to opt-out from participation of the survey.***

24 2 New Sections; Recreational Therapists; Criminal History Record Checks and Privileged
25 Communications. Amend RSA 326-J by inserting after section 6 the following new sections:

26 326-J:7 Criminal History Record Checks.

27 I. Every applicant for initial licensure shall submit to the office of professional licensure and
28 certification a criminal history record release form, as provided by the New Hampshire division of
29 state police, department of safety, which authorizes the release of his or her criminal history record,

if any, to the executive director of the office of professional licensure and certification or its designee within the office of professional licensure and certification. For the purposes of this section, a designee may be the office's agency counsel, administrative law judge, director of licensing and board administration, licensing service representative, or board administrator.

II. The applicant shall submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency, an authorized employee of the office of professional licensure and certification, or an authorized employee of the department of safety. If the first set of fingerprints is invalid due to an insufficient pattern, a second set of fingerprints shall be necessary in order to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to an insufficient pattern, the office of professional licensure and certification may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where the person has lived during the past 5 years.

III. The office of professional licensure and certification shall submit the criminal history records release form and fingerprint form to the division of state police which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. Upon completion of the records check, the division of state police shall release copies of the criminal history records to the executive director of the office of professional licensure and certification or its designee within the office of professional licensure and certification. The executive director of the office of professional licensure and certification or its designee within the office of professional licensure and certification shall maintain the confidentiality of all criminal history records information received pursuant to this section.

IV. The applicant shall bear the cost of a criminal history record check.

326-J:8 Privileged Communications.

The confidential communications between licensed recreational therapists and their clients or patients is placed on the same legal basis as those between physician and patient, and except as otherwise provided by law, no recreational therapist shall be required to disclose such privileged communications. Confidential communications between a patient or client and any person working under the supervision of such practitioner that are customary and necessary for diagnosis and treatment are privileged to the same extent as though those communications were with the supervising licensed practitioner. This section shall not apply to investigations and hearings conducted by the office or by any other agency regulating health professions in the state.

3 Respiratory Care Practice; Rulemaking. Amend RSA 326-E:2, VI to read as follows:

VI. ***Specifying the scope of*** respiratory care practice, including rules regarding the ***criteria and*** procedures for granting, revoking, and reinstating a license.

VII. ***Pertaining to the completion by licensees, as part of the renewal process, a survey and opt-out form provided by the office of rural health, the department of health and human services, for the purpose of collecting data regarding the New Hampshire***

1 *primary care workforce, pursuant to the commission established in RSA 126-T, along with*
2 *written notice to licensees of the opportunity to opt-out from participation of the survey.*

3 4 New Sections; Respiratory Care Practice; Criminal History Record Checks and Privileged
4 Communications. Amend RSA 326-E by inserting after section 11 the following new sections:

5 326-E:12 Criminal History Record Checks.

6 I. The office of professional licensure and certification shall require from applicants for
7 initial licensure or certification, reinstatement of licensure or certification, or conditional licensure or
8 certification a criminal history record release form, as provided by the New Hampshire division of
9 state police which authorizes the release of his or her criminal history record, if any, to the executive
10 director of the office of professional licensure and certification or its designee within the office of
11 professional licensure and certification. For the purposes of this section, a designee may be the
12 office's agency counsel, administrative law judge, director of licensing and board administration,
13 licensing service representative, or board administrator.

14 II. The applicant shall submit with the release form a complete set of fingerprints taken by a
15 qualified law enforcement agency, an authorized employee of the office of professional licensure and
16 certification, or an authorized employee of the department of safety. In the event that the first set of
17 fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be necessary in
18 order to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is
19 invalid due to insufficient pattern, the office of professional licensure and certification may, in lieu of
20 the criminal history records check, accept police clearances.

21 III. The office of professional licensure and certification shall submit the criminal history
22 records release form and fingerprint form to the division of state police which shall conduct a
23 criminal history records check through its records and through the Federal Bureau of Investigation.
24 Upon completion of the records check, the division of state police shall release copies of the criminal
25 history records to the executive director of the office of professional licensure and certification or its
26 designee within the office of professional licensure and certification.

27 IV. The executive director of the office of professional licensure and certification or its
28 designee within the office of professional licensure and certification shall review the criminal record
29 information prior to making a decision on licensure or certification, and shall maintain the
30 confidentiality of all criminal history records received pursuant to this section.

31 V. The applicant shall bear the cost of all criminal history record checks.

32 VI. The office of professional licensure and certification shall accept military security
33 clearance for an individual actively serving in any component of the Department of Defense in lieu of
34 criminal background checks.

35 VII. Pending the results of a criminal history record check, an applicant for licensure may be
36 employed in a profession of the respiratory care field on a conditional basis for up to 90 calendar
37 days before the executive director of the office of professional licensure and certification or its

designee within the office of professional licensure and certification receives the results of a criminal history record check required for licensure, if the conditional employee:

- (a) Is under the direct supervision of a licensee;
- (b) Has provided a written attestation to the employer and the office that no disqualifying criminal history exists; and
- (c) The respiratory care practitioners board is not a member of an interstate licensure compact.

326-E:13 Privileged Communications.

The confidential communications between licensed respiratory care practitioners and their clients or patients is placed on the same legal basis as those between physician and patient, and except as otherwise provided by law, no respiratory care practitioner shall be required to disclose such privileged communications. Confidential communications between a patient or client and any person working under the supervision of such practitioner that are customary and necessary for diagnosis and treatment are privileged to the same extent as though those communications were with the supervising licensed practitioner. This section shall not apply to investigations and hearings conducted by the office or by any other agency regulating health professions in the state.

5 Criminal History Records Check; Effective Date Delay. Amend 2024, 366:30 to read as follows:

366:30 Contingency. If SB 371 of the 2024 regular legislative session becomes law, section 19 of this act shall not take effect and section 29 of this act shall take effect ~~[June 30, 2025]~~ **July 1, 2026**. If SB 371 of the regular legislative session does not become law, section 19 of this bill shall take effect June 30, 2025 and section 29 of this act shall not take effect.

6 Criminal History Record Checks; Effective Date Delay. Amend 2024, 366:31, I to read as follows:

I. Section 2 through **7, 9, 10, 19, and 23** ~~[18 and 20 through 23]~~ of this act shall take effect on June 30, 2025.

I-a. Sections 20 and 21 of this act shall take effect June 30, 2026.

I-b. Sections 8, 11, 12 through 18, and 22 of this act shall take effect July 1, 2026.

7 Effective Date.

I. Sections 1 and 3 of this act shall take effect 60 days after its passage.

II. Sections 2 and 4 of this act shall take effect July 1, 2026.

III. The remainder of this act shall take effect upon its passage.

LBA
25-0107
5/5/25

HB 214-FN- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENT #2025-1794s)

AN ACT relative to the regulation of recreational therapists and respiratory care practitioners and relative to delaying the effective dates of various new procedures for criminal history records checks.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2025 through 2028.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification