

LEGISLATIVE COMMITTEE MINUTES

SB133

Bill as
Introduced

SB 133-FN - AS INTRODUCED

2021 SESSION

21-0964
05/04

SENATE BILL **133-FN**
AN ACT adopting omnibus legislation relative to occupational licensure.
SPONSORS: Sen. Carson, Dist 14
COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill adopts legislation relative to:

- I. Licensing places of assembly.
- II. Establishing a limited plumbing specialist license.
- III. Repealing the emergency medical services personnel licensure interstate compact.
- IV. Hearings at the board of nursing.
- V. Membership of the professional standards board.
- VI. Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.
- VII. Licensure and regulation of music therapists.
- VIII. The authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.
- IX. Skilled professional medical personnel.
- X. Temporary licensure of certain licensed nursing assistants.
- XI. The revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.
- XII. Schools for barbering, cosmetology, and esthetics.
- XIII. Telemedicine provided by out of state psychologists.
- XIV. Sanitary production and distribution of food.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT adopting omnibus legislation relative to occupational licensure.

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

1 1 Sponsorship. This act consists of the following proposed legislation:

2 Part I: LSR 21-0964, relative to the definition of "licensing agency" for purposes of licensing
3 places of assembly, sponsored by Sen. Carson, Prime/Dist 14.

4 Part II: LSR 21-1009, establishing a limited plumbing specialist license, sponsored by Sen.
5 Giuda, Prime/Dist 2; Sen. Rosenwald, Dist 13, Sen. Prentiss, Dist 5; Rep. Alliegro, Graf. 7.

6 Part III: LSR 21-0506, repealing the emergency medical services personnel licensure interstate
7 compact, sponsored by Sen. Rosenwald, Prime/Dist 13, Sen. Cavanaugh, Dist 16; Sen. Carson, Dist
8 14; Rep. Goley, Hills. 8; Rep. Milz, Rock. 6; Rep. O'Brien, Hills. 36; Rep. S. Pearson, Rock. 6.

9 Part IV: LSR 21-0207, relative to hearings of the New Hampshire board of nursing, sponsored
10 by Sen. Ward, Prime/Dist 8.

11 Part V: LSR 21-0838, relative to membership of the professional standards board, sponsored by
12 Sen. Kahn, Prime/Dist 10; Sen. Prentiss, Dist 5.

13 Part VI: LSR 21-0846, adopting the Audiology and Speech-Language Pathology Compact and
14 the Occupational Therapy Licensure Compact, sponsored by Sen. Sherman, Prime/Dist 24; Sen.
15 Soucy, Dist 18; Sen. Carson, Dist 14; Rep. March, Carr. 8.

16 Part VII: LSR 21-0859, relative to the licensure and regulation of music therapists, sponsored by
17 Sen. Avard, Prime/Dist 12; Sen. Watters, Dist 4; Sen. Carson, Dist 14; Sen. Reagan, Dist 17; Sen.
18 Kahn, Dist 10; Sen. Sherman, Dist 24; Sen. Prentiss, Dist 5; Sen. Perkins Kwoka, Dist 21; Rep.
19 McGhee, Hills. 27.

20 Part VIII: LSR 21-0899, relative to the authority of the office of professional licensure and
21 certification for administration, rulemaking, and enforcement of investigations, hearings, and
22 appeals, sponsored by Sen. Reagan, Prime/ Dist 17, Sen. Carson, Dist 14; Sen. French, Dist 7; Sen.
23 Kahn, Dist 10; Sen. Prentiss, Dist 5; Sen. Rosenwald, Dist 13; Sen. Bradley, Dist 3; Sen.
24 D'Allesandro, Dist 20; Sen. Ward, Dist 8; Sen. Soucy, Dist 18; Sen. Giuda, Dist 2; Rep. Spillane,
25 Rock. 2; Rep. McGuire, Merr. 29; Rep. Seaworth, Merr. 20.

26 Part IX: LSR 21-0928, relative to skilled professional medical personnel, sponsored by Sen.
27 Ward, Prime/Dist 8.

28 Part X: LSR 21-0973, relative to temporary licensure of certain licensed nursing assistants,
29 sponsored by Sen. Hennessey, Dist 1; Sen. Rosenwald, Dist 13; Rep. Dostie, Coos 1; Rep. Thompson,
30 Coos 1.

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1 Part XI: LSR 21-1011, relative to the revocation of licensure for licensed emergency medical
2 service units and emergency medical service vehicles, sponsored by Sen. Prentiss, Prime/Dist 5; Rep.
3 Merchant, Sull. 4; Rep. Goley, Hills. 8; Rep. McGuire, Merr. 29.

4 Part XII: LSR 21-1050, relative to schools for barbering, cosmetology, and esthetics, sponsored
5 by Sen. Reagan, Prime/Dist 17; Sen. Rosenwald, Dist 13; Sen. Prentiss, Dist 5; Sen. Carson, Dist 14;
6 Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Sen. Gannon, Dist 23; Rep. McGuire, Merr. 29; Rep.
7 Roy, Rock. 32; Rep. Harrington, Straf. 3.

8 Part XIII: LSR 21-0277, relative to telemedicine provided by out of state psychologists,
9 sponsored by Sen. Reagan, Prime/Dist 17; Sen. Carson, Dist 14; Sen. Bradley, Dist 3; Sen. Prentiss,
10 Dist 5; Sen. French, Dist 7; Sen. Giuda, Dist 2; Sen. Hennessey, Dist 1; Sen. D'Allesandro, Dist 20;
11 Rep. Spillane, Rock. 2; Rep. Tudor, Rock. 1.

12 Part XIV: LSR 21-1049, establishing program rules within the department of health and human
13 services for sanitary production and distribution of food, sponsored by Sen. Giuda, Prime/Dist 2; Sen.
14 Gannon, Dist 23.

15 2 Legislation Enacted. The general court hereby enacts the following legislation:

16 PART I

17 Relative to the definition of "licensing agency" for purposes of licensing places of assembly.

18 1 Places of Assembly; Definition of Licensing Agency. Amend RSA 155:17, II to read as follows:

19 II. "Licensing agency" shall mean the chief of the fire department, the firewards or
20 engineers, if any, otherwise the selectmen of the town or the commissioners of village district as the
21 case may be, *or the state fire marshal, as he or she deems necessary, in consultation with the*
22 *local licensing agency, if any.*

23 2 Places of Assembly; License Required. Amend RSA 155:18 to read as follows:

24 155:18 License Required. No person shall own or operate a place of assembly within this state
25 unless licensed so to do by the licensing agency of the *state*, city, town, or village district where said
26 place of assembly is located, including assemblies occurring on state waters or ice formed on state
27 waters, in accordance with the regulations herein promulgated. In the application of this act to
28 existing places of assembly the licensing agency may modify such of its provisions as would require
29 structural changes if in his or her opinion adequate safety may be obtained otherwise and provided
30 that a permanent record is kept of such modifications and the reasons therefor.

31 3 Effective Date. Part I of this act shall take effect 60 days after its passage.

32 PART II

33 Establishing a limited plumbing specialist license.

34 1 New Paragraph; Mechanical Licensing Board; Definitions; Limited Plumbing Specialist.
35 Amend RSA 153:27 by inserting after paragraph XI the following new paragraph:

36 XI-a. "Limited plumbing specialist" means any person who is licensed to perform limited
37 plumbing services independently according to rules established by the board.

1 (c) 9 members, 3 representing higher education and 6 *representing* education
2 administration; and

3 2 Professional Standards Board. Amend RSA 186:60, III to read as follows:

4 III. The appointed members of the board shall serve for 3-year terms and may not serve for
5 more than 2 *consecutive* full terms.

6 3 Effective Date. Part V of this act shall take effect 60 days after its passage.

7 PART VI

8 Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy
9 Licensure Compact.

10 1 Chapter Heading Amended; Occupational Compacts. Amend the chapter heading of RSA 329-
11 D to read as follows:

12 ~~[PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT)]~~

13 **OCCUPATIONAL COMPACTS**

14 2 New Sections; Audiology and Speech-Language Pathology Compact; Occupational Therapy
15 Licensure Compact. Amend RSA 329-D by inserting after section 1 the following new sections:

16 329-D:2 Interstate Compact Adopted. The state of New Hampshire hereby adopts the provisions
17 of the Audiology and Speech-Language Pathology Compact as follows:

18 SECTION 1. PURPOSE

19 The purpose of this Compact is to facilitate interstate practice of audiology and speech-language
20 pathology with the goal of improving public access to audiology and speech-language pathology
21 services. The practice of audiology and speech-language pathology occurs in the state where the
22 patient/client/student is located at the time of the patient/client/student encounter. The Compact
23 preserves the regulatory authority of states to protect public health and safety through the current
24 system of state licensure.

25 This Compact is designed to achieve the following objectives:

26 1. Increase public access to audiology and speech-language pathology services by providing for
27 the mutual recognition of other member state licenses;

28 2. Enhance the states' ability to protect the public's health and safety;

29 3. Encourage the cooperation of member states in regulating multistate audiology and speech-
30 language pathology practice;

31 4. Support spouses of relocating active duty military personnel;

32 5. Enhance the exchange of licensure, investigative and disciplinary information between
33 member states;

34 6. Allow a remote state to hold a provider of services with a compact privilege in that state
35 accountable to that state's practice standards; and

36 7. Allow for the use of telehealth technology to facilitate increased access to audiology and
37 speech-language pathology services.

1 326-F:15 Interstate Compact Adopted. The state of New Hampshire hereby adopts the
2 provisions of the Audiology and Speech-Language Pathology Compact as follows:

3 SECTION 1: PURPOSE

4 The purpose of this Compact is to facilitate interstate practice of audiology and speech-language
5 pathology with the goal of improving public access to audiology and speech-language pathology
6 services. The practice of audiology and speech-language pathology occurs in the state where the
7 patient/client/student is located at the time of the patient/client/student encounter. The Compact
8 preserves the regulatory authority of states to protect public health and safety through the current
9 system of state licensure.

10 This Compact is designed to achieve the following objectives:

- 11 1. Increase public access to audiology and speech-language pathology services by providing for
12 the mutual recognition of other member state licenses;
- 13 2. Enhance the states' ability to protect the public's health and safety;
- 14 3. Encourage the cooperation of member states in regulating multistate audiology and speech-
15 language pathology practice;
- 16 4. Support spouses of relocating active duty military personnel;
- 17 5. Enhance the exchange of licensure, investigative and disciplinary information between
18 member states;
- 19 6. Allow a remote state to hold a provider of services with a compact privilege in that state
20 accountable to that state's practice standards; and
- 21 7. Allow for the use of telehealth technology to facilitate increased access to audiology and
22 speech-language pathology services.

23 SECTION 2. DEFINITIONS

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

25 A. "Active duty military" means full-time duty status in the active uniformed service of the
26 United States, including members of the National Guard and Reserve on active duty orders
27 pursuant to 10 U.S.C. Chapters 1209 and 1211.

28 B. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a
29 state's laws which is imposed by a licensing board or other authority against an audiologist or
30 speech-language pathologist, including actions against an individual's license or privilege to practice
31 such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's
32 practice.

33 C. "Alternative program" means a non-disciplinary monitoring process approved by an audiology
34 or speech-language pathology licensing board to address impaired practitioners.

35 D. "Audiologist" means an individual who is licensed by a state to practice audiology.

36 E. "Audiology" means the care and services provided by a licensed audiologist as set forth in the
37 member state's statutes and rules.

1 F. "Audiology and Speech-Language Pathology Compact Commission" or "Commission" means
2 the national administrative body whose membership consists of all states that have enacted the
3 Compact.

4 G. "Audiology and speech-language pathology licensing board," "audiology licensing board,"
5 "speech-language pathology licensing board," or "licensing board" means the agency of a state that is
6 responsible for the licensing and regulation of audiologists and/or speech-language pathologists.

7 H. "Compact privilege" means the authorization granted by a remote state to allow a licensee
8 from another member state to practice as an audiologist or speech-language pathologist in the
9 remote state under its laws and rules. The practice of audiology or speech-language pathology
10 occurs in the member state where the patient/client/student is located at the time of the
11 patient/client/student encounter.

12 I. "Current significant investigative information" means investigative information that a
13 licensing board, after an inquiry or investigation that includes notification and an opportunity for
14 the audiologist or speech-language pathologist to respond, if required by state law, has reason to
15 believe is not groundless and, if proved true, would indicate more than a minor infraction.

16 J. "Data system" means a repository of information about licensees, including, but not limited
17 to, continuing education, examination, licensure, investigative, compact privilege and adverse action.

18 K. "Encumbered license" means a license in which an adverse action restricts the practice of
19 audiology or speech-language pathology by the licensee and said adverse action has been reported to
20 the National Practitioners Data Bank (NPDB).

21 L. "Executive committee" means a group of directors elected or appointed to act on behalf of, and
22 within the powers granted to them by, the Commission.

23 M. "Home state" means the member state that is the licensee's primary state of residence.

24 N. "Impaired practitioner" means individuals whose professional practice is adversely affected
25 by substance abuse, addiction, or other health-related conditions.

26 O. "Licensee" means an individual who currently holds an authorization from the state licensing
27 board to practice as an audiologist or speech-language pathologist.

28 P. "Member state" means a state that has enacted the Compact.

29 Q. "Privilege to practice" means a legal authorization permitting the practice of audiology or
30 speech-language pathology in a remote state.

31 R. "Remote state" means a member state other than the home state where a licensee is
32 exercising or seeking to exercise the compact privilege.

33 S. "Rule" means a regulation, principle or directive promulgated by the Commission that has the
34 force of law.

35 T. "Single-state license" means an audiology or speech-language pathology license issued by a
36 member state that authorizes practice only within the issuing state and does not include a privilege
37 to practice in any other member state.

1 U. "Speech-language pathologist" means an individual who is licensed by a state to practice
2 speech-language pathology.

3 V. "Speech-language pathology" means the care and services provided by a licensed speech-
4 language pathologist as set forth in the member state's statutes and rules.

5 W. "State" means any state, commonwealth, district or territory of the United States of America
6 that regulates the practice of audiology and speech-language pathology.

7 X. "State practice laws" means a member state's laws, rules and regulations that govern the
8 practice of audiology or speech-language pathology, define the scope of audiology or speech-language
9 pathology practice, and create the methods and grounds for imposing discipline.

10 Y. "Telehealth" means the application of telecommunication technology to deliver audiology or
11 speech-language pathology services at a distance for assessment, intervention and/or consultation.

12 SECTION 3. STATE PARTICIPATION IN THE COMPACT

13 A. A license issued to an audiologist or speech-language pathologist by a home state to a
14 resident in that state shall be recognized by each member state as authorizing an audiologist or
15 speech-language pathologist to practice audiology or speech-language pathology, under a privilege to
16 practice, in each member state.

17 B. A state must implement or utilize procedures for considering the criminal history records of
18 applicants for initial privilege to practice. These procedures shall include the submission of
19 fingerprints or other biometric-based information by applicants for the purpose of obtaining an
20 applicant's criminal history record information from the Federal Bureau of Investigation and the
21 agency responsible for retaining that state's criminal records

22 1. A member state must fully implement a criminal background check requirement, within a
23 time frame established by rule, by receiving the results of the Federal Bureau of Investigation record
24 search on criminal background checks and use the results in making licensure decisions.

25 2. Communication between a member state, the Commission and among member states
26 regarding the verification of eligibility for licensure through the Compact shall not include any
27 information received from the Federal Bureau of Investigation relating to a federal criminal records
28 check performed by a member state under Public Law 92-544.

29 C. Upon application for a privilege to practice, the licensing board in the issuing remote state
30 shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a
31 license issued by any other state, whether there are any encumbrances on any license or privilege to
32 practice held by the applicant, whether any adverse action has been taken against any license or
33 privilege to practice held by the applicant.

34 D. Each member state shall require an applicant to obtain or retain a license in the home state
35 and meet the home state's qualifications for licensure or renewal of licensure, as well as, all other
36 applicable state laws.

37 E. For an audiologist:

- 1 1. Must meet one of the following educational requirements:
 - 2 a. On or before, Dec. 31, 2007, has graduated with a master's degree or doctorate in audiology,
3 or equivalent degree regardless of degree name, from a program that is accredited by an accrediting
4 agency recognized by the Council for Higher Education Accreditation, or its successor, or by the
5 United States Department of Education and operated by a college or university accredited by a
6 regional or national accrediting organization recognized by the board; or
 - 7 b. On or after, Jan. 1, 2008, has graduated with a Doctoral degree in audiology, or equivalent
8 degree, regardless of degree name, from a program that is accredited by an accrediting agency
9 recognized by the Council for Higher Education Accreditation, or its successor, or by the United
10 States Department of Education and operated by a college or university accredited by a regional or
11 national accrediting organization recognized by the board; or
 - 12 c. Has graduated from an audiology program that is housed in an institution of higher education
13 outside of the United States (a) for which the program and institution have been approved by the
14 authorized accrediting body in the applicable country and (b) the degree program has been verified
15 by an independent credentials review agency to be comparable to a state licensing board-approved
16 program.
- 17 2. Has completed a supervised clinical practicum experience from an accredited educational
18 institution or its cooperating programs as required by the commission;
- 19 3. Has successfully passed a national examination approved by the Commission;
- 20 4. Holds an active, unencumbered license;
- 21 5. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a
22 felony related to the practice of audiology, under applicable state or federal criminal law;
- 23 6. Has a valid United States Social Security or National Practitioner Identification number.
- 24 F. For a speech-language pathologist:
 - 25 1. Must meet one of the following educational requirements:
 - 26 a. Has graduated with a master's degree from a speech-language pathology program that is
27 accredited by an organization recognized by the United States Department of Education and
28 operated by a college or university accredited by a regional or national accrediting organization
29 recognized by the board; or
 - 30 b. Has graduated from a speech-language pathology program that is housed in an institution of
31 higher education outside of the United States (a) for which the program and institution have been
32 approved by the authorized accrediting body in the applicable country and (b) the degree program
33 has been verified by an independent credentials review agency to be comparable to a state licensing
34 board-approved program.
 - 35 2. Has completed a supervised clinical practicum experience from an educational institution or
36 its cooperating programs as required by the Commission;

1 3. Has completed a supervised postgraduate professional experience as required by the
2 Commission

3 4. Has successfully passed a national examination approved by the Commission;

4 5. Holds an active, unencumbered license;

5 6. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a
6 felony related to the practice of speech-language pathology, under applicable state or federal
7 criminal law;

8 7. Has a valid United States Social Security or National Practitioner Identification number.

9 G. The privilege to practice is derived from the home state license.

10 H. An audiologist or speech-language pathologist practicing in a member state must comply
11 with the state practice laws of the state in which the client is located at the time service is provided.
12 The practice of audiology and speech-language pathology shall include all audiology and speech-
13 language pathology practice as defined by the state practice laws of the member state in which the
14 client is located. The practice of audiology and speech-language pathology in a member state under
15 a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction
16 of the licensing board, the courts and the laws of the member state in which the client is located at
17 the time service is provided.

18 I. Individuals not residing in a member state shall continue to be able to apply for a member
19 state's single-state license as provided under the laws of each member state. However, the single-
20 state license granted to these individuals shall not be recognized as granting the privilege to practice
21 audiology or speech-language pathology in any other member state. Nothing in this Compact shall
22 affect the requirements established by a member state for the issuance of a single-state license.

23 J. Member states may charge a fee for granting a compact privilege.

24 K. Member states must comply with the bylaws and rules and regulations of the Commission.

25 SECTION 4. COMPACT PRIVILEGE

26 A. To exercise the compact privilege under the terms and provisions of the Compact, the
27 audiologist or speech-language pathologist shall:

28 1. Hold an active license in the home state;

29 2. Have no encumbrance on any state license;

30 3. Be eligible for a compact privilege in any member state in accordance with Section 3;

31 4. Have not had any adverse action against any license or compact privilege within the previous
32 2 years from date of application;

33 5. Notify the Commission that the licensee is seeking the compact privilege within a remote
34 state(s);

35 6. Pay any applicable fees, including any state fee, for the compact privilege;

36 7. Report to the Commission adverse action taken by any non-member state within 30 days from
37 the date the adverse action is taken.

1 B. For the purposes of the compact privilege, an audiologist or speech-language pathologist shall
2 only hold one home state license at a time.

3 C. Except as provided in Section 6, if an audiologist or speech-language pathologist changes
4 primary state of residence by moving between two-member states, the audiologist or speech-
5 language pathologist must apply for licensure in the new home state, and the license issued by the
6 prior home state shall be deactivated in accordance with applicable rules adopted by the
7 Commission.

8 D. The audiologist or speech-language pathologist may apply for licensure in advance of a
9 change in primary state of residence.

10 E. A license shall not be issued by the new home state until the audiologist or speech-language
11 pathologist provides satisfactory evidence of a change in primary state of residence to the new home
12 state and satisfies all applicable requirements to obtain a license from the new home state.

13 F. If an audiologist or speech-language pathologist changes primary state of residence by
14 moving from a member state to a non-member state, the license issued by the prior home state shall
15 convert to a single-state license, valid only in the former home state.

16 G. The compact privilege is valid until the expiration date of the home state license. The
17 licensee must comply with the requirements of Section 4A to maintain the compact privilege in the
18 remote state.

19 H. A licensee providing audiology or speech-language pathology services in a remote state under
20 the compact privilege shall function within the laws and regulations of the remote state.

21 I. A licensee providing audiology or speech-language pathology services in a remote state is
22 subject to that state's regulatory authority. A remote state may, in accordance with due process and
23 that state's laws, remove a licensee's compact privilege in the remote state for a specific period of
24 time, impose fines, and/or take any other necessary actions to protect the health and safety of its
25 citizens.

26 J. If a home state license is encumbered, the licensee shall lose the compact privilege in any
27 remote state until the following occur:

- 28 1. The home state license is no longer encumbered; and
- 29 2. Two years have elapsed from the date of the adverse action.

30 K. Once an encumbered license in the home state is restored to good standing, the licensee must
31 meet the requirements of Section 4A to obtain a compact privilege in any remote state.

32 L. Once the requirements of Section 4J have been met, the licensee must meet the requirements
33 in Section 4A to obtain a compact privilege in a remote state.

34 SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

35 Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by
36 a home state in accordance with Section 3 and under rules promulgated by the Commission, to

1 practice audiology or speech-language pathology in any member state via telehealth under a
2 privilege to practice as provided in the Compact and rules promulgated by the Commission.

3 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

4 Active duty military personnel, or their spouse, shall designate a home state where the individual
5 has a current license in good standing. The individual may retain the home state designation during
6 the period the service member is on active duty. Subsequent to designating a home state, the
7 individual shall only change their home state through application for licensure in the new state.

8 SECTION 7. ADVERSE ACTIONS

9 A. In addition to the other powers conferred by state law, a remote state shall have the
10 authority, in accordance with existing state due process law, to:

11 1. Take adverse action against an audiologist's or speech-language pathologist's privilege to
12 practice within that member state.

13 2. Issue subpoenas for both hearings and investigations that require the attendance and
14 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board
15 in a member state for the attendance and testimony of witnesses or the production of evidence from
16 another member state shall be enforced in the latter state by any court of competent jurisdiction,
17 according to the practice and procedure of that court applicable to subpoenas issued in proceedings
18 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and
19 other fees required by the service statutes of the state in which the witnesses or evidence are
20 located.

21 3. Only the home state shall have the power to take adverse action against a audiologist's or
22 speech-language pathologist's license issued by the home state.

23 B. For purposes of taking adverse action, the home state shall give the same priority and effect
24 to reported conduct received from a member state as it would if the conduct had occurred within the
25 home state. In so doing, the home state shall apply its own state laws to determine appropriate
26 action.

27 C. The home state shall complete any pending investigations of an audiologist or speech-
28 language pathologist who changes primary state of residence during the course of the investigations.
29 The home state shall also have the authority to take appropriate action(s) and shall promptly report
30 the conclusions of the investigations to the administrator of the data system. The administrator of
31 the coordinated licensure information system shall promptly notify the new home state of any
32 adverse actions.

33 D. If otherwise permitted by state law, the member state may recover from the affected
34 audiologist or speech-language pathologist the costs of investigations and disposition of cases
35 resulting from any adverse action taken against that audiologist or speech-language pathologist.

1 E. The member state may take adverse action based on the factual findings of the remote state,
2 provided that the member state follows the member state's own procedures for taking the adverse
3 action.

4 F. Joint Investigations

5 1. In addition to the authority granted to a member state by its respective audiology or speech-
6 language pathology practice act or other applicable state law, any member state may participate
7 with other member states in joint investigations of licensees.

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

10 G. If adverse action is taken by the home state against an audiologist's or speech language
11 pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all
12 other member states shall be deactivated until all encumbrances have been removed from the state
13 license. All home state disciplinary orders that impose adverse action against an audiologist's or
14 speech language pathologist's license shall include a statement that the audiologist's or speech-
15 language pathologist's privilege to practice is deactivated in all member states during the pendency
16 of the order.

17 H. If a member state takes adverse action, it shall promptly notify the administrator of the data
18 system. The administrator of the data system shall promptly notify the home state of any adverse
19 actions by remote states.

20 I. Nothing in this Compact shall override a member state's decision that participation in an
21 alternative program may be used in lieu of adverse action.

22 SECTION 8. ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE
23 PATHOLOGY COMPACT COMMISSION

24 A. The Compact member states hereby create and establish a joint public agency known as the
25 Audiology and Speech-Language Pathology Compact Commission:

26 1. The Commission is an instrumentality of the Compact states.

27 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely
28 and exclusively in a court of competent jurisdiction where the principal office of the Commission is
29 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or
30 consents to participate in alternative dispute resolution proceedings.

31 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

32 B. Membership, Voting and Meetings

33 1. Each member state shall have two (2) delegates selected by that member state's licensing
34 board. The delegates shall be current members of the licensing board. One shall be an audiologist
35 and one shall be a speech-language pathologist.

- 1 2. An additional five (5) delegates, who are either a public member or board administrator from
2 a state licensing board, shall be chosen by the Executive Committee from a pool of nominees
3 provided by the Commission at Large.
- 4 3. Any delegate may be removed or suspended from office as provided by the law of the state
5 from which the delegate is appointed.
- 6 4. The member state board shall fill any vacancy occurring on the Commission, within 90 days.
- 7 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and
8 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs
9 of the Commission.
- 10 6. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may
11 provide for delegates' participation in meetings by telephone or other means of communication.
- 12 7. The Commission shall meet at least once during each calendar year. Additional meetings
13 shall be held as set forth in the bylaws.
- 14 C. The Commission shall have the following powers and duties:
- 15 1. Establish the fiscal year of the Commission;
- 16 2. Establish bylaws;
- 17 3. Establish a Code of Ethics;
- 18 4. Maintain its financial records in accordance with the bylaws;
- 19 5. Meet and take actions as are consistent with the provisions of this Compact and the bylaws;
- 20 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of
21 this Compact. The rules shall have the force and effect of law and shall be binding in all member
22 states;
- 23 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided
24 that the standing of any state audiology or speech-language pathology licensing board to sue or be
25 sued under applicable law shall not be affected;
- 26 8. Purchase and maintain insurance and bonds;
- 27 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees
28 of a member state;
- 29 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals
30 appropriate authority to carry out the purposes of the Compact, and to establish the Commission's
31 personnel policies and programs relating to conflicts of interest, qualifications of personnel, and
32 other related personnel matters;
- 33 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
34 materials and services, and to receive, utilize and dispose of the same; provided that at all times the
35 Commission shall avoid any appearance of impropriety and/or conflict of interest;

1 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve
2 or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid
3 any appearance of impropriety;

4 13. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
5 property real, personal, or mixed;

6 14. Establish a budget and make expenditures;

7 15. Borrow money;

8 16. Appoint committees, including standing committees composed of members, and other
9 interested persons as may be designated in this Compact and the bylaws;

10 17. Provide and receive information from, and cooperate with, law enforcement agencies;

11 18. Establish and elect an Executive Committee; and

12 19. Perform other functions as may be necessary or appropriate to achieve the purposes of this
13 Compact consistent with the state regulation of audiology and speech-language pathology licensure
14 and practice.

15 D. The Executive Committee

16 The Executive Committee shall have the power to act on behalf of the Commission according to the
17 terms of this Compact:

18 1. The Executive Committee shall be composed of ten (10) members:

19 a. Seven (7) voting members who are elected by the Commission from the current membership
20 of the Commission;

21 b. Two (2) ex-officios, consisting of one nonvoting member from a recognized national audiology
22 professional association and one nonvoting member from a recognized national speech-language
23 pathology association; and

24 c. One (1) ex-officio, nonvoting member from the recognized membership organization of the
25 audiology and speech-language pathology licensing boards.

26 E. The ex-officio members shall be selected by their respective organizations.

27 1. The Commission may remove any member of the Executive Committee as provided in bylaws.

28 2. The Executive Committee shall meet at least annually.

29 3. The Executive Committee shall have the following duties and responsibilities:

30 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this
31 Compact legislation, fees paid by Compact member states such as annual dues, and any commission
32 Compact fee charged to licensees for the compact privilege;

33 b. Ensure Compact administration services are appropriately provided, contractual or
34 otherwise;

35 c. Prepare and recommend the budget;

36 d. Maintain financial records on behalf of the Commission;

1 e. Monitor Compact compliance of member states and provide compliance reports to the
2 Commission;

3 f. Establish additional committees as necessary; and

4 g. Other duties as provided in rules or bylaws.

5 4. Meetings of the Commission

6 All meetings shall be open to the public, and public notice of meetings shall be given in the same
7 manner as required under the rulemaking provisions in Section 10.

8 5. The Commission or the Executive Committee or other committees of the Commission may
9 convene in a closed, non-public meeting if the Commission or Executive Committee or other
10 committees of the Commission must discuss:

11 a. Non-compliance of a member state with its obligations under the
12 Compact;

13 b. The employment, compensation, discipline or other matters, practices or procedures related to
14 specific employees or other matters related to the Commission's internal personnel practices and
15 procedures;

16 c. Current, threatened, or reasonably anticipated litigation;

17 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

18 e. Accusing any person of a crime or formally censuring any person;

19 f. Disclosure of trade secrets or commercial or financial information that is privileged or
20 confidential;

21 g. Disclosure of information of a personal nature where disclosure would constitute a clearly
22 unwarranted invasion of personal privacy;

23 h. Disclosure of investigative records compiled for law enforcement purposes;

24 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
25 use of the Commission or other committee charged with responsibility of investigation or
26 determination of compliance issues pursuant to the Compact; or

27 j. Matters specifically exempted from disclosure by federal or member state statute.

28 6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's
29 legal counsel or designee shall certify that the meeting may be closed and shall reference each
30 relevant exempting provision.

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

37 8. Financing of the Commission

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

3 b. The Commission may accept any and all appropriate revenue sources, donations, and grants
4 of money, equipment, supplies, materials, and services.

5 c. The Commission may levy on and collect an annual assessment from each member state or
6 impose fees on other parties to cover the cost of the operations and activities of the Commission and
7 its staff, which must be in a total amount sufficient to cover its annual budget as approved each year
8 for which revenue is not provided by other sources. The aggregate annual assessment amount shall
9 be allocated based upon a formula to be determined by the Commission, which shall promulgate a
10 rule binding upon all member states.

11 9. The Commission shall not incur obligations of any kind prior to securing the funds adequate
12 to meet the same; nor shall the Commission pledge the credit of any of the member states, except by
13 and with the authority of the member state.

14 10. The Commission shall keep accurate accounts of all receipts and disbursements. The
15 receipts and disbursements of the Commission shall be subject to the audit and accounting
16 procedures established under its bylaws. However, all receipts and disbursements of funds handled
17 by the Commission shall be audited yearly by a certified or licensed public accountant, and the
18 report of the audit shall be included in and become part of the annual report of the Commission.

19 F. Qualified Immunity, Defense, and Indemnification

20 1. The members, officers, executive director, employees and representatives of the Commission
21 shall be immune from suit and liability, either personally or in their official capacity, for any claim
22 for damage to or loss of property or personal injury or other civil liability caused by or arising out of
23 any actual or alleged act, error or omission that occurred, or that the person against whom the claim
24 is made had a reasonable basis for believing occurred within the scope of Commission employment,
25 duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any
26 person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or
27 willful or wanton misconduct of that person.

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

36 3. The Commission shall indemnify and hold harmless any member, officer, executive director,
37 employee, or representative of the Commission for the amount of any settlement or judgment

1 obtained against that person arising out of any actual or alleged act, error or omission that occurred
2 within the scope of Commission employment, duties, or responsibilities, or that person had a
3 reasonable basis for believing occurred within the scope of Commission employment, duties, or
4 responsibilities, provided that the actual or alleged act, error, or omission did not result from the
5 intentional or willful or wanton misconduct of that person.

6 SECTION 9. DATA SYSTEM

7 A. The Commission shall provide for the development, maintenance, and utilization of a
8 coordinated database and reporting system containing licensure, adverse action, and investigative
9 information on all licensed individuals in member states.

10 B. Notwithstanding any other provision of state law to the contrary, a member state shall
11 submit a uniform data set to the data system on all individuals to whom this Compact is applicable
12 as required by the rules of the Commission, including:

- 13 1. Identifying information;
- 14 2. Licensure data;
- 15 3. Adverse actions against a license or compact privilege;
- 16 4. Non-confidential information related to alternative program participation;
- 17 5. Any denial of application for licensure, and the reason(s) for denial; and
- 18 6. Other information that may facilitate the administration of this Compact, as determined by

19 the rules of the Commission.

20 C. Investigative information pertaining to a licensee in any member state shall only be available
21 to other member states.

22 D. The Commission shall promptly notify all member states of any adverse action taken against
23 a licensee or an individual applying for a license. Adverse action information pertaining to a licensee
24 in any member state shall be available to any other member state.

25 E. Member states contributing information to the data system may designate information that
26 may not be shared with the public without the express permission of the contributing state.

27 F. Any information submitted to the data system that is subsequently required to be expunged
28 by the laws of the member state contributing the information shall be removed from the data
29 system.

30 SECTION 10. RULEMAKING

31 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in
32 this Section and the rules adopted thereunder. Rules and amendments shall become binding as of
33 the date specified in each rule or amendment.

34 B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute
35 or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of
36 the rule, the rule shall have no further force and effect in any member state.

1 C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
2 Commission.

3 D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least
4 thirty (30) days in advance of the meeting at which the rule shall be considered and voted upon, the
5 Commission shall file a Notice of Proposed Rulemaking:

6 1. On the website of the Commission or other publicly accessible platform; and

7 2. On the website of each member state audiology or speech-language pathology licensing board
8 or other publicly accessible platform or the publication in which each state would otherwise publish
9 proposed rules.

10 E. The Notice of Proposed Rulemaking shall include:

11 1. The proposed time, date, and location of the meeting in which the rule shall be considered and
12 voted upon;

13 2. The text of the proposed rule or amendment and the reason for the proposed rule;

14 3. A request for comments on the proposed rule from any interested person; and

15 4. The manner in which interested persons may submit notice to the Commission of their
16 intention to attend the public hearing and any written comments.

17 F. Prior to the adoption of a proposed rule, the Commission shall allow persons to submit
18 written data, facts, opinions and arguments, which shall be made available to the public.

19 G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or
20 amendment if a hearing is requested by:

21 1. At least twenty-five (25) persons;

22 2. A state or federal governmental subdivision or agency; or

23 3. An association having at least twenty-five (25) members.

24 H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the
25 place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
26 Commission shall publish the mechanism for access to the electronic hearing.

27 1. All persons wishing to be heard at the hearing shall notify the executive director of the
28 Commission or other designated member in writing of their desire to appear and testify at the
29 hearing not less than five (5) business days before the scheduled date of the hearing.

30 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair
31 and reasonable opportunity to comment orally or in writing.

32 3. All hearings shall be recorded. A copy of the recording shall be made available on request.

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

35 I. Following the scheduled hearing date, or by the close of business on the scheduled hearing
36 date if the hearing was not held, the Commission shall consider all written and oral comments
37 received.

1 J. If no written notice of intent to attend the public hearing by interested parties is received, the
2 Commission may proceed with promulgation of the proposed rule without a public hearing.

3 K. The Commission shall, by majority vote of all members, take final action on the proposed rule
4 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full
5 text of the rule.

6 L. Upon determination that an emergency exists, the Commission may consider and adopt an
7 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual
8 rulemaking procedures provided in the Compact and in this section shall be retroactively applied to
9 the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective
10 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
11 immediately in order to:

12 1. Meet an imminent threat to public health, safety, or welfare;

13 2. Prevent a loss of Commission or member state funds; or

14 3. Meet a deadline for the promulgation of an administrative rule that is established by federal
15 law or rule.

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

25 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

26 A. Dispute Resolution

27 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to
28 the Compact that arise among member states and between member and non-member states.

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

31 B. Enforcement

32 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and
33 rules of this Compact.

34 2. By majority vote, the Commission may initiate legal action in the United States District
35 Court for the District of Columbia or the federal district where the Commission has its principal
36 offices against a member state in default to enforce compliance with the provisions of the Compact
37 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and

1 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all
2 costs of litigation, including reasonable attorney's fees.

3 3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission
4 may pursue any other remedies available under federal or state law.

5 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERstate COMMISSION FOR
6 AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES,
7 WITHDRAWAL, AND AMENDMENT

8 A. The Compact shall come into effect on the date on which the Compact statute is enacted into
9 law in the 10th member state. The provisions, which become effective at that time, shall be limited
10 to the powers granted to the Commission relating to assembly and the promulgation of rules.
11 Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the
12 implementation and administration of the Compact.

13 B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
14 shall be subject to the rules as they exist on the date on which the Compact becomes law in that
15 state. Any rule that has been previously adopted by the Commission shall have the full force and
16 effect of law on the day the Compact becomes law in that state.

17 C. Any member state may withdraw from this Compact by enacting a statute repealing the
18 same.

19 1. A member state's withdrawal shall not take effect until six (6) months after enactment of the
20 repealing statute.

21 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology
22 or speech-language pathology licensing board to comply with the investigative and adverse action
23 reporting requirements of this act prior to the effective date of withdrawal.

24 D. Nothing contained in this Compact shall be construed to invalidate or prevent any audiology
25 or speech-language pathology licensure agreement or other cooperative arrangement between a
26 member state and a non-member state that does not conflict with the provisions of this Compact.

27 E. This Compact may be amended by the member states. No amendment to this Compact shall
28 become effective and binding upon any member state until it is enacted into the laws of all member
29 states.

30 SECTION 13. CONSTRUCTION AND SEVERABILITY

31 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of
32 this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is
33 declared to be contrary to the constitution of any member state or of the United States or the
34 applicability thereof to any government, agency, person or circumstance is held invalid, the validity
35 of the remainder of this Compact and the applicability thereof to any government, agency, person or
36 circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution

1 of any member state, the Compact shall remain in full force and effect as to the remaining member
2 states and in full force and effect as to the member state affected as to all severable matters.

3 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

4 A. Nothing herein prevents the enforcement of any other law of a member state that is not
5 inconsistent with the Compact.

6 B. All laws in a member state in conflict with the Compact are superseded to the extent of the
7 conflict.

8 C. All lawful actions of the Commission, including all rules and bylaws promulgated by the
9 Commission, are binding upon the member states.

10 D. All agreements between the Commission and the member states are binding in accordance
11 with their terms.

12 E. In the event any provision of the Compact exceeds the constitutional limits imposed on the
13 legislature of any member state, the provision shall be ineffective to the extent of the conflict with
14 the constitutional provision in question in that member state.

15 329-D:3 Occupational Therapy Licensure Compact. The state of New Hampshire hereby adopts
16 the provisions of the Occupational Therapy Licensure Compact as follows:

17 SECTION 1. PURPOSE

18 The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal
19 of improving public access to occupational therapy services. The Practice of occupational therapy
20 occurs in the state where the patient/client is located at the time of the patient/client encounter. The
21 Compact preserves the regulatory authority of states to protect public health and safety through the
22 current system of state licensure.

23 This Compact is designed to achieve the following objectives:

24 A. Increase public access to occupational therapy services by providing for the mutual
25 recognition of other member state licenses;

26 B. Enhance the states' ability to protect the public's health and safety;

27 C. Encourage the cooperation of member states in regulating multi-state occupational therapy
28 practice;

29 D. Support spouses of relocating military members;

30 E. Enhance the exchange of licensure, investigative, and disciplinary information between
31 Member states;

32 F. Allow a remote state to hold a provider of services with a Compact privilege in that state
33 accountable to that state's practice standards; and

34 G. Facilitate the use of telehealth technology in order to increase access to occupational therapy
35 services.

36 SECTION 2. DEFINITIONS

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

1 A. "Active Duty Military" means full-time duty status in the active uniformed service of the
2 United States, including members of the National Guard and Reserve on active duty orders
3 pursuant to 10 U.S.C. Chapter 1209 and Section 1211.

4 B. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a
5 state's laws which is imposed by a licensing board or other authority against an occupational
6 therapist or occupational therapy assistant, including actions against an individual's license or
7 Compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee, or
8 restriction on the licensee's practice.

9 C. "Alternative Program" means a non-disciplinary monitoring process approved by an
10 occupational therapy licensing board.

11 D. "Compact privilege" means the authorization, which is equivalent to a license, granted by a
12 remote state to allow a licensee from another member state to practice as an occupational therapist
13 or practice as an occupational therapy assistant in the remote state under its laws and rules. The
14 practice of occupational therapy occurs in the member state where the patient/client is located at the
15 time of the patient/client encounter.

16 E. "Continuing Competence/Education" means a requirement, as a condition of license renewal,
17 to provide evidence of participation in, and/or completion of, educational and professional activities
18 relevant to practice or area of work.

19 F. "Current significant investigative information" means investigative information that a
20 licensing board, after an inquiry or investigation that includes notification and an opportunity for
21 the occupational therapist or occupational therapy assistant to respond, if required by state law, has
22 reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

23 G. "Data system" means a repository of information about licensees, including but not limited to
24 license status, investigative information, Compact privileges, and adverse actions.

25 H. "Encumbered license" means a license in which an adverse action restricts the practice of
26 occupational therapy by the licensee or said adverse action has been reported to the National
27 Practitioners Data Bank (NPDB).

28 I. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and
29 within the powers granted to them by, the Commission.

30 J. "Home state" means the member state that is the licensee's Primary state of residence.

31 K. "Impaired practitioner" means individuals whose professional practice is adversely affected
32 by substance abuse, addiction, or other health-related conditions.

33 L. "Investigative Information" means information, records, and/or documents received or
34 generated by an occupational therapy licensing board pursuant to an investigation.

35 M. "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws
36 and rules governing the practice of occupational therapy in a state.

1 N. "Licensee" means an individual who currently holds an authorization from the state to
2 practice as an occupational therapist or as an occupational therapy assistant.

3 O. "Member state" means a state that has enacted the Compact.

4 P. "Occupational therapist" means an individual who is licensed by a state to practice
5 occupational therapy.

6 Q. "Occupational therapy assistant" means an individual who is licensed by a state to assist in
7 the practice of occupational therapy.

8 R. "Occupational therapy," "occupational therapy practice," and the "practice of occupational
9 therapy" mean the care and services provided by an occupational therapist or an occupational
10 therapy assistant as set forth in the member state's statutes and regulations.

11 S. "Occupational therapy Compact Commission" or "Commission" means the national
12 administrative body whose membership consists of all states that have enacted the Compact.

13 T. "Occupational therapy licensing board" or "licensing board" means the agency of a state that
14 is authorized to license and regulate occupational therapists and occupational therapy assistants.

15 U. "Primary state of residence" means the state (also known as the home state) in which an
16 occupational therapist or occupational therapy assistant who is not Active Duty Military declares a
17 primary residence for legal purposes as verified by: driver's license, federal income tax return, lease,
18 deed, mortgage or voter registration or other verifying documentation as further defined by
19 Commission rules.

20 V. "Remote state" means a member state other than the home state, where a licensee is
21 exercising or seeking to exercise the Compact privilege.

22 W. "Rule" means a regulation promulgated by the Commission that has the force of law.

23 X. "State" means any state, commonwealth, district, or territory of the United States of America
24 that regulates the practice of occupational therapy.

25 Y. "Single-state license" means an occupational therapist or occupational therapy assistant
26 license issued by a member state that authorizes practice only within the issuing state and does not
27 include a Compact privilege in any other member state.

28 Z. "Telehealth" means the application of telecommunication technology to deliver occupational
29 therapy services for assessment, intervention and/or consultation.

30 SECTION 3. STATE PARTICIPATION IN THE COMPACT

31 A. To participate in the Compact, a member state shall:

32 1. License occupational therapists and occupational therapy assistants

33 2. Participate fully in the Commission's data system, including but not limited to using the
34 Commission's unique identifier as defined in rules of the Commission;

35 3. Have a mechanism in place for receiving and investigating complaints about licensees;

36 4. Notify the Commission, in compliance with the terms of the Compact and rules, of any
37 adverse action or the availability of investigative information regarding a licensee;

1 5. Implement or utilize procedures for considering the criminal history records of applicants for
2 an initial Compact privilege. These procedures shall include the submission of fingerprints or other
3 biometric-based information by applicants for the purpose of obtaining an applicant's criminal
4 history record information from the Federal Bureau of Investigation and the agency responsible for
5 retaining that state's criminal records;

6 a. A member state shall, within a time frame established by the Commission, require a criminal
7 background check for a licensee seeking/applying for a Compact privilege whose Primary state of
8 residence is that member state, by receiving the results of the Federal Bureau of Investigation
9 criminal record search, and shall use the results in making licensure decisions.

10 b. Communication between a member state, the Commission and among member states
11 regarding the verification of eligibility for licensure through the Compact shall not include any
12 information received from the Federal Bureau of Investigation relating to a federal criminal records
13 check performed by a member state under Public Law 92-544.

14 6. Comply with the rules of the Commission;

15 7. Utilize only a recognized national examination as a requirement for licensure pursuant to the
16 rules of the Commission; and

17 8. Have Continuing Competence/Education requirements as a condition for license renewal.

18 B. A member state shall grant the Compact privilege to a licensee holding a valid unencumbered
19 license in another member state in accordance with the terms of the Compact and rules.

20 C. Member states may charge a fee for granting a Compact privilege.

21 D. A member state shall provide for the state's delegate to attend all occupational therapy
22 Compact Commission meetings.

23 E. Individuals not residing in a member state shall continue to be able to apply for a member
24 state's Single-state license as provided under the laws of each member state. However, the Single-
25 state license granted to these individuals shall not be recognized as granting the Compact privilege
26 in any other member state.

27 F. Nothing in this Compact shall affect the requirements established by a member state for the
28 issuance of a Single-state license.

29 SECTION 4. COMPACT PRIVILEGE

30 A. To exercise the Compact privilege under the terms and provisions of the Compact, the
31 licensee shall:

32 1. Hold a license in the home state;

33 2. Have a valid United States Social Security Number or National Practitioner Identification
34 number;

35 3. Have no encumbrance on any state license;

36 4. Be eligible for a Compact privilege in any member state in accordance with Section 4D, F, G,
37 and H;

- 1 5. Have paid all fines and completed all requirements resulting from any adverse action against
2 any license or Compact privilege, and two years have elapsed from the date of such completion;
- 3 6. Notify the Commission that the licensee is seeking the Compact privilege within a remote
4 state(s);
- 5 7. Pay any applicable fees, including any state fee, for the Compact privilege;
- 6 8. Complete a criminal background check in accordance with Section 3A(5);
 - 7 a. The licensee shall be responsible for the payment of any fee associated with the completion of
8 a criminal background check.
- 9 9. Meet any jurisprudence requirements established by the remote state(s) in which the licensee
10 is seeking a Compact privilege; and
- 11 10. Report to the Commission adverse action taken by any non-member state within 30 days
12 from the date the adverse action is taken.
- 13 B. The Compact privilege is valid until the expiration date of the home state license. The
14 licensee must comply with the requirements of Section 4A to maintain the Compact privilege in the
15 remote state.
- 16 C. A licensee providing occupational therapy in a remote state under the Compact privilege
17 shall function within the laws and regulations of the remote state.
- 18 D. Occupational therapy assistants practicing in a remote state shall be supervised by an
19 occupational therapist licensed or holding a Compact privilege in that remote state.
- 20 E. A licensee providing occupational therapy in a remote state is subject to that state's
21 regulatory authority. A remote state may, in accordance with due process and that state's laws,
22 remove a licensee's Compact privilege in the remote state for a specific period of time, impose fines,
23 and/or take any other necessary actions to protect the health and safety of its citizens. The licensee
24 may be ineligible for a Compact privilege in any state until the specific time for removal has passed
25 and all fines are paid.
- 26 F. If a home state license is encumbered, the licensee shall lose the Compact privilege in any
27 remote state until the following occur:
 - 28 1. The home state license is no longer encumbered; and
 - 29 2. Two years have elapsed from the date on which the home state license is no longer
30 encumbered in accordance with Section 4(F)(1).
- 31 G. Once an Encumbered license in the home state is restored to good standing, the licensee must
32 meet the requirements of Section 4A to obtain a Compact privilege in any remote state.
- 33 H. If a licensee's Compact privilege in any remote state is removed, the individual may lose the
34 Compact privilege in any other remote state until the following occur:
 - 35 1. The specific period of time for which the Compact privilege was removed has ended;
 - 36 2. All fines have been paid and all conditions have been met;
 - 37 3. Two years have elapsed from the date of completing requirements for 4(H)(1) and (2); and

1 4. The Compact privileges are reinstated by the Commission, and the compact data system is
2 updated to reflect reinstatement.

3 I. If a licensee's Compact privilege in any remote state is removed due to an erroneous charge,
4 privileges shall be restored through the compact data system.

5 J. Once the requirements of Section 4H have been met, the license must meet the requirements
6 in Section 4A to obtain a Compact privilege in a remote state.

7 SECTION 5: OBTAINING A NEW HOME state LICENSE BY VIRTUE OF COMPACT PRIVILEGE

8 A. An occupational therapist or occupational therapy assistant may hold a home state license,
9 which allows for Compact privileges in member states, in only one member state at a time.

10 B. If an occupational therapist or occupational therapy assistant changes primary state of
11 residence by moving between two member states:

12 1. The occupational therapist or occupational therapy assistant shall file an application for
13 obtaining a new home state license by virtue of a Compact privilege, pay all applicable fees, and
14 notify the current and new home state in accordance with applicable rules adopted by the
15 Commission.

16 2. Upon receipt of an application for obtaining a new home state license by virtue of compact
17 privilege, the new home state shall verify that the occupational therapist or occupational therapy
18 assistant meets the pertinent criteria outlined in Section 4 via the data system, without need for
19 primary source verification except for:

20 a. An FBI fingerprint based criminal background check if not previously performed or updated
21 pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;

22 b. Other criminal background check as required by the new home state; and

23 c. Submission of any requisite jurisprudence requirements of the new home state.

24 3. The former home state shall convert the former home state license into a Compact privilege
25 once the new home state has activated the new home state license in accordance with applicable
26 rules adopted by the Commission.

27 4. Notwithstanding any other provision of this Compact, if the occupational therapist or
28 occupational therapy assistant cannot meet the criteria in Section 4, the new home state shall apply
29 its requirements for issuing a new Single-state license.

30 5. The occupational therapist or the occupational therapy assistant shall pay all applicable fees
31 to the new home state in order to be issued a new home state license.

32 C. If an occupational therapist or occupational therapy assistant changes primary state of
33 residence by moving from a member state to a non-member state, or from a non-member state to a
34 member state, the state criteria shall apply for issuance of a Single-state license in the new state.

35 D. Nothing in this compact shall interfere with a licensee's ability to hold a Single-state license
36 in multiple states; however, for the purposes of this compact, a licensee shall have only one home
37 state license.

1 E. Nothing in this Compact shall affect the requirements established by a member state for the
2 issuance of a Single-state license.

3 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

4 A. Active Duty Military personnel, or their spouses, shall designate a home state where the
5 individual has a current license in good standing. The individual may retain the home state
6 designation during the period the service member is on active duty. Subsequent to designating a
7 home state, the individual shall only change their home state through application for licensure in the
8 new state or through the process described in Section 5.

9 SECTION 7. ADVERSE ACTIONS

10 A. A home state shall have exclusive power to impose adverse action against an occupational
11 therapist's or occupational therapy assistant's license issued by the home state.

12 B. In addition to the other powers conferred by state law, a remote state shall have the
13 authority, in accordance with existing state due process law, to:

14 1. Take adverse action against an occupational therapist's or occupational therapy assistant's
15 Compact privilege within that member state.

16 2. Issue subpoenas for both hearings and investigations that require the attendance and
17 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board
18 in a member state for the attendance and testimony of witnesses or the production of evidence from
19 another member state shall be enforced in the latter state by any court of competent jurisdiction,
20 according to the practice and procedure of that court applicable to subpoenas issued in proceedings
21 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and
22 other fees required by the service statutes of the state in which the witnesses or evidence are
23 located.

24 C. For purposes of taking adverse action, the home state shall give the same priority and effect
25 to reported conduct received from a member state as it would if the conduct had occurred within the
26 home state. In so doing, the home state shall apply its own state laws to determine appropriate
27 action.

28 D. The home state shall complete any pending investigations of an occupational therapist or
29 occupational therapy assistant who changes primary state of residence during the course of the
30 investigations. The home state, where the investigations were initiated, shall also have the
31 authority to take appropriate action(s) and shall promptly report the conclusions of the
32 investigations to the OT Compact Commission data system. The occupational therapy Compact
33 Commission data system administrator shall promptly notify the new home state of any adverse
34 actions.

35 E. A member state, if otherwise permitted by state law, may recover from the affected
36 occupational therapist or occupational therapy assistant the costs of investigations and disposition of

1 cases resulting from any adverse action taken against that occupational therapist or occupational
2 therapy assistant.

3 F. A member state may take adverse action based on the factual findings of the remote state,
4 provided that the member state follows its own procedures for taking the adverse action.

5 G. Joint Investigations

6 1. In addition to the authority granted to a member state by its respective state occupational
7 therapy laws and regulations or other applicable state law, any member state may participate with
8 other member states in joint investigations of licensees.

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

11 H. If an adverse action is taken by the home state against an occupational therapist's or
12 occupational therapy assistant's license, the occupational therapist's or occupational therapy
13 assistant's Compact privilege in all other member states shall be deactivated until all encumbrances
14 have been removed from the state license. All home state disciplinary orders that impose adverse
15 action against an occupational therapist's or occupational therapy assistant's license shall include a
16 statement that the occupational therapist's or occupational therapy assistant's Compact privilege is
17 deactivated in all member states during the pendency of the order.

18 I. If a member state takes adverse action, it shall promptly notify the administrator of the data
19 system. The administrator of the data system shall promptly notify the home state of any adverse
20 actions by remote states.

21 J. Nothing in this Compact shall override a member state's decision that participation in an
22 Alternative Program may be used in lieu of adverse action.

23 SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT
24 COMMISSION.

25 A. The Compact member states hereby create and establish a joint public agency known as the
26 occupational therapy Compact Commission:

27 1. The Commission is an instrumentality of the Compact states.

28 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely
29 and exclusively in a court of competent jurisdiction where the principal office of the Commission is
30 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or
31 consents to participate in alternative dispute resolution proceedings.

32 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

33 B. Membership, Voting, and Meetings

34 1. Each member state shall have and be limited to one (1) delegate selected by that member
35 state's licensing board.

36 2. The delegate shall be either:

- 1 a. A current member of the licensing board, who is an occupational therapist, occupational
2 therapy assistant, or public member; or
- 3 b. An administrator of the licensing board.
- 4 3. Any delegate may be removed or suspended from office as provided by the law of the state
5 from which the delegate is appointed.
- 6 4. The member state board shall fill any vacancy occurring in the Commission within 90 days.
- 7 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and
8 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs
9 of the Commission. A delegate shall vote in person or by such other means as provided in the
10 bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other
11 means of communication.
- 12 6. The Commission shall meet at least once during each calendar year. Additional meetings
13 shall be held as set forth in the bylaws.
- 14 7. The Commission shall establish by rule a term of office for delegates.
- 15 C. The Commission shall have the following powers and duties:
 - 16 1. Establish a Code of Ethics for the Commission;
 - 17 2. Establish the fiscal year of the Commission;
 - 18 3. Establish bylaws;
 - 19 4. Maintain its financial records in accordance with the bylaws;
 - 20 5. Meet and take such actions as are consistent with the provisions of this Compact and the
21 bylaws;
 - 22 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of
23 this Compact. The rules shall have the force and effect of law and shall be binding in all member
24 states;
 - 25 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided
26 that the standing of any state occupational therapy licensing board to sue or be sued under
27 applicable law shall not be affected;
 - 28 8. Purchase and maintain insurance and bonds;
 - 29 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees
30 of a member state;
 - 31 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such
32 individuals appropriate authority to carry out the purposes of the Compact, and establish the
33 Commission's personnel policies and programs relating to conflicts of interest, qualifications of
34 personnel, and other related personnel matters;
 - 35 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
36 materials and services, and receive, utilize and dispose of the same; provided that at all times the
37 Commission shall avoid any appearance of impropriety and/or conflict of interest;

- 1 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or
- 2 use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any
- 3 appearance of impropriety;
- 4 13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
- 5 property real, personal, or mixed;
- 6 14. Establish a budget and make expenditures;
- 7 15. Borrow money;
- 8 16. Appoint committees, including standing committees composed of members, state regulators,
- 9 state legislators or their representatives, and consumer representatives, and such other interested
- 10 persons as may be designated in this Compact and the bylaws;
- 11 17. Provide and receive information from, and cooperate with, law enforcement agencies;
- 12 18. Establish and elect an Executive Committee; and
- 13 19. Perform such other functions as may be necessary or appropriate to achieve the purposes of
- 14 this Compact consistent with the state regulation of occupational therapy licensure and practice.
- 15 D. The Executive Committee. The Executive Committee shall have the power to act on behalf of
- 16 the Commission according to the terms of this Compact.
- 17 1. The Executive Committee shall be composed of nine members:
- 18 a. Seven voting members who are elected by the Commission from the current membership of
- 19 the Commission;
- 20 b. One ex-officio, nonvoting member from a recognized national occupational therapy
- 21 professional association; and
- 22 c. One ex-officio, nonvoting member from a recognized national occupational therapy
- 23 certification organization.
- 24 2. The ex-officio members will be selected by their respective organizations.
- 25 3. The Commission may remove any member of the Executive Committee as provided in bylaws.
- 26 4. The Executive Committee shall meet at least annually.
- 27 5. The Executive Committee shall have the following duties and responsibilities:
- 28 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this
- 29 Compact legislation, fees paid by Compact member states such as annual dues, and any Commission
- 30 Compact fee charged to licensees for the Compact privilege;
- 31 b. Ensure Compact administration services are appropriately provided, contractual or
- 32 otherwise;
- 33 c. Prepare and recommend the budget;
- 34 d. Maintain financial records on behalf of the Commission;
- 35 e. Monitor Compact compliance of member states and provide compliance reports to the
- 36 Commission;
- 37 f. Establish additional committees as necessary; and

1 g. Perform other duties as provided in rules or bylaws.

2 E. Meetings of the Commission

3 1. All meetings shall be open to the public, and public notice of meetings shall be given in the
4 same manner as required under the rulemaking provisions in Section 10.

5 2. The Commission or the Executive Committee or other committees of the Commission may
6 convene in a closed, non-public meeting if the Commission or Executive Committee or other
7 committees of the Commission must discuss:

8 a. Non-compliance of a member state with its obligations under the Compact;

9 b. The employment, compensation, discipline or other matters, practices or procedures related to
10 specific employees or other matters related to the Commission's internal personnel practices and
11 procedures;

12 c. Current, threatened, or reasonably anticipated litigation;

13 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

14 e. Accusing any person of a crime or formally censuring any person;

15 f. Disclosure of trade secrets or commercial or financial information that is privileged or
16 confidential;

17 g. Disclosure of information of a personal nature where disclosure would constitute a clearly
18 unwarranted invasion of personal privacy;

19 h. Disclosure of investigative records compiled for law enforcement purposes;

20 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
21 use of the Commission or other committee charged with responsibility of investigation or
22 determination of compliance issues pursuant to the Compact; or

23 j. Matters specifically exempted from disclosure by federal or member state statute.

24 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's
25 legal counsel or designee shall certify that the meeting may be closed and shall reference each
26 relevant exempting provision.

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

33 F. Financing of the Commission

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

36 2. The Commission may accept any and all appropriate revenue sources, donations, and grants
37 of money, equipment, supplies, materials, and services.

1 3. The Commission may levy on and collect an annual assessment from each member state or
2 impose fees on other parties to cover the cost of the operations and activities of the Commission and
3 its staff, which must be in a total amount sufficient to cover its annual budget as approved by the
4 Commission each year for which revenue is not provided by other sources. The aggregate annual
5 assessment amount shall be allocated based upon a formula to be determined by the Commission,
6 which shall promulgate a rule binding upon all member states.

7 4. The Commission shall not incur obligations of any kind prior to securing the funds adequate
8 to meet the same; nor shall the Commission pledge the credit of any of the member states, except by
9 and with the authority of the member state.

10 5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts
11 and disbursements of the Commission shall be subject to the audit and accounting procedures
12 established under its bylaws. However, all receipts and disbursements of funds handled by the
13 Commission shall be audited yearly by a certified or licensed public accountant, and the report of the
14 audit shall be included in and become part of the annual report of the Commission.

15 G. Qualified Immunity, Defense, and Indemnification

16 1. The members, officers, executive director, employees and representatives of the Commission
17 shall be immune from suit and liability, either personally or in their official capacity, for any claim
18 for damage to or loss of property or personal injury or other civil liability caused by or arising out of
19 any actual or alleged act, error or omission that occurred, or that the person against whom the claim
20 is made had a reasonable basis for believing occurred within the scope of Commission employment,
21 duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any
22 such person from suit and/or liability for any damage, loss, injury, or liability caused by the
23 intentional or willful or wanton misconduct of that person.

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

32 3. The Commission shall indemnify and hold harmless any member, officer, executive director,
33 employee, or representative of the Commission for the amount of any settlement or judgment
34 obtained against that person arising out of any actual or alleged act, error or omission that occurred
35 within the scope of Commission employment, duties, or responsibilities, or that such person had a
36 reasonable basis for believing occurred within the scope of Commission employment, duties, or

1 responsibilities, provided that the actual or alleged act, error, or omission did not result from the
2 intentional or willful or wanton misconduct of that person.

3 SECTION 9. DATA SYSTEM

4 A. The Commission shall provide for the development, maintenance, and utilization of a
5 coordinated database and reporting system containing licensure, adverse action, and investigative
6 information on all licensed individuals in member states.

7 B. A member state shall submit a uniform data set to the data system on all individuals to
8 whom this Compact is applicable (utilizing a unique identifier) as required by the rules of the
9 Commission, including:

- 10 1. Identifying information;
- 11 2. Licensure data;
- 12 3. Adverse actions against a license or Compact privilege;
- 13 4. Non-confidential information related to Alternative Program participation;
- 14 5. Any denial of application for licensure, and the reason(s) for such denial;
- 15 6. Other information that may facilitate the administration of this Compact, as determined by
16 the rules of the Commission; and
- 17 7. Current significant investigative information.

18 C. Current significant investigative information and other investigative information pertaining
19 to a licensee in any member state will only be available to other member states.

20 D. The Commission shall promptly notify all member states of any adverse action taken against
21 a licensee or an individual applying for a license. adverse action information pertaining to a licensee
22 in any member state will be available to any other member state.

23 E. Member states contributing information to the data system may designate information that
24 may not be shared with the public without the express permission of the contributing state.

25 F. Any information submitted to the data system that is subsequently required to be expunged
26 by the laws of the member state contributing the information shall be removed from the data
27 system.

28 SECTION 10. RULEMAKING

29 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in
30 this Section and the rules adopted thereunder. Rules and amendments shall become binding as of
31 the date specified in each rule or amendment.

32 B. The Commission shall promulgate reasonable rules in order to effectively and efficiently
33 achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission
34 exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the
35 Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid
36 and have no force and effect.

1 C. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute
2 or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of
3 the rule, then such rule shall have no further force and effect in any member state.

4 D. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
5 Commission.

6 E. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least
7 thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the
8 Commission shall file a notice of proposed rulemaking:

9 1. On the website of the Commission or other publicly accessible platform; and

10 2. On the website of each member state occupational therapy licensing board or other publicly
11 accessible platform or the publication in which each state would otherwise publish proposed rules.

12 F. The notice of proposed rulemaking shall include:

13 1. The proposed time, date, and location of the meeting in which the rule will be considered and
14 voted upon;

15 2. The text of the proposed rule or amendment and the reason for the proposed rule;

16 3. A request for comments on the proposed rule from any interested person; and

17 4. The manner in which interested persons may submit notice to the Commission of their
18 intention to attend the public hearing and any written comments.

19 G. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written
20 data, facts, opinions, and arguments, which shall be made available to the public.

21 H. The Commission shall grant an opportunity for a public hearing before it adopts a rule or
22 amendment if a hearing is requested by:

23 1. At least twenty five (25) persons;

24 2. A state or federal governmental subdivision or agency; or

25 3. An association or organization having at least twenty five (25) members.

26 I. If a hearing is held on the proposed rule or amendment, the Commission shall publish the
27 place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
28 Commission shall publish the mechanism for access to the electronic hearing.

29 1. All persons wishing to be heard at the hearing shall notify the executive director of the
30 Commission or other designated member in writing of their desire to appear and testify at the
31 hearing not less than five (5) business days before the scheduled date of the hearing.

32 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair
33 and reasonable opportunity to comment orally or in writing.

34 3. All hearings will be recorded. A copy of the recording will be made available on request.

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

1 J. Following the scheduled hearing date, or by the close of business on the scheduled hearing
2 date if the hearing was not held, the Commission shall consider all written and oral comments
3 received.

4 K. If no written notice of intent to attend the public hearing by interested parties is received, the
5 Commission may proceed with promulgation of the proposed rule without a public hearing.

6 L. The Commission shall, by majority vote of all members, take final action on the proposed rule
7 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full
8 text of the rule.

9 M. Upon determination that an emergency exists, the Commission may consider and adopt an
10 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual
11 rulemaking procedures provided in the Compact and in this section shall be retroactively applied to
12 the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective
13 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
14 immediately in order to:

15 1. Meet an imminent threat to public health, safety, or welfare;

16 2. Prevent a loss of Commission or member state funds;

17 3. Meet a deadline for the promulgation of an administrative rule that is established by federal
18 law or rule; or

19 4. Protect public health and safety.

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

29 **SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

30 **A. Oversight**

31 1. The executive, legislative, and judicial branches of state government in each member state
32 shall enforce this Compact and take all actions necessary and appropriate to effectuate the
33 Compact's purposes and intent. The provisions of this Compact and the rules promulgated
34 hereunder shall have standing as statutory law.

35 2. All courts shall take judicial notice of the Compact and the rules in any judicial or
36 administrative proceeding in a member state pertaining to the subject matter of this Compact which
37 may affect the powers, responsibilities, or actions of the Commission.

1 3. The Commission shall be entitled to receive service of process in any such proceeding, and
2 shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of
3 process to the Commission shall render a judgment or order void as to the Commission, this
4 Compact, or promulgated rules.

5 B. Default, Technical Assistance, and Termination

6 1. If the Commission determines that a member state has defaulted in the performance of its
7 obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

8 a. Provide written notice to the defaulting state and other member states of the nature of the
9 default, the proposed means of curing the default and/or any other action to be taken by the
10 Commission; and

11 b. Provide remedial training and specific technical assistance regarding the default.

12 2. If a state in default fails to cure the default, the defaulting state may be terminated from the
13 Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and
14 benefits conferred by this Compact may be terminated on the effective date of termination. A cure of
15 the default does not relieve the offending state of obligations or liabilities incurred during the period
16 of default.

17 3. Termination of membership in the Compact shall be imposed only after all other means of
18 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by
19 the Commission to the governor, the majority and minority leaders of the defaulting state's
20 legislature, and each of the member states.

21 4. A state that has been terminated is responsible for all assessments, obligations, and liabilities
22 incurred through the effective date of termination, including obligations that extend beyond the
23 effective date of termination.

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

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

31 C. Dispute Resolution

32 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to
33 the Compact that arise among member states and between member and non-member states.

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

36 D. Enforcement

1 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and
2 rules of this Compact.

3 2. By majority vote, the Commission may initiate legal action in the United States District
4 Court for the District of Columbia or the federal district where the Commission has its principal
5 offices against a member state in default to enforce compliance with the provisions of the Compact
6 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and
7 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all
8 costs of such litigation, including reasonable attorney's fees.

9 3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission
10 may pursue any other remedies available under federal or state law.

11 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR
12 OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND
13 AMENDMENT

14 A. The Compact shall come into effect on the date on which the Compact statute is enacted into
15 law in the tenth member state. The provisions, which become effective at that time, shall be limited
16 to the powers granted to the Commission relating to assembly and the promulgation of rules.
17 Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the
18 implementation and administration of the Compact.

19 B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
20 shall be subject to the rules as they exist on the date on which the Compact becomes law in that
21 state. Any rule that has been previously adopted by the Commission shall have the full force and
22 effect of law on the day the Compact becomes law in that state.

23 C. Any member state may withdraw from this Compact by enacting a statute repealing the
24 same.

25 1. A member state's withdrawal shall not take effect until six (6) months after enactment of the
26 repealing statute.

27 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's
28 occupational therapy licensing board to comply with the investigative and adverse action reporting
29 requirements of this act prior to the effective date of withdrawal.

30 D. Nothing contained in this Compact shall be construed to invalidate or prevent any
31 occupational therapy licensure agreement or other cooperative arrangement between a member state
32 and a non-member state that does not conflict with the provisions of this Compact.

33 E. This Compact may be amended by the member states. No amendment to this Compact shall
34 become effective and binding upon any member state until it is enacted into the laws of all member
35 states.

36 SECTION 13. CONSTRUCTION AND SEVERABILITY

1 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of
2 this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is
3 declared to be contrary to the constitution of any member state or of the United States or the
4 applicability thereof to any government, agency, person, or circumstance is held invalid, the validity
5 of the remainder of this Compact and the applicability thereof to any government, agency, person, or
6 circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution
7 of any member state, the Compact shall remain in full force and effect as to the remaining member
8 states and in full force and effect as to the member state affected as to all severable matters.

9 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

10 A. A licensee providing occupational therapy in a remote state under the Compact privilege
11 shall function within the laws and regulations of the remote state.

12 B. Nothing herein prevents the enforcement of any other law of a member state that is not
13 inconsistent with the Compact.

14 C. Any laws in a member state in conflict with the Compact are superseded to the extent of the
15 conflict.

16 D. Any lawful actions of the Commission, including all rules and bylaws promulgated by the
17 Commission, are binding upon the member states.

18 E. All agreements between the Commission and the member states are binding in accordance
19 with their terms.

20 F. In the event any provision of the Compact exceeds the constitutional limits imposed on the
21 legislature of any member state, the provision shall be ineffective to the extent of the conflict with
22 the constitutional provision in question in that member state.

23 3 Effective Date. Part VI of this act shall take effect July 1, 2021.

24 PART VII

25 Relative to the licensure and regulation of music therapists.

26 1 New Chapter; Music Therapists. Amend RSA by inserting after chapter 326-L the following
27 new chapter:

28 CHAPTER 326-M

29 MUSIC THERAPISTS

30 326-M:1 Definitions. In this chapter and RSA 328-F:

31 I. "Board" means the music therapists governing board established in RSA 328-F.

32 II. "Board certified music therapist" means an individual who holds current board
33 certification from the Certification Board for Music Therapists.

34 III. "Executive director" means the executive director of the office of professional licensure
35 and certification.

36 IV. "Music therapist" means a person licensed to practice music therapy pursuant to this
37 chapter.

1 V. "Music therapy" means the clinical and evidence based use of music interventions to
2 accomplish individualized goals for people of all ages and ability levels within a therapeutic
3 relationship by a board certified music therapist. The music therapy interventions may include,
4 music improvisation, receptive music listening, song writing, lyric discussion, music and imagery,
5 singing, music performance, learning through music, music combined with other arts, music-assisted
6 relaxation, music-based patient education, electronic music technology, adapted music intervention
7 and movement to music. The practice of music therapy does not include the screening, diagnosis, or
8 assessment of any physical, mental, or communication disorder. This term may include:

9 (a) Acceptance of clients referred for music therapy by other health care or educational
10 professionals, family members, or caregivers.

11 (b) Assessment of clients to determine appropriate music therapy services.

12 (c) Development and implementation of individualized music therapy treatment plans
13 that identify goals, objectives, and strategies of music therapy that are appropriate for clients.

14 (d) Use of music therapy techniques such as improvisation, performance, receptive
15 music listening, song writing, lyric discussion, guided imagery with music, learning through music,
16 and movement to music.

17 (e) Evaluation of a client's response to music therapy techniques and to the client's
18 individualized music therapy treatment plan.

19 (f) Any necessary modification of the client's individualized music therapy treatment
20 plan.

21 (g) Any necessary collaboration with the other health care professionals treating a client.

22 (h) Minimizing of barriers that may restrict a client's ability to receive or fully benefit
23 from music therapy services.

24 326-M:2 Prohibition on Unlicensed Practice; Professional Identification.

25 I. No person without a license as a music therapist shall use the title "music therapist" or
26 similar title or practice music therapy.

27 II. Nothing in this chapter shall be construed to prohibit or restrict the practice, services, or
28 activities of the following:

29 (a) Any person licensed, certified, or regulated under the laws of this state in another
30 profession or occupation or personnel supervised by a licensed professional in this state performing
31 work, including the use of music, incidental to the practice of his or her licensed, certified, or
32 regulated profession or occupation, if that person does not represent himself or herself as a music
33 therapist; or

34 (b) Any person whose training and national certification attests to the individual's
35 preparation and ability to practice his or her certified profession or occupation, if that person does
36 not represent himself or herself as a music therapist; or

1 (c) Any practice of music therapy as an integral part of a program of study for students
2 enrolled in an accredited music therapy program, if the student does not represent himself or herself
3 as a music therapist; or

4 (d) Any person who practices music therapy under the supervision of a licensed music
5 therapist, if the person does not represent himself or herself as a music therapist.

6 326-M:3 Licensure of Music Therapists. In addition to requirements under RSA 328-F:

7 I. The board shall issue a license to an applicant for a music therapy license when such
8 applicant has completed and submitted an application upon a form and in such manner as the
9 executive director prescribes, accompanied by applicable fees, and evidence satisfactory to the board
10 that:

11 (a) The applicant is in good standing based on a review of the applicant's music therapy
12 licensure history in other jurisdictions, including a review of any alleged misconduct or neglect in the
13 practice of music therapy on the part of the applicant, and a review of the criminal background check
14 required under RSA 328-F:18-a.

15 (b) The applicant provides proof of passing the examination for board certification
16 offered by the Certification Board for Music Therapists or any successor organization or provides
17 proof that the applicant is currently a board certified music therapist.

18 II. The board shall issue a license to an applicant for a music therapist license when such
19 applicant has completed and submitted an application upon a form and in such manner as the
20 executive director prescribes, accompanied by applicable fees, and evidence satisfactory to the board
21 that the applicant is licensed and in good standing as a music therapist in another jurisdiction where
22 the qualifications required are equal to or greater than those required in this chapter at the date of
23 application.

24 326-M:4 Music Therapists Governing Board; Duties. In addition to the duties of a governing
25 board under RSA 328-F:

26 I. The board may facilitate the development of materials that the office of professional
27 licensure and certification may utilize to educate the public concerning music therapist licensure, the
28 benefits of music therapy, and utilization of music therapy by individuals and in facilities or
29 institutional settings.

30 II. The board may act as a facilitator of statewide dissemination of information between
31 music therapists, the American Music Therapy Association or any successor organization, the
32 Certification Board for Music Therapists or any successor organization, and the executive director.

33 III. The executive director shall seek the advice of the board for issues related to the
34 regulation of music therapists.

35 2 Allied Health Professionals; Definition; Governing Board. Amend RSA 328-F:2, II to read as
36 follows:

1 II. "Governing boards" means individual licensing boards of athletic trainers, occupational
2 therapy assistants, occupational therapists, recreational therapists, physical therapists, physical
3 therapist assistants, respiratory care practitioners, speech-language pathologists, [and] genetic
4 counselors, *and music therapists*.

5 3 New Paragraph; Allied Health Professionals; Music Therapists. Amend RSA 328-F:2 by
6 inserting after paragraph X the following new paragraph:

7 XI. "Music therapist" means music therapist as defined in RSA 326-M:1.

8 4 Governing Board; Establishment. Amend RSA 328-F:3, I to read as follows:

9 I. There shall be established governing boards of athletic trainers, occupational therapists,
10 recreational therapists, respiratory care practitioners, physical therapists, speech-language
11 pathologists, [and] genetic counselors, *and music therapists*.

12 5 New Paragraph; Music Therapists Governing Board; Appointment. Amend RSA 328-F:4 by
13 inserting after paragraph X the following new paragraph:

14 XI. The music therapists governing board shall consist of 3 licensed music therapists, who
15 have actively engaged in the practice of music therapy in this state for at least 2 years, one member
16 who is a licensed health care provider who is not a music therapist, and one public member. Initial
17 appointment of professional members by the governor and council shall be qualified persons
18 practicing music therapy in this state. All subsequent appointments or reappointments shall require
19 licensure.

20 6 Renewals; Reference to Music Therapists Added. Amend RSA 328-F:19, I to read as follows:

21 I. Initial licenses and renewals shall be valid for 2 years, except that timely and complete
22 application for license renewal by eligible applicants shall continue the validity of the licenses being
23 renewed until the governing board has acted on the renewal application. Licenses issued pursuant
24 to RSA 328-A, RSA 326-G, [and] RSA 326-J, *and RSA 326-M* shall expire in even-numbered years
25 and licenses issued pursuant to RSA 326-C, RSA 326-E, RSA 326-F, and RSA 326-K shall expire in
26 odd-numbered years.

27 7 Office of Professional Licensure and Certification; New Classified Position; Appropriation.

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

30 II. The amount necessary to pay for the position established in paragraph I and for the per
31 diem and travel reimbursement as required under RSA 328-F:6 for the music therapy governing
32 board established in this act is hereby appropriated to the executive director of the office of
33 professional licensure and certification. Salaries and necessary expenses shall be a charge against
34 the office of professional licensure and certification fund established in RSA 310-A:1-e.

35 8 Effective Date. Part VII of this act shall take effect July 1, 2021.

1 Relative to the authority of the office of professional licensure and certification for administration,
2 rulemaking, and enforcement of investigations, hearings, and appeals.

3 1 Office of Professional Licensure and Certification; Administration; Rulemaking. Amend RSA
4 310-A:1-d, II(h)(2) to read as follows:

5 (2) Such organizational and procedural rules necessary to administer the boards,
6 commissions, and councils in the office of professional licensure and certification, including rules
7 governing the administration of complaints and investigations, *hearings, disciplinary*
8 *proceedings*, payment processing procedures, and application procedures; and

9 2 New Sections; Office of Professional Licensure and Certification; Investigations; Hearings;
10 Penalties; Appeals. Amend RSA 310-A by inserting after section 1-g the following new sections:

11 310-A:1-h Investigations.

12 I. Boards, which shall include all boards, councils, and commissions within the office of
13 professional licensure and certification, may authorize an investigation of allegations of misconduct
14 by licensees (a) upon their own initiative or (b) upon written complaint of any person that charges
15 that a person licensed by the board has committed misconduct. In consultation with the board, the
16 office shall assign an investigator, who shall complete the investigation in accordance with rules
17 adopted by the executive director.

18 II. The following information obtained during investigations shall be held confidential and
19 shall be exempt from the disclosure requirements of RSA 91-A:

20 (a) Complaints received by the office.

21 (b) Information and records acquired by the office during the investigation.

22 (c) Reports and records made by the office as a result of its investigation.

23 III. For the purpose of carrying out investigations, the executive director is authorized to:

24 (a) Retain qualified experts.

25 (b) Conduct inspections of places of business of licensees or certificate holders.

26 (c) Retain legal counsel when authorized to do so by the attorney general.

27 (d) Issue subpoenas for persons, relevant documents and relevant things in accordance
28 with the following conditions:

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

31 (2) Subpoenas for documents and things shall not require compliance in fewer than
32 15 days after receipt of service.

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

35 (4) Service shall be made on persons who are not licensees or certified individuals in
36 accordance with the procedures and fee schedules of the superior court, and the subpoenas served on

1 them shall be annotated "Fees Guaranteed by the New Hampshire Office of Professional Licensure
2 and Certification."

3 IV. The office or the boards, councils, and commissions within the office may disclose
4 information acquired in an investigation to law enforcement or health licensing agencies in this state
5 or any other jurisdiction, or in response to specific statutory requirements or court orders.

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

15 VI. The board may dismiss a complaint if the allegations do not state a claim of professional
16 misconduct.

17 310-A:1-i Disciplinary Proceedings; Remedial Proceedings.

18 I. Boards, which shall include all boards, councils, and commissions within the office of
19 professional licensure and certification, are authorized to conduct disciplinary proceedings in
20 accordance with procedural rules adopted by the executive director.

21 II. For the purpose of carrying out disciplinary proceedings, each board is authorized to
22 issue subpoenas for persons, relevant documents and relevant things in accordance with the
23 following conditions:

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

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

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

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

34 III. At any time before or during disciplinary proceedings, complaints may be dismissed or
35 disposed of, in whole or in part, by written settlement agreement approved by the board and the
36 licensees or certified individuals involved, provided that any complainant shall have the opportunity,
37 before the settlement agreement has been executed, to comment on the terms of the proposed

1 settlement. The board, council, or commission may hold a settlement agreement hearing prior to its
2 approval of the settlement agreement.

3 IV. Disciplinary proceedings shall be open to the public. Final board actions having the
4 effect of terminating disciplinary proceedings, whether taken before, during or after the completion
5 of the proceedings, shall be set forth in a written record that shall be available to the public after
6 service upon the licensees or certified individuals involved.

7 V. In carrying out disciplinary or licensing proceedings, each board shall have the authority
8 to:

9 (a) Hold pre-hearing conferences exempt from the provisions of RSA 91-A.

10 (b) Appoint a board member or other qualified person as presiding officer.

11 (c) Administer, and authorize an appointed presiding officer to administer, oaths and
12 affirmations.

13 VI. Neither the office nor the boards, councils, and commissions shall have an obligation or
14 authority to appoint or pay the fees of attorneys representing licensees, certified individuals, or
15 witnesses during investigations or adjudicatory proceedings.

16 VII. Boards, councils, and commissions may take non-disciplinary remedial action against
17 any person licensed by it upon finding that the person is afflicted with physical or mental disability,
18 disease, disorder, or condition deemed dangerous to the public health. Upon making an affirmative
19 finding, the board, council, or commission may take non-disciplinary remedial action:

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

22 (b) By revocation of license.

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

26 310-A:1-j Hearings, Decisions and Appeals.

27 I. Disciplinary proceedings shall be open to the public, except upon order by the board,
28 council, or commission upon good cause shown. The public docket file for each such proceeding shall
29 be retained in accordance with the retention policy established by the office of professional licensure
30 and certification.

31 II. Notwithstanding any other provision of law, allegations of misconduct or lack of
32 professional qualifications that are not settled shall be heard by the board, council, or commission, or
33 a panel of the board, council, or commission with a minimum of 3 members appointed by the chair of
34 the board or other designee. Any member of the board, or other person qualified to act as presiding
35 officer and duly designated by the board, shall have the authority to preside at such hearing and to
36 issue oaths or affirmations to witnesses, rule on evidentiary and other procedural matters, and
37 prepare a recommended decision. In the case of a hearing before a panel, the presiding officer shall

1 prepare a recommended decision for the board, council, or commission, which shall determine
2 sanctions.

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

9 IV. In disciplinary and licensing proceedings, the presiding officer may hold prehearing
10 conferences that are closed to the public and exempt from the provisions of RSA 91-A until such time
11 as a public evidentiary hearing is convened. In all instances, settlement discussions engaged in by
12 the parties at prehearing conferences may be conducted off the record.

13 V. The board may dispose of issues or allegations at any time during an investigation or
14 disciplinary proceeding by approving a settlement agreement or issuing a consent order or an order
15 of dismissal for default or failure to state a proper basis for disciplinary action. Disciplinary action
16 taken by the board at any stage of a proceeding, and any dispositive action taken after the issuance
17 of a public hearing notice, shall be reduced to writing and made available to the public. Such
18 decisions shall not be public until they are served upon the parties.

19 VI. All proceedings for non-disciplinary remedial action shall be exempt from the provisions
20 of RSA 91-A, except that the board may disclose any final remedial action that affects the status of a
21 license, including any non-disciplinary restrictions imposed.

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

26 310-A:1-k Penalties.

27 I. Upon making an affirmative finding that a licensee or certificate holder has committed
28 professional misconduct, boards, which shall include all boards, councils, and commissions within
29 the office of professional licensure and certification, may take disciplinary action in any one or more
30 of the following ways:

31 (a) By reprimand.

32 (b) By suspension of a license or certificate for a period of time as determined reasonable
33 by the board.

34 (c) By revocation of license.

35 (d) By placing the licensee or certificate holder on probationary status. The board may
36 require the person to submit to any of the following:

1 (1) Regular reporting to the board concerning the matters which are the basis of the
2 probation.

3 (2) Continuing professional education until a satisfactory degree of skill has been
4 achieved in those areas which are the basis of probation.

5 (3) Submitting to the care, counseling, or treatment of a physician, counseling
6 service, health care facility, professional assistance program, or any comparable person or facility
7 approved by the board.

8 (4) Practicing under the direct supervision of another licensee for a period of time
9 specified by the board.

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

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

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

24 IV. In cases involving imminent danger to life or health, a board may order suspension of a
25 license or certification pending hearing for a period of no more than 10 business days, unless the
26 licensee or certified individual agrees in writing to a longer period. In such cases, the board shall
27 comply with RSA 541-A:30.

28 V. Any person whose license has been suspended or revoked by the board may apply to the
29 board, in writing, to request a hearing for reinstatement. Upon a hearing, the board may issue a
30 new license or modify the suspension or revocation of the license.

31 VI. For any order issued in resolution of an disciplinary proceeding by the board, where the
32 board has found misconduct sufficient to support disciplinary action, the board may require the
33 licensee or certificate holder who is the subject of such finding to pay the office a sum not to exceed
34 the reasonable cost of investigation and prosecution of the proceeding. This sum shall not exceed
35 \$10,000. This sum may be imposed in addition to any otherwise authorized administrative fines
36 levied by the board as part of the penalty. The investigative and prosecution costs shall be assessed
37 by the board and any sums recovered shall be credited to the office's fund and disbursed by the office

1 for any future investigations of complaints and activities that violate this chapter or rules adopted
2 under this chapter.

3 VII. When an investigation of a complaint is determined to be unfounded, the board shall
4 dismiss the complaint and explain in writing to the complainant and the licensee or certificate
5 holder its reason for dismissing the complaint. After six years, the board may destroy all
6 information concerning the investigation, retaining only a record noting that an investigation was
7 conducted and that the board determined the complaint to be unfounded. For the purpose of this
8 paragraph, a complaint shall be deemed to be unfounded if it does not fall within the jurisdiction of
9 the board, does not relate to the actions of the licensee or certificate holder, or is determined by the
10 board to be frivolous.

11 VIII. Whoever, not being licensed or otherwise authorized to practice according to the laws
12 of this state, shall advertise oneself as engaging in a profession licensed or certified by the office of
13 professional licensure and certification, shall engage in activity requiring professional licensure, or
14 in any way hold oneself out as qualified to do so, or call oneself a licensed professional, or whoever
15 does such acts after receiving notice that such person's license to practice has been suspended or
16 revoked, is engaged in unlawful practice. After hearing and upon making an affirmative finding of
17 unlawful practice, the board, council, or commission may take action in any one of the following
18 ways:

19 (a) Issue a cease and desist order against any person or entity engaged in unlawful,
20 which shall be enforceable in superior court.

21 (b) Impose a fine not to exceed the amount of any gain or economic benefit that the
22 person derived from the violation or \$10,000 for each offense, whichever amount is greater. Each
23 violation of unlicensed or unlawful practice shall be deemed a separate offense.

24 (c) The attorney general, board, council, or commission, or prosecuting attorney of any
25 county or municipality where the act to unlawful practice takes place may maintain an action to
26 enjoin any person or entity from continuing to do acts of unlawful practice. The action to enjoin shall
27 not replace any other civil, criminal, or regulatory remedy. An injunction without bond is available
28 to any board, council, or commission.

29 310-A:1-1 Rehearing; Appeals.

30 I. Any person who has been refused a license or certification by the board, which shall
31 include all boards, councils, and commissions within the office of professional licensure and
32 certification, or has been disciplined by the board shall have the right to petition for a rehearing
33 within 30 days after the original final decision.

34 II. Appeals from a decision on rehearing shall be by appeal to the supreme court pursuant to
35 RSA 541.

36 III. No sanction shall be stayed by the board during an appeal.

37 3 Effective Date. Part VIII of this act shall take effect January 1, 2022.

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PART IX

Relative to skilled professional medical personnel.

1 Long Term Care; Eligibility and Service Coverage Authorization. Amend RSA 151-E:3, II to read as follows:

151-E:3 Eligibility *and Service Coverage Authorization*.

II. Skilled professional medical personnel employed by or designated to act on behalf of the department shall determine clinical eligibility in accordance with the criteria in subparagraph I(a). The clinical eligibility determination shall be based upon an assessment tool, approved by the department, performed by skilled professional medical personnel employed by the department[;] or ~~[by an individual with equivalent training]~~ designated by the department. The department shall train all persons performing the assessment to use the assessment tool. ~~[For the purposes of this section, "skilled professional medical personnel" shall have the same meaning as in 42 C.F.R. section 432.50(d)(1)(ii).]~~ **Only skilled professional medical personnel who are registered nurses and currently licensed in accordance with RSA 326-B may render an adverse clinical eligibility determination.**

2 New Paragraph; Service Coverage Authorization; Skilled Professional Medical Personnel. Amend RSA 151-E: 3 by inserting after paragraph III the following new paragraph:

III-a. Skilled professional medical personnel shall oversee service coverage prior authorizations for Medicaid home and community-based care waiver services. Only skilled professional medical personnel who are registered nurses and currently licensed in accordance with RSA 326-B may render an adverse service coverage determination.

3 New Paragraph; Definition; Skilled Professional Medical Personnel. Amend RSA 151-E: 3 by inserting after paragraph IV the following new paragraph:

V. In this section "skilled professional medical personnel" shall have the same meaning as in 42 C.F.R. section 432.2, except that the skilled professional medical personnel need not be in an employer-employee relationship with the department. Additionally, the skilled professional medical personnel shall have "professional education and training," as that term is defined in 42 C.F.R. section 432.50(d)(1)(ii).

4 Effective Date. Part IX of this act shall take effect 60 days after its passage.

PART X

Relative to temporary licensure of certain licensed nursing assistants.

1 Statement of Purpose. The general court acknowledges the critical importance of ensuring the quality, accessibility, and sustainability of Medicaid services provided in nursing homes, and recognizes the critical shortage of licensed nursing assistants throughout the state. The purpose of this act is to strengthen the frontline staffing in nursing homes. The general court finds that during the COVID-19 pandemic federal regulatory and statutory provisions were waived to facilitate the hiring of nurse aides by nursing homes. Under state emergency order, these individuals were

1 allowed to work in nursing homes as temporary health partners following no less than 8 hours of
2 training provided either by a national association or a New Hampshire educational program. As a
3 matter of public policy, the general court finds that these workers were indispensable as facilities
4 struggled with staffing issues, particularly during outbreaks of the COVID-19 virus. Accordingly,
5 this act shall provide the board of nursing with the additional authority to expand the workforce of
6 licensed nursing assistants by recognizing the service of temporary health partners during the
7 COVID-19 pandemic.

8 2 Special Licensure as a Licensed Nursing Assistant; Applicants Who Served as Temporary
9 Health Partners.

10 I. Persons who have worked no fewer than 100 hours as temporary health partners in a
11 licensed nursing home by April 1, 2021 have demonstrated, through their work experience during a
12 national and state public health emergency, the competency to transition to status as a licensed
13 nursing assistant.

14 II. Notwithstanding any provision of law to the contrary, the state-approved training
15 program for licensed nursing assistants shall take into account the training and experience acquired
16 during the COVID-19 pandemic to transition these individuals to placement on the state's licensed
17 nursing assistant registry pursuant to RSA 326-B:26. Such individuals shall be subject to all
18 continuing education requirements under RSA 326-B:31.

19 III. For purposes of this act:

20 (a) "COVID-19" means the novel coronavirus first identified in 2019, or SARS-CoV-2.

21 (b) "Temporary health partner" means anyone authorized to work in a nursing home by
22 Emergency Order 42 issued by the governor on May 11, 2020, and required to complete training of
23 no less than eight hours and work under the supervision of an RN, APRN, or LPN, as is required of
24 LNAs under RSA 326-B:14.

25 3 Effective Date. Part X of this act shall take effect 60 days after its passage.

26 PART XI

27 Relative to the revocation of licensure for licensed emergency medical service units and emergency
28 medical service vehicles.

29 1 Emergency Medical and Trauma Services; Revocation of License. Amend the introductory
30 paragraph of RSA 153-A:13, I to read as follows:

31 I. The commissioner [~~shall~~] **may** deny an application for issuance or renewal of a license, or
32 **issue a letter of concern**, suspend, or revoke a license, when the commissioner finds that the
33 applicant is guilty of any of the following acts or offenses:

34 2 Effective Date. Part XI of this act shall take effect 60 days after its passage.

35 PART XII

36 Relative to schools for barbering, cosmetology, and esthetics.

1 1 Barbering, Cosmetology, and Esthetics; Definition; School. Amend RSA 313-A:1, XIII to read
2 as follows:

3 XIII. "School" means a school or other institution, *or a dedicated program within such*
4 *school or institution*, conducted for the purpose of teaching cosmetology, manicuring, barbering, or
5 esthetics.

6 2 Duties of the Board; Schools; Manicuring, Cosmetology, Barbering, Esthetics RSA 313-A:7, II
7 is repealed and reenacted to read as follows:

8 II. The board may license a school to operate either:

9 (a) Dedicated programs within secondary schools, the purpose of which is to teach
10 cosmetology, manicuring, barbering, or esthetics; or

11 (b) Postsecondary programs conducted for the purpose of teaching cosmetology,
12 manicuring, barbering, or esthetics, including postsecondary programs leading to a certificate in
13 manicuring, barbering, cosmetology, or esthetics.

14 3 Barbering, Cosmetology, Esthetics, Manicuring; Apprenticeship Certificates. Amend RSA
15 313-A:24 to read as follows:

16 313-A:24 Apprentice Registration and ~~[License]~~ *Certificates*.

17 I. No person shall enter an apprenticeship or enroll in a school under this chapter unless
18 such person has registered with the board as an apprentice and been issued an apprentice ~~[license]~~
19 *certificate*. The board shall have sole authority to regulate apprentices and apprenticeship under
20 this chapter. The board shall issue an apprentice ~~[license]~~ *certificate* to any student receiving
21 instruction within a licensed school or shop to learn barbering, cosmetology, esthetics, or
22 manicuring.

23 II. A person applying for ~~[a license]~~ *an apprentice certificate* under this section shall be
24 granted such ~~[license]~~ *certificate* upon:

25 (a) Submitting proof sufficient to the board to show that such person is at least 16 years
26 of age;

27 (b) Paying a fee established by the ~~[board]~~ *office of professional licensure and*
28 *certification*; and

29 (c) Being deemed by the board to be of good professional character.

30 III. No salon or barbershop shall at any one time have more than one apprentice per
31 licensed professional, except as follows:

32 (a) Each licensed barber may have up to 2 apprentices for barbering.

33 (b) Each licensed master barber may have up to 2 apprentices for barbering, or one
34 apprentice master barber and one apprentice barber.

35 IV. Upon completing the number of hours specified in the board's apprentice rules, an
36 apprentice shall be eligible to apply to the board for licensure.

1 V. *Notwithstanding RSA 161-B:11, VI-a, an applicant for an apprentice certificate*
2 *shall not be required to provide a social security number as a prerequisite for obtaining a*
3 *certificate.*

4 4 Effective Date. Part XII of this act shall take effect 60 days after its passage.

5 PART XIII

6 Relative to telemedicine provided by out of state psychologists.

7 1 Psychologists; Electronic Practice of Psychology. RSA 329-B:16 is repealed and reenacted to
8 read as follows:

9 329-B:16 Electronic Practice of Psychology, Telehealth, Telemedicine.

10 I. Telepsychology, telehealth, and telemedicine services, as provided by psychologists,
11 include those psychology services that utilize electronic means to engage in visual or virtual presence
12 in contemporaneous time. Such provision of services shall require a New Hampshire tele-pass
13 license for provision of such care to people in New Hampshire. Contacts that are exempt from this
14 requirement are:

15 (a) Persons exempted by 329-B:28.

16 (b) Screenings for inclusion in voluntary research projects that have been properly
17 approved by a New Hampshire based institutional review board.

18 (c) Psychologists licensed by the board, who may provide tele-psychology services to a
19 person within the state of New Hampshire without acquiring a tele-pass psychology license.

20 II. A doctoral level psychologist who is not licensed in New Hampshire shall be eligible to
21 provide telepsychology services to a person in New Hampshire, providing that the psychologist:

22 (a) Is licensed in one of the jurisdictions in the United States or Canada;

23 (b) Is in good standing in all license jurisdictions in the United States and Canada;

24 (c) Has satisfied conditions determined in rules adopted by the board;

25 and

26 (d) Has applied for and obtained a valid New Hampshire tele-pass psychology license
27 with effective dates that cover the dates of care provided.

28 III. The tele-pass psychology licensee shall agree to conditions including, but not limited to,
29 conditions stipulated by the board that the licensee shall:

30 (a) Conform to all New Hampshire statutes and rules.

31 (b) Agree that electronic attendance for appearances shall be deemed adequate for
32 regulatory enforcement purposes and that in-person appearances by the licensee are optional and
33 such associated costs for in-person attendance are the full responsibility of the tele-pass psychology
34 licensee.

35 (c) Understand that false statements or failure to comply with official requests and
36 official orders shall constitute sufficient cause for revocation of the tele-pass psychology license.

1 (d) Understand that all conditions of tele-pass psychology license to practice and
2 enforcement shall be pursuant to New Hampshire law.

3 (e) Grant the New Hampshire board of psychologists and its investigators authority to
4 disclose to law enforcement and related regulatory authorities, at their discretion, information
5 including but not limited to status of application, actions and information pertinent to investigations
6 and enforcement of the laws and rules pertaining to the licensee's conduct.

7 IV. The board shall adopt rules pursuant to RSA 541-A for:

8 (a) The application procedure for a New Hampshire tele-pass psychology license;

9 (b) Additional requirements for a psychologist licensed in another state of Canada to
10 acquire a tele-pass psychology license, including attestations;

11 (c) Any fees required to apply for or to be issued a tele-pass psychology license;

12 (d) The standards of care for telemedicine practice of psychology and their enforcement;
13 and

14 (e) Procedures for the revocation of a tele-pass psychology license.

15 2 Effective Date. Part XIII of this act shall take effect July 1, 2021.

16
17 PART XIV

18 Establishing program rules with the department of health and human services for sanitary
19 production and distribution of food.

20 1 Food Service Licensure; Definitions. Amend RSA 143-A:3, IV-a and IV-b to read as follows:

21 IV-a. "Food processing plant" means a type of food service establishment that is a
22 commercial operation that processes food for human consumption and provides processed food for
23 sale and distribution to other business entities such as other food establishments *or direct to*
24 *consumer at another location. This term includes "cold storage" or "refrigerating*
25 *warehouse."* The term does not include an operation that processes food under the oversight of the
26 department of agriculture in accordance with RSA 426, RSA 427, RSA 428, RSA 429, and RSA 434.

27 IV-b. "Imminent health hazard" means a significant threat or danger to health that is
28 considered to exist when there is evidence sufficient to show that a product, practice, circumstance,
29 or event creates a situation that requires immediate correction or cessation of operation to prevent
30 injury ~~[or illness]~~ *based on the number of potential injuries and the nature, severity, and*
31 *duration of the anticipated injury.*

32 2 Food Service Licensure; Exemptions; Reference Changed. Amend RSA 143-A:5, VIII to read
33 as follows:

34 VIII. A farm owned or operated by a federally exempt poultry producer, as defined in RSA
35 143-A:14, I, and the direct sale of such poultry to the consumer from the producer's farm, at the
36 producer's farm stand, and by the producer at a farmers market, or when sold to a licensed
37 restaurant in accordance with RSA 143-A:14 through RSA ~~[143-A:17]~~ **143-A:16.**

1 3 Food Service Licensure; Soup Kitchens. Amend RSA 143-A:5-a to read as follows:

2 143-A:5-a Soup Kitchens. [~~The commissioner may exempt from licensure under this chapter~~
3 ~~soup kitchens operated for the poor.~~] *Soup kitchens shall be exempt from licensure by the*
4 *department provided:*

5 I. *They do not charge for meals; and*

6 II. *They submit to the department a written notice which:*

7 (a) *Identifies the name and address of the person operating the soup kitchen.*

8 (b) *Identifies the clientele served by the soup kitchen.*

9 (c) *Lists the hours the soup kitchen will operate.*

10 (d) *Provides a description of the food to be served.*

11 4 Food Service Licensure; Application; Issue; Fee. Amend RSA 143-A:6, I-III to read as follows:

12 I. Upon receipt of an application in writing from a new food service establishment or retail
13 food store, or a food service establishment or retail food store which has changed ownership, or a
14 food service establishment or retail food store which has had its previous license revoked, the
15 commissioner may issue a provisional license, valid for up to 90 days, if the commissioner
16 determines that the applicant's plan for operation and facilities are sufficient [~~under rules adopted~~
17 ~~under RSA 143-A:9~~]. Notwithstanding RSA 541-A, any individual denied a full license at the end of
18 the 90-day period shall immediately shut down his or her establishment, unless otherwise ordered
19 by a court of competent jurisdiction.

20 II. Within 45 days of issuance of a provisional license issued under this section or RSA 143-
21 A:8, the commissioner may, if deemed necessary, conduct an inspection. If following such inspection
22 the commissioner determines that the applicant's operation and facilities are sufficient [~~under rules~~
23 ~~adopted under RSA 143-A:9~~], the commissioner shall issue to the applicant a license valid for a time
24 period of one year following the date of issuance of the provisional license. Notwithstanding RSA
25 541-A, any individual denied a full license at the end of the 90-day period shall immediately shut
26 down his or her establishment, unless otherwise ordered by a court of competent jurisdiction.

27 III. Upon receipt of an application for renewal of a license from an existing food service
28 establishment or retail food store, the commissioner may, if deemed necessary, conduct an
29 inspection. If the commissioner determines that the applicant's operation and facilities are sufficient
30 [~~under rules adopted under RSA 143-A:9~~], the commissioner shall issue to the applicant a new
31 license valid for one year.

32 5 Food Service Licensure; Revocation. Amend RSA 143-A:7, I to read as follows:

33 I. If any food service establishment or retail food store licensed under this chapter
34 repeatedly violates [~~any legally adopted rule of the commissioner, or~~] any provision of RSA 143 or
35 RSA 143-A, or if the operation of the licensed establishment creates an imminent health hazard, the
36 commissioner may revoke the license. Any revocation of a license shall be executed in compliance
37 with RSA 541-A.

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1 6 Food Service Licensure; Failure to Pay Application Fee. Amend RSA 143-A:9-a, I to read as
2 follows:

3 I. When a licensee fails to pay the applicable fee required by this chapter, the commissioner
4 of the department of health and human services, after notice and hearing [~~pursuant to rules adopted~~
5 ~~under RSA 541-A~~], may suspend or revoke the license or may issue an appropriate order.

6 7 Food Service Licensure; Administrative Fines. Amend RSA 143-A:10-a to read as follows:

7 143-A:10-a Administrative Fines. The commissioner of the department of health and human
8 services, after notice and hearing, [~~pursuant to rules adopted under RSA 541-A~~] may impose an
9 administrative fine not to exceed \$2,000 for each offense upon any person who violates any provision
10 of this chapter [~~or rules adopted under this chapter~~]. Rehearings and appeals from a decision of the
11 commissioner shall be in accordance with RSA 541. Any administrative fine imposed under this
12 section shall not preclude the imposition of further penalties or administrative actions under this
13 chapter. [~~The commissioner shall adopt rules in accordance with RSA 541-A relative to~~
14 ~~administrative fines which shall be scaled to reflect the scope and severity of the violation.~~] The
15 sums obtained from the levying of administrative fines under this chapter shall be forwarded to the
16 state treasurer to be deposited into the general fund.

17 8 Food Service Licensure; Homestead Food Products. Amend RSA 143-A:12, I(c) to read as
18 follows:

19 (c) "Homestead food products" means all food except potentially hazardous food [~~and as~~
20 ~~defined in rule by the commissioner of the department of health and human services through~~
21 ~~rulemaking under RSA 143-A:13~~].

22 9 New Subdivision; Food Service Licensure; Program Rules. Amend RSA 143-A by inserting
23 after section 20 the following new subdivision:

24 Food Service Licensure; Program Rules

25 143-A:21 Purpose. The purpose of this subdivision is to implement program rules within the
26 department of health and human services for the sanitary production and distribution of food.

27 143-A:22 Definitions. In addition to the definitions found in RSA 143-A:3, in this subdivision
28 the following definitions shall apply:

29 I. "Acid foods" means "acid foods" as defined by 21 C.F.R. 114.3(a), as in effect February 2,
30 2019, namely, "foods that have a natural pH of 4.6 or below."

31 II. "Acidified foods" means "acidified foods" as defined by 21 C.F.R. 114.3(b), as in effect
32 February 2, 2019, namely, "low-acid foods to which acid(s) or acid food(s) are added; these foods
33 include, but are not limited to, beans, cucumbers, cabbage, artichokes, cauliflower, puddings,
34 peppers, tropical fruits, and fish, singly or in any combination. They have a water activity (aw)
35 greater than 0.85 and have a finished equilibrium pH of 4.6 or below. These foods may be called, or
36 may purport to be, 'pickles' or 'pickled'. Carbonated beverages, jams, jellies, preserves, acid foods
37 (including such foods as standardized and non-standardized food dressings and condiment sauces)

1 that contain small amounts of low-acid food(s) and have a resultant finished equilibrium pH that
2 does not significantly differ from that of the predominant acid or acid food, and foods that are stored,
3 distributed, and retailed under refrigeration are excluded from the coverage of this part.”

4 III. "Applicant" means the owner of a food establishment or an officer of the legal ownership
5 who applies for a license pursuant to this chapter.

6 IV. "Bed and breakfast" means a type of food service establishment that is a transient
7 lodging facility, which is the owner's or innkeeper's personal residence, is occupied by the owner or
8 innkeeper at the time of rental to an in-house guest, and in which breakfast is the only meal served.

9 V. "Beverage" means "beverage" as defined in RSA 143:9.

10 VI. "Caterer" means a person or entity which provides meals or food at private functions at
11 off-site locations.

12 VII. "Certified food protection manager" means the person in charge who has shown
13 proficiency of required information through passing a test that is part of an accredited program or as
14 stated in 2-102.12(A) of the Food Code 2015 edition, as in effect February 2, 2019, and with
15 exceptions found in this chapter.

16 VIII. "Change of ownership" means any time a controlling interest in a sole proprietorship,
17 joint venture, partnership, corporation, limited liability company, or any other kind of entity is
18 transferred to another sole proprietor, joint venture, partnership, corporation, limited liability
19 company, or any other kind of entity.

20 IX. "Continental breakfast" means a light breakfast that includes items such as coffee, tea,
21 juices, toasts, breakfast cereals, assorted pastries, and uncut fruit.

22 X. "Corrective action plan (CAP)" means a plan developed and written by the licensee, which
23 specifies the actions that will be taken to correct identified deficiencies.

24 XI. "Critical control point" means a point or procedure in a specific food system where loss of
25 control might result in an unacceptable health risk.

26 XII. "Critical limit" means the maximum or minimum value to which a physical, biological,
27 or chemical parameter must be controlled at a critical control point to minimize the risk that the
28 identified food safety hazard might occur.

29 XIII. "Exempt homestead food operation" means a homestead food operation whose
30 maximum annual gross sales is less than \$20,000 and whose homestead food products are only for
31 sale directly to the consumer from the homestead residence, the owner's farm stand, at farmers'
32 markets, or at a retail food store.

33 XIV. "Food Code" means the U.S. Department of Health and Human Services, Public Health
34 Services, Food and Drug Administration, Food Code, 2015 edition, as in effect February 2, 2019, with
35 exceptions found in this chapter.

36 XV. "Food establishment" means "food service establishment" as defined in RSA 143-A:3, IV,
37 or "retail food store" as defined in RSA 143-A:3, VII.

1 XVI. "Foodborne disease outbreak" means the occurrence of 2 or more cases of a similar
2 illness resulting from the ingestion of a common food.

3 XVII. "Homestead food operation" means "homestead food operation" as defined in RSA 143-
4 A:12, I(a).

5 XVIII. "Homestead food products" means foods which are not potentially hazardous food and
6 are limited to the following:

7 (a) Baked items, including, breads, rolls, muffins, cookies, brownies, and cakes.

8 (b) Double-crusteD fruit pies.

9 (c) Candy and fudge.

10 (d) Packaged dry products, which include spices and herbs.

11 (e) Acid foods, including, vinegars and mustards.

12 (f) Jams and jellies.

13 XIX. "Immediately endangers public health or safety" means that a condition exists that is
14 an imminent health hazard.

15 XX. "License" means the document issued by the department or other regulatory agency,
16 which authorizes a license holder to operate a food establishment.

17 XXI. "License holder" means the entity legally responsible for the operation of a licensed
18 food establishment, including, the owner, the owner's agent, or other person.

19 XXII. "Low-acid foods" means "low-acid foods" as defined by 21 C.F.R. 114.3(d), namely, "any
20 foods, other than alcoholic beverages, with a finished equilibrium pH greater than 4.6 and a water
21 activity (aw) greater than 0.85. Tomatoes and tomato products having a finished equilibrium pH
22 less than 4.7 are not classed as low-acid foods."

23 XXIII. "Major food allergen" means milk, egg, fish, such as bass, flounder, cod, and including
24 crustacean shellfish such as crab, lobster, or shrimp, tree nuts, such as almonds, pecans, or walnuts,
25 wheat, peanuts, and soybeans, or a food ingredient that contains protein derived from the
26 aforementioned foods.

27 XXIV. "Mobile food unit" means a food service establishment mounted on wheels or
28 otherwise designed to be immediately movable. This term does not include a food service
29 establishment which is required to meet the wastewater requirements in RSA 143-A:31.

30 XXV. "Non-exempt homestead food operation" means a homestead food operation whose
31 annual gross sales exceeds \$20,000 or who wishes to sell homestead food products, as defined in
32 paragraph XVIII above, to restaurants, over the Internet, by mail order, or to wholesalers, brokers or
33 other food distributors for resale. A non-exempt homestead food operation is a type of food service
34 establishment.

35 XXVI. "Package" means a quantity or an amount of food that is bottled, canned, cartoned,
36 securely bagged, or securely wrapped.

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1 XXVII. "Person in charge" means the individual present at a food establishment who is
2 responsible for the operation of the establishment at the time of inspection, including the duties
3 described in section 2-103.11 of the Food Code, and who can demonstrate the knowledge required by
4 section 2-102.11 of the Food Code which are pertinent to the risks inherent to that specific food
5 establishment.

6 XXVIII. "Potentially hazardous food" means "potentially hazardous food" as defined in RSA
7 143-A:12, I(b). This term includes "time/temperature control for safety (TCS) food."

8 XXIX. "Poultry" means "poultry" as defined in RSA 143-A:14, III.

9 XXX. "Poultry producer" means "poultry producer" as defined in RSA 143-A:14, IV.

10 XXXI. "Prep and serve" shall mean preparing food by cooking, or handling the food product
11 and placing it on the plate of another to send to the consumer. The term does not include the person
12 who carries or delivers the food to the person consuming.

13 XXXII. "Priority item" means a provision of the Food Code, marked with a superscript P,P,
14 whose application contributes directly to the elimination, prevention, or reduction to an acceptable
15 level, hazards associated with foodborne illness or injury and there is no other provision that more
16 directly controls the hazard.

17 XXXIII. "Public water system" means "public water system" as defined in RSA 485:1-a, XV.

18 XXXIV. "Pushcart" means a type of food service establishment that is a non-self propelled
19 vehicle limited to serving non-time/temperature control for safety foods, packaged time/temperature
20 control for safety foods maintained at proper temperatures, or limited to the preparation and serving
21 of frankfurters.

22 XXXV. "Rabbit" means "rabbit" as defined in RSA 143-A:14, VI.

23 XXXVI. "Rabbit producer" means "rabbit producer" as defined in RSA 143-A:14, VII.

24 XXXVII. "Regulatory authority" means the local, state, or federal enforcement body having
25 jurisdiction over the food establishment.

26 XXXVIII. "Remodeled" means having undertaken construction, which includes, but is not
27 limited to, adding new seats, a food preparation area, or any construction affecting the kitchen or
28 any other part of a food establishment that requires a plumbing modification.

29 XXXIX. "Sanitization" means the cumulative heat or chemicals on cleaned food contact
30 surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to
31 a 99.999 percent reduction, of representative disease microorganisms of public health importance.

32 XL. "Servicing area" means an operating base location to which a mobile food unit or
33 transportation vehicle returns regularly for such things as vehicle and equipment cleaning,
34 discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

35 XLI. "Sewage" means "sewage" as defined in RSA 485-A:2, X, namely, "the water-carried
36 waste products from buildings, public or private, together with such groundwater infiltration and
37 surface water as may be present."

1 XLII. "Soup kitchen" means a food service establishment operated by a charitable
2 organization including religious societies and fraternal organizations organized pursuant to RSA
3 292, RSA 306, and RSA 418, that prepares and serves meals to the public without charge.

4 XLIII. "Time/temperature control for safety (TCS) food" means a food that requires
5 time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.
6 This term includes "potentially hazardous food."

7 XLIV. "Uninspected bison" means "uninspected bison" as defined in 143-A:18.

8 143-A:23 Incorporation of Select Portions of the 2015 Food Code.

9 I. All licensees shall comply with the Food Code as defined in RSA 143-A:22, XIV, with the
10 following amendments:

11 (a) Amend section 3-201.11(A) so that (A) reads as follows: "Food shall be obtained from
12 sources that comply with law" except that the exemption under the Poultry Products Inspection Act
13 at 21 U.S.C. section 464(c)(4) shall not apply in the state of New Hampshire";

14 (b) Chapter 8 shall not apply;

15 (c) Poultry from poultry producers that comply shall be considered to be from an
16 approved source under section 3-201.11(A);

17 (d) Rabbit from rabbit producers that comply shall be considered to be from an approved
18 source under section 3-201.11(A); and

19 (e) Uninspected bison meat from producers that comply with RSA 427:16, XII and sold
20 or to be sold as provided in RSA 427:2-a, IV shall be considered to be from an approved source under
21 section 3-201.11(A).

22 II. Those food establishments applying for licensure or which are licensed as a bed and
23 breakfast shall comply with the Food Code in addition to the requirements in RSA 143-A:52.

24 III. Those food establishments applying for licensure or which are licensed as food
25 processing plants or non-exempt homestead food operations shall be exempt from the requirements
26 of the Food Code, but shall comply with RSA 143-A:56.

27 143-A:24 Requirements for Receiving Food Protection Manager Certification Designation.

28 I. The department shall offer classes every 30 days to interested persons wishing to become
29 certified food protection manager, and shall enhance the ability of those seeking classes for food
30 protection manager certification by granting authority for classes to be operated by New Hampshire
31 technical schools in the high schools in New Hampshire, by the community college and university
32 system, and by the industry itself. The class shall count as a credit for further professional
33 improvement degrees.

34 II. The following categories shall be exempt from the requirement for a certified food
35 protection manager:

36 (a) Category A-1, food processing plants which commercially process 100,000 packages of
37 food or more, per year.

1 (b) Category C-5, food processing plants which commercially process less than 100,000
2 packages of TCS food per year.

3 (c) Category C-6, cold storage or refrigerating warehouse.

4 (d) Category D-4, stores that allow self-service of food, including coffee, hot dogs, or soft
5 drinks and retail vendors including drive thru, drive up or walk up locations having 5 or less persons
6 in the food prep area doing the prep and serve.

7 (e) Category D-6, servicing areas.

8 (f) Category E-1, bed and breakfasts having 5 or less persons in the food prep area doing
9 the prep and serve.

10 (g) Category E-3, lodging facilities serving continental breakfasts and having 5 or less
11 persons in the food prep area doing the prep and serve.

12 (h) Category F-1, home delivery services of packaged frozen food.

13 (i) Category F-2, pushcarts and other mobile food units, including those serving
14 packaged food and non-TCS unwrapped foods only and having 5 or less persons in the food prep area
15 doing the prep and serve.

16 (j) Category F-3, retail food stores with no food preparation areas.

17 (k) Category F-4, wholesalers/distributors of TCS food.

18 (l) Category F-5, on-site vending machines, which serve TCS food.

19 (m) Category F-6, bakeries which do not serve TCS food and have no seats.

20 (n) Category G-1, bars/lounges without a food preparation area; serving food from a
21 licensed, certified provider.

22 (o) Category G-2, arena/theater concessions serving non-TCS food.

23 (p) Category G-3, retail food stores serving pre-packaged ice cream.

24 (q) Category G-7, sellers of pre-packaged frozen meat or poultry that is processed in a
25 USDA-inspected plant.

26 (r) Category G-8, food processing plants that manufacturer or package non-TCS food.

27 III. A food establishment that is in process of initial licensing shall have a certified food
28 protection manager within first 45 days of the initial licensing inspection if it has 5 or more persons
29 in the food prep area doing prep and serve.

30 IV. If a food establishment's certified food protection manager ceases his or her employment
31 and renders the food establishment out of compliance with food manager certification requirements,
32 the establishment shall have 90 days to come into compliance.

33 V. Food establishments having 5 or less persons in the food prep area doing prep and serve
34 shall not be required to have the certified food protection manager present during hours of operation.

35 VI. A food establishment shall have on file a copy of the certificate of each certified food
36 protection manager for review by inspection staff.

37 143-A:25 Initial License Application Requirements.

1 I. Each applicant for a license shall complete and submit to the department an application
2 form entitled "Application for New Annual Food Service License" (FSAPP July 2019), "Application
3 for Annual Food Processing Plant License" (FPAPP July 2019), "Application for Annual Homestead
4 License" (HAPP July 2019), or "Application for Annual Mobile Food Unit License" (MFAPP July
5 2019), as applicable, signed and dated by the applicant or the person who represents the applicant
6 certifying the following:

7 "I certify that all information provided in or attached to this application is complete, accurate
8 and up-to-date as of the date specified below. I further certify that there are no willful
9 misrepresentations of the answers to questions herein, and that I have made no omissions with
10 respect to any of my answers to the questions presented. I understand that it is my responsibility to
11 immediately notify the Food Protection Section with regard to any changes, corrections, or updates
12 to the information provided."

13 II. In addition to submitting the completed application, pursuant to paragraph I above, an
14 applicant shall also submit the following:

15 (a) A check, money order, or on-line payment by credit card for the applicable fee
16 submitted with the application.

17 (b) Water system documentation, except that food establishments applying to be licensed
18 as home delivery services, pushcart and other mobile units, on-site vending machines, retail food
19 stores serving pre-packaged ice cream, and sellers of pre-packaged frozen meat or poultry that is
20 processed in a United States Department of Agriculture (USDA) plant shall not be required to
21 submit such documentation.

22 (c) Wastewater system documentation, in accordance with industry standards except
23 that food establishments applying to be licensed as a bed and breakfast or a homestead shall not be
24 required to submit such documentation. Documentation shall include a copy of the New Hampshire
25 department of environmental services on site waste water or septic approval.

26 (d) A copy of the completed floor plan signed and dated by the applicant, or the person
27 who represents the applicant, and approved by the local officials having jurisdiction if required and
28 if not already submitted to the department for review, and which meets the requirements of all New
29 Hampshire building codes unless the applicant is exempt from this requirement.

30 (e) If the application is for a mobile food unit which uses a servicing area, one of the
31 following:

32 (1) A copy of the food establishment license, from the appropriate regulatory
33 authority, of the facility being used as a servicing area; or

34 (2) A separate license application for the facility to be used as a servicing area.

35 (f) A hazard analysis and critical control point (HACCP) plan.

36 III. The applicant shall apply online, by mail, or hand deliver the fee and all documents to:
37 Department of Health and Human Services

1 Bureau of Finance/Receipts Unit. Food Protection
2 Food Protection Section
3 129 Pleasant Street
4 Concord, NH 03301
5 (603) 271-4589

6 IV. Applicants seeking a change in license class, a new license, or a new license due to a
7 change of ownership, shall contact the department's food protection section to arrange for an
8 inspection of the establishment no later than 30 days from the date of mailing or delivering the fee
9 and application.

10 143-A:26 Processing of Initial Applications and Issuance of Licenses.

11 I. Applications shall be processed in accordance with RSA 541-A:29.

12 II. An application for an initial license shall be complete when the department determines
13 that all items required by RSA 143-A:25 have been received.

14 III. If an application does not contain all the items required by RSA RSA 143-A:25, the
15 department shall:

16 (a) Not process that application; and

17 (b) Notify the applicant by electronic means, if such was included in the application, and
18 in writing within 5 working days of which items are required to be submitted before the application
19 can be processed.

20 IV. Any licensing fee submitted to the department in the form of a check or money order and
21 returned to the state for any reason shall be processed in accordance with RSA 6:11-a.

22 V. Licensing fees shall not be transferable to any other application(s).

23 VI. Following an inspection, conducted pursuant to RSA 143:4 license shall be issued if the
24 department determines that an applicant is in compliance with RSA 143 and this chapter.

25 VII. If, within 45 days of issuance of a license the department conducts an inspection in
26 determines that an applicant is in compliance with RSA 143 and this chapter, the department shall
27 issue to the applicant a license valid for a time period of one year following the date of issuance of
28 the provisional license.

29 VIII. All licenses and provisional licenses issued in accordance with this chapter shall be
30 issued for a specific license classification and category.

31 IX. License holders shall operate in accordance with the class and category of license issued.

32 X. All licenses and provisional licenses issued in accordance with this chapter shall be non-
33 transferable by person or location.

34 XI. Licenses shall be posted at all times in an area of the food establishment that is
35 conspicuous to patrons.

36 143-A:27 License Expirations and Procedures for Renewals.

1 I. All licenses issued shall be valid for one year following the date of issuance, or one year
2 following the first day of the month after the date of issuance of an initial license, as applicable.

3 II. Each licensee shall apply to renew his or her license at least 30 days prior to the
4 expiration of the current license.

5 III. The licensee shall submit a renewal application that includes the following:

6 (a) The materials required by RSA 143-A:25; and

7 (b) Any changes to information provided to the department in the initial application.

8 IV. After due notice of pending expiration by the department, a license shall be renewed if
9 the department determines that the licensee:

10 (a) Submitted an application containing all the items required by paragraph III above,
11 as applicable, at least 30 days prior to the expiration of the current license and no later than 90 days
12 after expiration where the notice from the department was not received;

13 (b) Has submitted a CAP that has been accepted by the department and implemented by
14 the licensee if deficiencies were cited at the last licensing inspection;

15 (c) Is found to be in compliance with RSA 143 and this chapter at a renewal inspection,
16 as applicable; and

17 (d) Has paid any outstanding fees or fines in full.

18 V. If a license holder fails to submit a complete application for renewal as required pursuant
19 to paragraphs II and III above after due notice of pending expiration from the department, the food
20 establishment shall cease operation the day after the license expires, and shall not operate until a
21 license is obtained pursuant to this chapter.

22 VI. Any food establishment wishing to submit an application for a renewal license whose
23 previous license has been expired in excess of 90 days shall apply in accordance with the
24 requirements of an initial license in RSA 143-A:25.

25 143-A:28 License Classes.

26 I. For the purpose of licensure, food establishments shall be divided into the following
27 classes:

28 (a) Class A which shall include:

29 (1) Category A-1, food processing plants which commercially process 100,000
30 packages of food or more, per year.

31 (2) Category A-2, food service establishments with 200 or more indoor seats.

32 (3) Category A-3, retail food stores with 4 or more food preparation areas;

33 (b) Class B which shall include:

34 (1) Category B-1, retail food stores with 2 to 3 food preparation areas.

35 (2) Category B-2, food service establishments with 100 to 199 indoor seats.

36 (c) Class C which shall include:

- 1 (1) Category C-1, retail food stores with one food preparation area, including an area
2 for cutting cheese or fudge.
- 3 (2) Category C-2, caterers serving food off-site.
- 4 (3) Category C-3, food service establishments with 25 to 99 indoor seats.
- 5 (4) Category C-4, bars or lounges with a food preparation area, excluding areas used
6 for preparing garnish such as limes and lemons.
- 7 (5) Category C-5, food processing plants which commercially process less than
8 100,000 packages of TCS food per year.
- 9 (6) Category C-6, cold storage or refrigerating warehouse.
- 10 (d) Class D, which shall include:
 - 11 (1) Category D-1, food service establishments with 0 to 24 indoor seats.
 - 12 (2) Category D-2, fraternities and sororities, except those where the members
13 prepare all their own food.
 - 14 (3) Category D-3, mobile food units which cook or prepare food.
 - 15 (4) Category D-4, retail food stores that allow self-service of food, including coffee,
16 hot dogs, or soft drinks.
 - 17 (5) Category D-6, servicing areas.
 - 18 (6) Category D-7, arena or theater concessions serving TCS food.
- 19 (e) Class E which shall include:
 - 20 (1) Category E-1, bed and breakfasts.
 - 21 (2) Category E-3, lodging facilities serving continental breakfasts.
- 22 (f) Class F which shall include:
 - 23 (1) Category F-1, home delivery services of packaged frozen food.
 - 24 (2) Category F-2, pushcarts and other mobile food units, including those serving
25 packaged food and non-TCS unwrapped foods only.
 - 26 (3) Category F-3, retail food stores with no food preparation areas.
 - 27 (4) Category F-4, wholesalers or distributors of TCS food.
 - 28 (5) Category F-5, on-site vending machines, which serve TCS food.
 - 29 (6) Category F-6, bakeries which do not serve TCS food and have no seats.
- 30 (g) Class G shall include:
 - 31 (1) Category G-1, bars or lounges without a food preparation area.
 - 32 (2) Category G-2, arena or theater concessions serving non-TCS food.
 - 33 (3) Category G-3, retail food stores serving pre-packaged ice cream.
 - 34 (4) Category G-4, institutions including state, county, and municipal institutions.
 - 35 (5) Category G-5, schools, private schools, and schools whose food service is operated
36 by a caterer.
 - 37 (6) Category G-6, senior meal sites.

1 (7) Category G-7, sellers of pre-packaged frozen meat or poultry that is processed in
2 a USDA-inspected plant.

3 (8) Category G-8, food processing plants that manufacturer or package non-TCS
4 food.

5 (h) Class H, Category H-1, shall include non-exempt homestead food operations.

6 (i) Class O, Category O-1, shall include municipality-run school cafeterias.

7 II. When a food establishment operates more than one type of business, the higher class
8 shall determine the class of license, with Class A being the highest.

9 III. When a food establishment has an additional food processing business, each shall be
10 licensed separately, requiring separate applications and separate fees.

11 IV. When a hospital or school offers food to the general public in addition to its population,
12 then the license class shall be determined by the number of seats the food service establishment has.

13 143-A:29 Fees.

14 I. For each class of license requested, the applicant shall pay the following annual fees:

15 (a) Class A: \$875.

16 (b) Class B: \$450.

17 (c) Class C: \$350.

18 (d) Class D: \$225.

19 (e) Class E: \$175.

20 (f) Class F: \$150.

21 (g) Class G: \$100.

22 (h) Class H: \$150.

23 (i) Class O: no charge.

24 II. An applicant or licensee shall pay a fee of \$75 for each plan review.

25 III. All fees shall be non-transferable and non-refundable.

26 IV. Payment of any fee to the department shall meet the following requirements:

27 (a) Payment shall be made in the form of check, money order, or on-line payment made
28 payable to the "Treasurer, State of New Hampshire" in the exact amount due.

29 (b) Money order or certified check shall be required when an applicant or licensee has
30 issued payment to the department by check, and such check was returned for insufficient funds.

31 (c) Any payment made to the department by check which is returned for insufficient
32 funds, and which an individual, applicant, or licensee has not made good by submitting a money
33 order or certified check within 2 business days of notification by the department, including any
34 penalty assessment allowed by RSA 6:11-a, shall be grounds for denial of the license.

35 143-A:30 Water System Requirements.

36 I. Food establishments served by non-community public water systems, as defined by RSA
37 485:1-a, XV, shall indicate, as part of their application for a license, the Public Water System (PWS)

1 identification number which has been assigned by the New Hampshire department of environmental
2 services (DES).

3 II. For an application to be approved, the non-community public water system regulated by
4 DES serving the food establishment shall:

5 (a) Be in compliance with all applicable water quality standards and monitoring and
6 reporting requirements established in administrative rule by DES; or

7 (b) Be in compliance with the requested actions in a letter of deficiency, or the required
8 actions of an administrative order, issued by DES and established to obtain compliance with the
9 regulations cited in subparagraph II(a) above.

10 III. Food establishments which are classified as public water systems, as defined by RSA
11 485:1-a, XV, shall indicate, as part of their application for a license, the PWS identification number
12 which has been assigned by DES.

13 IV. For an application under paragraph III to be approved, the water system shall:

14 (a) Be in compliance with all applicable water quality standards and monitoring and
15 reporting requirements established in administrative by DES; or

16 (b) Be in compliance with the requested actions in a letter of deficiency, or the required
17 actions of an administrative order, issued by the DES and established to obtain compliance with the
18 regulations cited in subparagraph IV(a) above.

19 V. Food establishments which purchase their water from a community public water systems,
20 as defined by RSA 485:1-a, XV, and therefore do not fall under subparagraph IV(a) above, shall
21 indicate this information on the application.

22 VI. Food establishments which do not fall under paragraphs I-V, and are instead served by a
23 water source other than a public water system, shall submit with the initial and renewal application
24 the written results of a laboratory analysis of the water intended for use, which tests the level of the
25 following:

26 (a) Bacteria;

27 (b) Nitrates; and

28 (c) Nitrites.

29 VII. The analyses required by paragraph VI shall be conducted not more than 6 months
30 prior to the date of the application by a laboratory accredited by DES to perform such tests in
31 accordance with standards adopted by DES in administrative rule.

32 VIII. For an application to be approved, the results of the water analysis shall be as follows:

33 (a) The bacteria test required pursuant to paragraph VI above shall not exceed the
34 maximum contaminant level (MCL) for drinking water prescribed in administrative rule by DES;
35 and

1 (b) The nitrate and nitrite tests required pursuant to paragraph VI above shall not
2 exceed the MCL for drinking water prescribed in administrative rule by DES for those 2
3 contaminants.

4 143-A:31 Wastewater System Requirements.

5 I. Food establishments which discharge their wastewater to either public or private
6 wastewater systems which hold either a state surface water discharge permit or a groundwater
7 discharge permit issued by DES, shall indicate this information on the application.

8 II. Food establishments which do not discharge their wastewater as described in paragraph
9 I above shall submit the following as part of their application:

10 (a) The applicant demonstrates that the existing use has not changed since July 1, 1967,
11 by providing:

12 (1) A town property tax record for 1967 or earlier that is authenticated by a current
13 official of the town; or

14 (2) A sworn, notarized affidavit that the existing use has not increased from the use
15 existing as of July 1, 1967 from an individual unrelated to the applicant who owned the structure
16 served by the private sewage or waste disposal system prior to July 1, 1967 or has personal
17 knowledge of the use of the structure prior to July 1, 1967 in an official capacity such as being a tax
18 assessor or code enforcement officer.; or

19 (b) A copy of the construction approval and the operation approval for the sewage or
20 waste disposal system that indicates that the system is sufficient in capacity to serve the subject
21 food establishment issued by DES in accordance with RSA 485-A:29 and DES administrative rules.

22 III. If not stated in subparagraph II(b) above a copy of the sewage or waste disposal system
23 plan specifying use shall be submitted as part of their application.

24 IV. If there is no increase in the loading of the waste disposal system serving the food
25 establishments in paragraph II above, and the applicant is unable to produce the documentation
26 required, and has obtained approval of the waste disposal system from DES, the department shall
27 waive the requirement in paragraph II with written approval from DES.

28 V. Any increase in seating capacity in a licensed food establishment which has a private
29 wastewater system shall comply with applicable administrative rules adopted by DES.

30 143-A:32 Change in Ownership of a Food Establishment.

31 I. When there is a change of ownership of a food establishment, the new owner shall submit
32 the items required for initial license applicants pursuant to RSA 143-A:25 to the department at least
33 30 days prior to the change of ownership.

34 II. Upon receipt and processing of the items required by paragraph I above, and after an
35 inspection conducted in accordance with RSA 143-A:40, which shall also determine compliance with
36 chapters 4, 5, and 6 of the Food Code, the department shall issue a provisional license reflecting the
37 change in ownership.

1 III. The issuance of a provisional license due to a change in ownership shall void the license
2 of the previous owner on the date the change of ownership occurs.

3 143-A:33 Change in Name of a Food Establishment.

4 I. When a license holder intends to change the name of a food establishment, that license
5 holder shall submit a written notice to the department at least 30 days prior to the intended date of
6 change in name. The department shall issue a new license certificate for a \$25 fee.

7 II. The written notice shall include:

8 (a) The reason for the name change.

9 (b) The name of the food establishment as it appears on the existing license.

10 (c) The name of the food establishment as the license holder requests it to appear on the
11 new license.

12 (d) The date upon which the change in name is intended to occur.

13 III. Following receipt of the items required by paragraph II above, the commissioner shall
14 issue a revised license reflecting the change in name. The establishment number and expiration
15 date shall remain the same as it was on the immediately preceding license.

16 143-A:34 Change in Location of a Food Establishment.

17 I. When there is a change of location of a food establishment, the license holder shall submit
18 the items required for initial license applicants to the department at least 30 days prior to the
19 change of location.

20 II. Upon receipt and processing of the items required pursuant to paragraph II above, and
21 after an inspection conducted in accordance with all building and health codes adopted by the New
22 Hampshire legislature and the local jurisdiction, the department shall issue a license reflecting the
23 change of location.

24 III. The issuance of a license due to a change in location shall void the previous license on
25 the date the change of location occurs.

26 IV. This section shall not apply to mobile food units, pushcarts, or vehicles used to sell retail
27 food.

28 143-A:35 Change in License Class.

29 I. A license holder wishing to request an upgrade to a higher-level class of license shall:

30 (a) Be treated as an applicant for a new license; and

31 (b) Apply for a new license in accordance with all applicable health and building codes.

32 II. The issuance of a license due to an upgrade in license class shall void the previous license
33 on the date the upgrade occurs.

34 III. A license holder wishing to request a downgrade to a lower level class of license shall
35 submit a written request for downgrade to the department.

36 IV. The written request in paragraph III above shall include:

37 (a) The reason for requesting a downgrade; and

1 (b) The date upon which the downgrade is intended to occur.

2 V. Following receipt of the request under paragraph III above the licensee shall be issued a
3 revised license reflecting the downgrade in class of license. The establishment number and
4 expiration date shall remain the same as it was on the immediately preceding license.

5 143-A:36 Submission of Plans and Specifications for New and Remodeled Food Establishments.

6 I. A new applicant or a current license holder undergoing remodeling of a food
7 establishment, except those in cities and towns with building officials having authority over building
8 and health codes, shall submit a "Floor Plan Review Application" (PRAPP 07-01-15), to the
9 department for review and approval, signed and dated by the applicant or the person who represents
10 the applicant certifying the following: "I certify that all information provided in or attached to this
11 application is complete, accurate and up-to-date as of the date specified below. I further certify that
12 there are no willful misrepresentations of the answers to questions herein, and that I have made no
13 omissions with respect to any of my answers to the questions presented. I understand that it is my
14 responsibility to immediately notify the food protection section with regard to any changes,
15 corrections or updates to the information provided."

16 II. In addition to submitting a completed application pursuant to paragraph I above, an
17 applicant or license holder shall provide the following with the application:

18 (a) A proposed menu or list of food and beverages to be offered; and

19 (b) A copy of the plans and specifications for the food establishment, unless exempt
20 pursuant to paragraph IV below, to include:

21 (1) Location of all food equipment which clearly identifies the piece of equipment.

22 (2) Location of food preparation areas.

23 (3) Location of all refrigeration, which shall be commercial grade refrigeration only.

24 (4) Location of all sinks.

25 (5) Location of toilet facilities and restrooms.

26 III. The application and attachments in paragraphs I and II above shall be submitted at
27 least 45 days prior to:

28 (a) Constructing a new food establishment;

29 (b) Converting an existing structure for use as a food establishment;

30 (c) Remodeling a food establishment; or

31 (d) Relocating a food establishment when the relocation also involves constructing a new
32 food establishment, converting an existing structure for use as a food establishment, or remodeling a
33 food establishment.

34 IV. The following shall be exempt from submitting a plan review application:

35 (a) Pushcarts.

36 (b) Homesteads.

37 (c) Retail stores with no food prep area.

- 1 (d) On-site vending machines serving TCS food.
- 2 (e) Sellers of prepackaged frozen USDA meat or poultry.
- 3 (f) Bed and breakfasts.
- 4 (g) Cities, towns and incorporated places having building code and health code
- 5 enforcement and jurisdiction.

6 V. An applicant or licensee shall pay a fee of \$75, submitted with the application, for each
7 plan review application submitted.

8 VI. The department shall review plans for construction, renovation, or structural alterations
9 of a food establishment for compliance with all applicable sections of RSA 143 and this chapter and
10 notify the applicant or licensee as to whether the plan complies with the requirements set forth
11 therein.

12 143-A:37 Hazard Analysis and Critical Control Point (HACCP) Plan Requirements.

13 I. The following applicants or licensees, doing business in a community without building
14 code or health code enforcement as part of its government operation, shall submit to the department
15 a complete hazard analysis and critical control point (HACCP) plan for approval prior to engaging in
16 an activity that requires such a plan:

- 17 (a) Food processing plants that produce potentially hazardous food.
- 18 (b) Any food establishment engaging in an activity that requires a variance as specified
19 under Food Code subparagraph 3-401.11 (D)(4), section 3-502.11, or ¶section 4-204.110 (B), as in
20 effect February 1, 2019.
- 21 (c) Any food establishment engaging in a food preparation or processing method that the
22 department determines requires a variance, based on the submission of plans and specifications, an
23 inspection finding, or a variance request.
- 24 (d) Any food establishment engaging in an activity specified under Food Code section 3-
25 502.12.
- 26 (e) Any food establishment which is required to have a HACCP plan by law.

27 II. A complete HACCP plan shall include the following:

- 28 (a) A categorization of the types of TCS foods that are specified in the menu.
- 29 (b) A flow diagram by specific food or category type identifying critical control points and
30 providing information on the following:
 - 31 (1) Ingredients, materials, and equipment used in the preparation of that food; and
 - 32 (2) Formulations or recipes that delineate methods and procedural control measures
33 that address the food safety concerns involved.
- 34 (c) Food employee and supervisory training plan that addresses the food safety issues of
35 concern.
- 36 (d) A statement of standard operating procedures for the plan under consideration
37 including clearly identifying:

- 1 (1) Each critical control point;
- 2 (2) The critical limits for each critical control point;
- 3 (3) The method and frequency for monitoring and controlling each critical control
- 4 point by the food employee designated by the person in charge;
- 5 (4) The method and frequency for the person in charge to routinely verify that the
- 6 food employee is following standard operating procedures and monitoring critical control points;
- 7 (5) Action to be taken by the person in charge if the critical limits for each critical
- 8 control point are not met; and
- 9 (6) Records to be maintained by the person in charge to demonstrate that the
- 10 HACCP plan is properly operated and managed.

11 (e) Additional scientific data or other information, as needed by the department to make

12 its determination pursuant to paragraph III below, supporting the determination that food safety is

13 not compromised by the proposal.

14 III. The department shall review HACCP plans for compliance with all applicable sections of

15 RSA 143 and this chapter, and notify the applicant or licensee as to whether the plan complies with

16 these requirements.

17 143-A:38 Variances.

18 I. Applicants or license holders seeking variances from specific rule or Food Code items shall

19 complete and submit a "Variance Request Form" (VRFORM, 01-01-11) to the:

20 Department of Health and Human Services

21 Division of Public Health Services

22 Food Protection Section

23 29 Hazen Dr.

24 Concord, NH 03301

25 (603) 271-4589

26 II. The variance request shall include:

- 27 (a) Specific reference to the rule or Food Code item for which a variance is being sought.
- 28 (b) Full explanation of why a variance is necessary.
- 29 (c) Full explanation of alternatives proposed by the applicant or license holder, which
- 30 shall be equally as protective of public health as the rule or Food Code item from which a variance is
- 31 sought.
- 32 (d) A HACCP plan if required.

33 III. The commissioner shall approve a request for variance if:

- 34 (a) The commissioner concludes that authorizing deviation from strict compliance with
- 35 the rule or Food Code item from which a variance is sought does not contradict the intent of the rule
- 36 or Food Code item; and

1 (b) The alternative proposed by the applicant or license holder ensures that the objective
2 or intent of the rule or Food Code item from which a variance is sought will be accomplished.

3 IV. If a variance is approved, the license holder's subsequent compliance with the
4 alternatives approved in the variance shall be considered equivalent to complying with the rule or
5 Food Code item from which a variance was sought.

6 V. A variance shall be approved until the expiration of the current license or as specified by
7 the department.

8 VI. No request for a variance concerning the rules of other state agencies which are referred
9 to in this chapter shall be approved by the department.

10 VII. Nothing in this section shall prohibit a community from seeking the assistance of the
11 department.

12 143-A:39 Trade Secrets and Confidentiality.

13 I. The department shall treat as confidential, in accordance with RSA 350-B, information
14 that meets the criteria specified in RSA 350-B for a trade secret and is contained on inspection
15 report forms, in the plans and specifications, and in any HACCP plans submitted.

16 II. Consumer complaints received regarding illness or sanitation of a food establishment
17 shall have the name, address, and phone number or other identifying information of the individual
18 making the complaint maintained as confidential and such information shall not be released without
19 written permission of the complainant.

20 143-A:40 Inspections.

21 I. For the purpose of determining compliance with RSA 143 and this chapter, as authorized
22 by RSA 143:4 and RSA 143-A:6, II, the applicant or licensee shall admit and allow any department
23 representative at any time to enter and inspect the following:

24 (a) The licensed food establishment, including any mobile food units or vehicles used by
25 the licensee for the transportation or retail sale of food; and

26 (b) Any records required by this chapter, or pertaining to food and supplies purchased
27 and distributed by the food establishment.

28 II. At the time of inspection, or upon request, the applicant or licensee shall provide the
29 department with the following:

30 (a) A list of persons employed; and

31 (b) Samples of food for bacteriological, chemical, and physical examination.

32 III. The department shall conduct an inspection to determine full compliance with RSA 143
33 and this chapter, prior to:

34 (a) The issuance of a provisional license;

35 (b) The issuance of a full license;

36 (c) A change in ownership;

37 (d) A change in the licensee's physical location;

- 1 (e) An upgrade in the license class;
- 2 (f) Occupation of space after construction, renovations, or structural alterations; or
- 3 (g) The renewal of a license when the department has determined, in the interest of
- 4 public health and based on the licensee's inspection and compliance history, that a renewal
- 5 inspection is warranted.

6 IV. In addition to the circumstances outlined in paragraph III, the department shall conduct

7 an inspection:

8 (a) Whenever the department has reason to believe a condition exists that places the

9 food establishment in non-compliance with RSA 143 or this chapter; and

10 (b) As necessary to verify compliance with any corrective action plan (CAP) accepted by

11 the department as part of an inspection.

12 V. The applicant, owner, or person in charge shall be present at time of inspection.

13 VI. Upon completion of the inspection, the department shall complete a written inspection

14 report in accordance with all relevant statues at the time of inspection.

15 VII. The inspection report shall contain:

16 (a) Specific factual observations of deficiencies which violate local or state odes or

17 statute and which require correction; and

18 (b) For all food establishments except food processing plants, a color designation,

19 described in paragraph IX below, based on the results of the inspection findings.

20 VIII. The applicant, owner, or person in charge shall acknowledge receipt of the inspection

21 report by signing the inspection report.

22 IX. Color designations shall be as follows:

23 (a) Green, if there are no priority item violations identified or if all priority item

24 violations identified are corrected immediately and permanently at the time of the inspection;

25 (b) Yellow, if there are priority item violations identified and are not corrected

26 immediately and permanently at the time of the inspection; and

27 (c) Red, if it is determined that an imminent health hazard exists at the time of the

28 inspection, the establishment has a failed corrective action plan or if the food establishment is found

29 to be operating without a current, valid license.

30 143-A:41 Correction of Deficiencies Identified During an Inspection.

31 I. All deficiencies identified in the inspection report shall be corrected at the time of

32 inspection, as practicable.

33 II. For all food establishments except food processing plants and homesteads, if a priority

34 item violation is found during an inspection and cannot be corrected immediately and permanently

35 in the presence of the inspector, the applicant or licensee shall:

36 (a) Agree to temporarily correct the priority item violation and to permanently correct it

37 in a specified time frame, not to exceed 10 calendar days after the inspection; or

1 (b) Complete a CAP in the presence of the inspector.

2 III. For all food establishments except food processing plants and homesteads, if a violation
3 of any codes or statutes is found during an inspection for an initial license or change of ownership
4 license, and it cannot be corrected immediately in the presence of the inspector, the applicant or
5 licensee shall:

6 (a) Agree to temporarily correct the deficiency and to permanently correct it in a
7 specified time frame, not to exceed 10 calendar days after the inspection; or

8 (b) Complete a CAP in the presence of the inspector.

9 IV. For food processing plants and homesteads, if any violation is found during an inspection
10 and cannot be corrected immediately and permanently in the presence of the inspector, the applicant
11 or licensee shall:

12 (a) Agree to temporarily correct the violation and to permanently correct it in a specified
13 time frame, not to exceed 10 calendar days after the inspection; or

14 (b) Complete a CAP in the presence of the inspector.

15 V. All priority foundation items shall be corrected in a timely manner not to exceed 10 days.

16 VI. All core items shall be corrected in a timely manner, not to exceed 90 days.

17 143-A:42 Corrective Action Plan.

18 I. When a deficiency identified in the inspection report cannot be corrected either
19 immediately and permanently in the presence of the inspector or permanently within 10 calendar
20 days after the inspection, the licensee shall complete, date, and sign, at the time of inspection, a
21 corrective action plan form (CAPAPP, 01-01-11) provided by the inspector, including:

22 (a) How the licensee intends to correct each deficiency.

23 (b) The date by which each deficiency shall be corrected.

24 (c) What measures will be put in place to ensure that the deficiency does not recur.

25 II. The department shall review and accept each CAP that accomplishes:

26 (a) Achieves compliance with RSA 143 and this chapter;

27 (b) Addresses all deficiencies and deficient practices as cited in the inspection report;

28 (c) Prevents a new violation of RSA 143 or this chapter as a result of the implementation
29 of the CAP; and

30 (d) Specifies the date upon which the deficiencies will be corrected.

31 III. The department shall verify the implementation of any CAP that has been accepted by:

32 (a) Reviewing materials submitted by the licensee;

33 (b) Conducting a follow-up inspection; or

34 (c) Reviewing compliance during a renewal inspection.

35 IV. If the department finds the licensee to be out of compliance with the CAP by the
36 specified completion date at the time of the next inspection, the department shall:

37 (a) Impose applicable fines, in accordance with legislative approval;

1 (b) Revoke the license in accordance with legislative granted authority; and

2 (c) Deny the application for a renewal of a license, as applicable.

3 143-A:43 Enforcement Actions and Notice of Right to Appeal.

4 I. The department shall impose enforcement actions for violations of RSA 143 and this
5 chapter, including the following:

6 (a) Imposing fines upon an applicant, licensee, or unlicensed individual;

7 (b) Denying a license application;

8 (c) Revoking a license; or

9 (d) Immediately closing the food establishment.

10 II. When imposing a fine, denying a license application, or revoking a license, the
11 department shall send to the applicant or licensee a written notice that sets forth:

12 (a) The action to be taken by the department;

13 (b) The reasons for the action, including the identification of each deficiency as
14 applicable; and

15 (c) The right of the applicant or licensee to request a hearing in accordance with RSA
16 541 prior to the enforcement action becoming final.

17 III. No ongoing enforcement action shall preclude the imposition of any remedy available to
18 the department under RSA 143, this chapter, or RSA 541-A:30, III.

19 143-A:44 Administrative Fines.

20 I. The department shall impose fines as follows:

21 (a) For providing false or misleading information on or with an application, the fine shall
22 be \$1,000.

23 (b) For failure to operate a food establishment only in the manner in which licensed to
24 do so, the fine shall be \$500.

25 (c) For failure to cooperate during an inspection of a food establishment, including but
26 not limited to failing to allow department representatives or inspectors to inspect food establishment
27 premises, vehicles, and records at all times, the fine shall be \$2,000.

28 (d) For willful or purposeful failure to notify the department by telephone within 24
29 hours of any fire or other disaster that jeopardizes the safety or sanitation of food provided in food
30 establishments, the fine shall be \$250.

31 (e) For willful or purposeful failure to notify the department at least 30 days prior to a
32 food establishment ownership change, the fine shall be \$500.

33 (f) For willful or purposeful failure to notify the department at least 30 days prior to the
34 change of location of a food establishment, the fine shall be \$500.

35 (g) For willful or purposeful failure to submit a plan for review as required the fine shall
36 be \$300.

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1 (h) For failure to discard food as required by Food Code 3-701.11, and in the manner
2 instructed to do so by the department, the fine shall be \$500.

3 (i) For failure to cease operation upon notification by the department to do so, the fine
4 shall be \$1,000. Each day that a license holder fails to cease operation shall be considered a separate
5 offense subject to an additional \$500 fine.

6 (j) For failure to cease operation after a license has expired, when an application has
7 been denied, or when a license has been revoked, the fine shall be \$1,000. Each day that a license
8 holder fails to cease operation shall be considered a separate offense subject to an additional \$500
9 fine.

10 (k) For a violation of the same priority item on more than 2 consecutive inspections, the
11 fine shall be \$500.

12 (l) For failure to pay an administrative fine within 30 days of its imposition, or within 30
13 days of the decision to uphold the imposition of a fine that was appealed, the fine shall be \$500.
14 Each day until the expiration of the current license, that a license holder fails to pay such a fine
15 shall be considered a separate offense subject to an additional \$500 fine.

16 (m) For a failure to comply with any CAP that has been accepted by the department, the
17 fine shall be \$500.

18 (n) For operation of a food service establishment without obtaining a food service license,
19 as required by RSA 143-A:4, the fine shall be \$1,000. Each day that a food establishment operates
20 without a license shall be considered a separate offense subject to an additional \$500 fine.

21 (o) For failure to submit a HACCP plan for review if required by the department, the
22 fine shall be \$500.

23 (p) For failure to display a valid license, the fine shall be \$200.

24 (q) For willful or purposeful failure of an applicant, owner, or person in charge to be
25 present at the time of inspection and demonstrate the knowledge required by section 2-102.11 of the
26 Food Code as in effect on August 20, 2019 which are pertinent to the risks inherent to the specific
27 food establishment, the fine shall be \$250.

28 (r) For violating a variance approved, the fine shall be \$500.

29 (s) For willful or purposeful failure to submit a timely renewal application, the fine shall
30 be \$75.

31 (t) For failure of an exempt or non-exempt homestead food operation to label products in
32 accordance with state requirements, the fine shall be \$250 per product line.

33 (u) For failure of a poultry producer or a rabbit producer to comply with training
34 requirements, the fine shall be \$500.

35 (v) For failure to cooperate during an outbreak investigation, the fine shall be \$500.

1 (w) For failure to maintain files, for at least 90 days, on the receipt of purchase of
2 uninspected poultry or uninspected rabbits in accordance with RSA 143-A:15, II, the fine shall be
3 \$500.

4 (x) For failure to correctly label a menu relative to the sale of uninspected, poultry or
5 uninspected rabbits, the fine shall be \$500.

6 (y) For failure to comply with the requirements for a certified food protection, the fine
7 shall be \$250.

8 II. Except for violations of subparagraph I(s) above, each day that an individual or licensee
9 continues to be in violation of the provisions of RSA 143 or this chapter, shall constitute a separate
10 violation and shall be fined in accordance with this section.

11 III. Payment of any imposed fine to the department shall meet the following requirements:

12 (a) Payment shall be made in the form of check, money order,, or on-line payment made
13 payable to the "Treasurer, State of New Hampshire" in the exact amount due.

14 (b) Money order, or certified check shall be required when an applicant or licensee has
15 issued payment to the department by check, and such check was returned for insufficient funds.

16 (c) Any payment made to the department by check which is returned for insufficient
17 funds, and which an individual, applicant, or licensee has not made good by submitting money order
18 or certified check within 2 business days of notification by the department, including any penalty
19 assessment allowed by RSA 6:11-a, shall be grounds for revocation of the license.

20 143-A:45 Denial or Revocation of a License.

21 I. The department shall deny an application or revoke a license if:

22 (a) The operation of the licensed establishment immediately endangers public health or
23 safety;

24 (b) An applicant or licensee has failed to pay any applicable fee or any administrative
25 fine imposed 2 or any other court or legislative authorized sanction or fee;

26 (c) An applicant or a licensee has had a check returned to the department for insufficient
27 funds and has not re-submitted the outstanding fee and additional charges in the form of money
28 order or certified check within 2 business days of notification by the department;

29 (d) After being notified of and given an opportunity to supply missing information, an
30 applicant or licensee fails to submit an application that meets the requirements of this chapter;

31 (e) An applicant, licensee, or any representative or employee of the applicant or licensee:

32 (1) Provides false or misleading information to the department;

33 (2) Prevents or interferes, or fails to cooperate with any inspection or investigation
34 conducted by the department; or

35 (3) Fails to provide, upon request, information or documents to the department;

36 (f) There is a deficiency identified in the inspection report and the applicant or licensee
37 does not either correct it or complete a CAP as agreed in writing;

1 (g) The licensee fails to implement or continue to implement a CAP that has been
2 accepted by the department as agreed in writing;

3 (h) The licensee is cited 2 or more times under RSA 143 or this chapter for the same
4 priority violation within the last 12 months or the last 5 inspections; or

5 (i) A food establishment fails to implement an approved HACCP plan as agreed in
6 writing.

7 II. Reapplication for a license after revocation, pursuant to RSA 143-A:6, I, shall require
8 submission of:

9 (a) A completed written application for a license to the department.

10 (b) A corrective action plan.

11 (c) Written proof that subsequent to the revocation, the person in charge has taken and
12 passed a food safety class that meets the standards set by the New Hampshire legislature.

13 143-A:46 Request for an Administrative Hearing.

14 I. An applicant or licensee shall have 10 calendar days after receipt of the notice of an
15 enforcement action to request in writing a hearing to contest the action.

16 II. If a written request for a hearing is not received pursuant to paragraph I above, the
17 applicant or licensee waives his right to a hearing and the action of the department shall become
18 final.

19 III. Hearings under this section shall be conducted in accordance with RSA 541-A.

20 IV. For administrative fines, the fines shall be paid to the department no later than 30 days
21 from the receipt of the notice, unless a hearing has been requested.

22 143-A:47 Effect of Denial of License Application, Revocation of License, or Expired License.

23 I. Any applicant who has been denied a license or renewal license shall not operate or shall
24 cease operation of the food establishment for which the license or renewal license was denied within
25 10 calendar days after receipt of the denial notice, unless a timely appeal is submitted.

26 II. If a license is revoked by the department, the food establishment shall cease operation of
27 the food establishment within 10 calendar days after receipt of the revocation notice, unless a timely
28 appeal is submitted.

29 III. If a food establishment is subject to immediate closure as defined in RSA 143:5-a, the
30 food establishment shall immediately cease operation pending reinspection and pursuant to the
31 adjudicative proceedings provisions of RSA 541-A.

32 IV. If a license expires without a timely application for renewal having been made, the food
33 establishment shall immediately cease operation of the food establishment.

34 143-A:48 Closure.

35 I. A licensee shall immediately discontinue operations and notify the department at 603-
36 271-4589, or if at night or during weekends at 603-271-5300, if an imminent health hazard shall
37 exist because of an emergency such as:

- 1 (a) Interruption of water service that lasts for 2 or more hours.
2 (b) Whenever a drinking water sample is found to have E. coli bacteria or exceed the
3 MCL for nitrates.
4 (c) A failed sewer system or a sewage backup into the food establishment.
5 (d) Interruption of electrical service for 2 or more hours.
6 (e) A fire affecting a food establishment.
7 (f) Flooding in a food establishment.
8 (g) Chemical exposure in a food establishment.
9 (h) Any other natural disaster or catastrophic event that could result in contamination
10 of the food supply.

11 (i) An employee has been found to be infected with a communicable disease determined
12 by the department to be a hazard to the public.

13 (j) Any other severe unsanitary conditions that threaten to contaminate the food
14 establishment and its food supply.

15 II. A licensee shall not be required to discontinue operations in an area of the food
16 establishment that is unaffected by the imminent health hazard.

17 III. If operations are discontinued as specified in paragraph I above, the licensee shall obtain
18 approval from the department before resuming operations.

19 IV. Considering the nature of the potential hazard involved and the complexity of the
20 corrective action needed, the department may agree to continuing operations in the event of an
21 extended interruption of electrical or water service if:

22 (a) A written emergency operating plan has been approved;

23 (b) Immediate corrective action is taken to eliminate, prevent, or control any food safety
24 risk and imminent health hazard associated with the electrical or water service interruption; and

25 (c) The department is informed upon implementation of the written emergency
26 operating plan.

27 V. The department shall approve the resumption of operations if the imminent health
28 hazard no longer exists or the licensee has offered a plan to mitigate all threats to health or safety.

29 VI. The failure to include other violations, practices, circumstances, or events in this section
30 shall not be construed as a determination that other violations, practices, circumstances, or events
31 are not or shall not be considered an imminent health hazard.

32 VII. The commissioner's order of an immediate closure of a food establishment shall be in
33 accordance with the provisions of RSA 143:5-a.

34 143-A:49 Suspected or Confirmed Foodborne Disease.

35 I. All suspected or confirmed foodborne illness outbreaks possibly occurring from food
36 prepared or offered by a food establishment shall be reported to the department's bureau of

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1 infectious disease control at 603-271-4496, or if at night or during weekends at 603-271-5300 within
2 24 hours.

3 II. Pursuant to RSA 141-C:9, II, during a suspected or confirmed foodborne disease
4 outbreak, as determined by the department, all food employees in the implicated food establishment
5 shall submit biological specimens upon department request.

6 III. During a suspected or confirmed foodborne disease outbreak, as determined by the
7 department, any food employee who has had any of the symptoms within the previous 2 weeks shall
8 be excluded from work until the appropriate biological specimens are tested by an independent lab
9 and found to be negative or as requested by the department under RSA 141-C:9, II, are submitted
10 and found to be negative.

11 143-A:50 Reporting by the Person in Charge.

12 I. The person in charge shall notify the department's bureau of infectious disease control at
13 603-271-4496, or if at night or during weekends at 603-271-5300, of a food employee, or a person who
14 applies for a job as a food employee, who is diagnosed with, or suspected of having, an illness or
15 condition, including:

16 (a) Jaundice.

17 (b) Norovirus.

18 (c) Hepatitis A virus.

19 (d) Shigella spp..

20 (e) Enterohemorrhagic or shiga toxin-producing Escherichia coli.

21 (f) Salmonella Typhi.

22 (g) Salmonella nontyphoidal.

23 (h) Any other communicable disease as indicated by public notice made by the state
24 epidemiologist or by governor emergency order based on a federal declaration of emergency.

25 II. The person in charge shall report infectious and communicable disease as required by
26 law.

27 143-A:51 Bed and Breakfast Facilities; Application Requirements. Food service establishments
28 applying for a license as a bed and breakfast facility shall comply with all application requirements
29 applicable to other facilities, except that they shall not be required to submit a plan review
30 application or wastewater items.

31 143-A:52 Bed and Breakfast Facilities; Basic Requirements. A bed and breakfast facility shall
32 comply with all local and state codes and statutes; provided, however, that the following exceptions
33 to the Food Code shall apply:

34 I. Commercial equipment shall not be required.

35 II. The kitchen shall be equipped with either:

36 (a) A 2-compartment sink; or

37 (b) A residential model dish machine and a one-compartment sink.

1 III. A sink used for food preparation shall not be required to be equipped with an indirect
2 wasteline.

3 IV. A backflow device shall not be required for kitchen sinks provided with a spray hose.

4 V. Coved base at the juncture of the floor and wall shall not be required;

5 VI. Only those bathrooms which open directly into the kitchen or into any hallway leading
6 into the kitchen shall be required to have self-closing doors and mechanical ventilation.

7 VII. The kitchen shall not be required to be separated from any living area or sleeping area
8 by complete partitioning or solid, self-closing doors.

9 VIII. Laundry facilities shall:

10 (a) Be allowed in the kitchen; and

11 (b) Not be used during processing, preparing, serving, or packaging of foods related to
12 the business.

13 143-A:53 Bed and Breakfast Facilities; Sanitization. Dishes, utensils, and food contact
14 equipment and surfaces shall undergo sanitization as required in Food Code 4-703.11, except that
15 sanitization, if done in the 2 compartment sink, shall occur in the second compartment after the
16 dishes, utensils, and food contact equipment have been rinsed with clean water.

17 143-A:54 Food Processing Plants; Application Requirements. A food service establishment
18 applying for a license as a food processing plant shall:

19 I. Comply with all of the application applicable to other facilities.

20 II. Submit with the application a list of all food products to be produced in the food
21 processing plant.

22 III. Submit a HACCP plan as part of the application

23 IV. Submit a copy of a finished product label.

24 143-A:55 Food Processing Plants; Basic Requirements. Food processing plants shall:

25 I. Provide an updated list of food products to the department whenever new products are
26 added.

27 II. If thermally processing and packaging low-acid foods in hermetically sealed containers,
28 comply with applicable federal regulations under the Code of Federal Regulations in 21 C.F.R. 113
29 and 21 C.F.R. 117 as in effect on February 1, 2019.

30 III. If processing acidified foods, comply with applicable federal regulations under Code of
31 Federal Regulations in 21 C.F.R. 114 and 21 C.F.R. 117 as in effect on February 1, 2019.

32 IV. Maintain production records and distribution records of all products produced.

33 143-A:56 Food Processing Plant Standards.

34 I. Those food establishments licensed as food processing plants shall be exempt from the
35 requirements of the Food Code and shall instead comply with the requirements in this section.

36 II. All food shall be from an approved source, as follows:

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1 (a) "Approved source" means a source of food that has been inspected by a federal, state,
2 or local agency that has the authority, responsibility, and the technical ability to evaluate food for
3 safety in protection of public health;

4 (b) Raw agricultural plant commodities and products under the oversight of New
5 Hampshire department of agriculture under RSA 426, RSA 427, RSA 428, RSA 429, and RSA 434
6 that do not require inspection shall be considered to be from an approved source; and

7 (c) Poultry that is exempt from federal inspection under the Poultry Products Inspection
8 Act 21 U.S.C. section 464(c)(4) as in effect on February 1, 2019; shall not be considered to be from an
9 approved source.

10 III. All food products shall be stored in original containers. If food products are removed
11 from the original container, they shall be stored in labeled and closed containers. Containers shall
12 be of a material that will not cause the food to become adulterated.

13 IV. All food shall be in sound condition, free from spoilage, filth, or other contamination, and
14 shall be safe for human consumption.

15 V. All TCS food shall be refrigerated at 41°F or lower, or held at 135°F or higher, to control
16 bacterial growth.

17 VI. Food storage facilities shall be kept clean and located to protect food from unsanitary
18 conditions or contamination from any source at all times.

19 VII. The floors, walls, ceilings, utensils, machinery, equipment, and supplies in the food
20 preparation area and all vehicles used in the transportation of food shall be kept thoroughly clean.

21 VIII. All food contact surfaces shall be kept clean and undergo sanitization as frequently as
22 necessary to protect against the contamination of food.

23 IX. All food contact surfaces shall be non-toxic, easy to clean, smooth, nonabsorbent, and
24 free of cracks or open seams.

25 X. All food shall be protected against insects and rodents at all times. Outside doors,
26 windows, and other openings shall be fitted with screens and self-closing doors, if not otherwise
27 protected. No dogs, cats, or other pets shall be allowed in the room where food is prepared or stored.

28 XI. All garbage and refuse shall be kept in containers and removed from the premises
29 regularly to prevent insects and rodents, offensive odors, or health or fire hazards. Garbage and
30 refuse containers shall be durable, easy to clean, insect- and rodent-resistant, and of material that
31 neither leaks nor absorbs liquid.

32 XII. Employees shall be free from contagious or communicable diseases, sores, or infected
33 wounds, and shall keep their hair covered and restrained.

34 XIII. Employees shall keep themselves and their clothing clean. Hands shall be washed as
35 frequently as necessary to maintain good sanitation.

36 XIV. Employees shall not smoke while handling or preparing food or in food preparation or
37 storage areas.

1 XV. All establishments shall have an adequate supply of hot and cold potable water under
2 pressure from an approved source.

3 XVI. All establishments shall have toilet facilities, which do not open directly into food
4 processing areas, equipped with a hand washing lavatory, complete with hot and cold potable water
5 under pressure and hand soap. A supply of sanitary towels or a hand-drying device providing heated
6 air shall be conveniently located near the hand-washing facility.

7 XVII. Hand sinks shall be conveniently located to all food processing areas.

8 XVIII. Adequate lighting shall be provided where food is stored, processed, or examined.

9 XIX. Adequate ventilation shall be provided to eliminate objectionable odors and vapors,
10 including steam, and constructed in such a manner as to avoid possible airborne contamination.

11 XX. Poisonous or toxic materials shall be stored so they cannot contaminate food,
12 equipment, utensils, linens, and single-service, and single-use articles.

13 XXI. Food processing plants shall comply with all provisions of the state plumbing code as
14 included as part of the state building code defined in RSA 155-A:1, IV, as amended by the building
15 code review board pursuant to RSA 155-A:10, V.

16 143-A:57 Food Processing Plants; Labeling of All Packaged Foods. All packaged food shall bear
17 a label showing:

18 I. The common or usual name of the product.

19 II. The name and address of the manufacturer's, packer's, or distributor's business which
20 shall:

21 (a) In the case of an individual, partnership, or association be the name under which the
22 business is conducted.

23 (b) In the case of a corporation, be the name of the parent corporation; or

24 (c) Where the food is not processed by the person whose name appears on the label, the
25 name on the label shall be qualified by a phrase which reveals the connection such a person has with
26 the food, including but not limited to, "Manufactured for _____", "Distributed by _____", or any other
27 wording which expresses the facts.

28 III. The ingredients in descending order of predominance by weight.

29 IV. The net weight, volume, or numerical count in both U.S. customary and metric.

30 V. A product code which includes date of manufacture, container size, and product lot or
31 batch number to aid in a recall of product in case of a public health hazard.

32 143-A:58 Food Processing Plants; Recall Procedure.

33 I. The food processing plant shall develop and maintain on file a written procedure for the
34 recall of their product, including procedures for the notification of the department and consumers
35 and the removal of the product from commerce.

36 II. Production and distribution records shall be used to enable location of products if a recall
37 is initiated.

1 III. A food processing plant shall recall any product which the food processing plant or the
2 department knows or has reason to believe might adversely affect the health and safety of the public.

3 IV. A food processing plant that knows that the standard of quality has been violated or has
4 reason to believe that circumstances exist which might adversely affect the safety of the product
5 shall notify the department within 24 hours of learning of the violation or circumstances.

6 V. Circumstances in paragraph IV requiring notification shall include, but are not limited
7 to, source contamination, spills, accidents, natural disasters, or breakdowns in treatment processes.

8 VI. If the department determines that the circumstances present an imminent health
9 hazard and that consumer notification or product recall can significantly minimize the threat to
10 health and safety of the public, the department shall advise the food processing plant to initiate a
11 product recall.

12 VII. In cases of a product recall, the food processing plant shall disseminate notification of
13 the recall to all wholesale and retail outlets to which the product was distributed.

14 VIII. If directed by the department, the food processing plant shall issue notification to
15 consumers who might be affected by the recall using such methods, including the media, as will
16 assure timely notification to the consumers.

17 143-A:59 Exempt Homestead Food Operations Requirements.

18 I. Pursuant to RSA 143-A:5, VII, homestead food operations selling less than a maximum
19 annual gross sales of \$20,000 of food, excluding potentially hazardous food, from the homestead
20 residence, at the owner's farm stand, at farmers' markets, or at retail food stores shall be exempt
21 from licensure under this chapter.

22 II. Only the following food products shall be produced and sold from exempt homestead food
23 operations:

- 24 (a) Baked items, including, breads, rolls, muffins, cookies, brownies, and cakes.
25 (b) Double-crusteD fruit pies.
26 (c) Candy and fudge.
27 (d) Packaged dry products, which include spices and herbs.
28 (e) Acid foods, including vinegars and mustards.
29 (f) Jams and jellies.

30 III. Exempt homestead food operations shall not produce or sell potentially hazardous foods,
31 including any food which requires refrigeration or processed acidified and low acid canned foods.

32 IV. All homestead food products made in an exempt homestead food operation shall be sold
33 in packages with individual labels on each package containing the following information:

- 34 (a) Name of the homestead food operation.
35 (b) Address of the homestead food operation.
36 (c) Phone number of the homestead food operation.
37 (d) Name of the homestead food product.

1 (e) All ingredients of the homestead food product in descending order of predominance
2 by weight.

3 (f) The name of each major food allergen contained in the homestead food product unless
4 it is already part of the common or usual name of the respective ingredient already disclosed in the
5 ingredient statement in subparagraph IV(e) above.

6 (g) The following statement: "This product is exempt from New Hampshire licensing
7 and inspection" in at least the equivalent of 10 point font and a color that provides a clear contrast to
8 the background.

9 (h) A product code which identifies the product with a batch number, or a date of
10 manufacture to aid in a recall of the product in case of an imminent health hazard.

11 V. Exempt homestead food operations shall follow the standards for non-exempt homestead
12 operations in RSA 143-A:65.

13 143-A:60 Non-exempt Homestead Food Operations; Application Requirements.

14 I. Non-exempt homestead food operations shall apply for a Class H food service license.

15 II. Non-exempt homestead food operations applying for a Class H license shall comply with
16 all of the application requirements applicable to other establishments except that:

17 (a) They shall not be required to submit the plan review application and wastewater
18 items.

19 (b) They shall submit process review documentation, as applicable; and

20 (c) They shall also submit the following:

21 (1) A copy of one finished product label which meets the requirements of RSA 143-
22 A:63; and

23 (2) A list of all products to be manufactured.

24 143-A:61 Non-Exempt Homestead Food Operations; Approved Products. Only the following food
25 products shall be produced and sold from a non-exempt homestead food operations:

26 I. Baked items, including, breads, rolls, muffins, cookies, brownies, and cakes.

27 II. Double-crusteD fruit pies.

28 III. Candy and fudge.

29 IV. Packaged dry products, which include spices and herbs.

30 V. Acid foods, including vinegars and mustards.

31 VI. Jams and jellies.

32 143-A:62 Non-Exempt Homestead Food Operations; Prohibited Products. Non-exempt
33 homestead food operations shall not produce or sell potentially hazardous foods, including any food
34 which requires refrigeration or processed acidified and low acid canned foods.

35 143-A:63 Non-Exempt Homestead Food Operations; Labeling Requirements. All homestead food
36 products made in a non-exempt homestead food operation shall be sold in packages with individual
37 labels on each package containing the following information:

- 1 I. Name of the homestead food operation.
- 2 II. Address of the homestead food operation.
- 3 III. Phone number of the homestead food operation.
- 4 IV. Name of the homestead food product.
- 5 V. All ingredients of the homestead food product in descending order of predominance by
6 weight.
- 7 VI. The net weight, volume, or numerical count in both US customary and metric.
- 8 VII. The name of each major food allergen contained in the homestead food product unless it
9 is already part of the common or usual name of the respective ingredient already disclosed in the
10 ingredient statement in paragraph V above.
- 11 VIII. The following statement: "This product is made in a residential kitchen licensed by
12 NH DHHS" in at least the equivalent of 10 point font and a color that provides a clear contrast to the
13 background.
- 14 IX. A product code which includes date of manufacture, container size and product lot or
15 batch number to aid in a recall of product in the case of an imminent health hazard.
- 16 143-A:64 Non-Exempt Homestead Food Operations; Process Review Required.
- 17 I. Non-exempt homestead food operations which are licensed and produce permissible
18 homestead food products that do not use recipes approved by the National Center for Home Food
19 Preservation shall comply with the following:
 - 20 (a) A process review shall be conducted by a food processing authority on each product
21 prior to its being produced by the license holder. If the food processing authority declares in writing
22 that there are no biological concerns with the food after evaluating the scheduled process, the food
23 shall be allowed to be produced.
 - 24 (b) License holders shall keep records of all pHs on file and available for review by the
25 regulatory authority upon request.
 - 26 (c) A process review shall be conducted for a product that has been previously tested if
27 the ingredients are altered or the process changes.
 - 28 (d) License applicants shall submit process review documentation with the license
29 application.
 - 30 (e) License holders shall keep all process review information on file and available for
31 review by the regulatory authority upon request.
- 32 II. A list of food processing authorities described in subparagraph I(a) above and a list of
33 recipes approved by the National Center for Home Food Preservation, or a website link to the same,
34 shall be available on the department's website.
- 35 143-A:65 Non-Exempt Homestead Standards.
- 36 I. Non-exempt homestead food operations shall be exempt from the requirements of the Food
37 Code, and shall instead comply with the requirements in this section.

1 VII. Documentation obtained in paragraph VI shall be presented to any licensed restaurant
2 to demonstrate that the producer has met the requirements of RSA 143-A:16, RSA 143-A:17

3 143-A:67 Education Requirements for Poultry Producers and Rabbit Producers Exempt from
4 Food Service Licensure.

5 I. Producers shall complete department approved training, offered by University of New
6 Hampshire Cooperative Extension or another training program which includes training in required
7 slaughtering, processing, packaging, handling, labeling, transportation practices, and any other
8 specific requirements for producers set forth in RSA 143-A:14-16.

9 II. Producers shall complete the training required pursuant to paragraph I above every 5
10 years.

11 III. A producer shall provide proof of successful completion of the required training to the
12 department of agriculture, markets and food with its registration.

13 IV. At a minimum, one individual involved in the producer's operations shall obtain the
14 required training.

15 V. The producer shall maintain records of the completed training.

16 143-A:68 Requirements for Restaurants Licensed Under RSA 143-A to Sell Rabbit or Poultry
17 That are Exempt from Inspection Pursuant to RSA 143-A:15.

18 I. Restaurants shall only offer uninspected poultry or rabbits from poultry producers or
19 rabbit producers that meet the requirements.

20 II. Restaurants shall maintain receipts of purchase of uninspected poultry or uninspected
21 rabbits for 90 days, which include the following information:

22 (a) The date of purchase.

23 (b) The name of the poultry producer or rabbit producer.

24 (c) The address of the producer.

25 (d) The phone number of the producer.

26 III. The restaurant shall label any menu item containing uninspected poultry or uninspected
27 rabbits in font at least 10 point, and in a color that provides clear contrast to the background, and
28 which states the following: "This product has been raised and processed on a New Hampshire farm
29 and is exempt from state and federal inspection."

30 143-A:69 Cold Storage; Licensure; Fees.

31 I. The department may separate grant cold storage licenses to qualified applicants.

32 II. The fee for a cold storage license shall be \$350.

33 III. All fees paid shall be nontransferable and nonrefundable.

34 IV. Any instrument returned to the state shall be processed in accordance with RSA 6:11-a.

35 143-A:70 Cold Storage Licensure; Administrative Fines.

36 I. Administrative fines shall be imposed in the following amounts for each specified violation
37 listed below:

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- 1 (a) For willful submission of materially false or fraudulent material on or with an
2 application, \$1,000.
- 3 (b) For failure to have a valid cold storage warehouse license posted and available for
4 inspection at a cold storage warehouse, \$200.
- 5 (c) For failure to cooperate during an inspection of a cold storage warehouse, \$2,000.
- 6 (d) For failure to notify the department by telephone within 24 hours of any fire or other
7 disaster that jeopardizes the safety or sanitation of food, as required \$250.
- 8 (e) For failure to notify the department at least 30 days prior to a change in cold storage
9 warehouse ownership, as required, \$200.
- 10 (f) For failure to notify the department at least 30 days prior to a change in the name of
11 an owner or cold storage warehouse, as required, \$100.
- 12 (g) For failure to comply with state or local codes or requirements when moving the
13 location of a cold storage warehouse, \$1,000.
- 14 (h) For failure to cease operating an unlicensed cold storage warehouse, in violation of
15 RSA 145:2, when notified by the department to do so, \$2,000.
- 16 (i) For failure to cease operating after denial or suspension of a cold storage warehouse
17 license, \$2,000.
- 18 (j) For citation for the same deficiency for more than 2 consecutive inspections, the fine
19 shall be \$1,000.
- 20 (k) For the first repeat violation of the fine shall be double the amount assessed for the
21 original fine, but shall not exceed \$2,000.
- 22 (l) For failure to pay an administrative fine within 30 days of its imposition, or the
23 completion of any appeal of the administrative fine, the fine shall be \$500.
- 24 II. A new administrative fine shall be imposed for each day a violation continues.
- 25 10 Repeal. The following are repealed:
- 26 I. RSA 143-A:9, relative to general rulemaking authority of the commissioner of the
27 department of health and human services over food service licensure.
- 28 II. RSA 143-A:13, relative to rulemaking authority of the commissioner of the department of
29 health and human services over homestead food operations.
- 30 III. RSA 143-A:17, relative to rulemaking authority of the commissioner of the department
31 of health and human services over the sale of uninspected poultry and rabbits to restaurants.
- 32 11 Effective Date. Part XIV of this act shall take effect upon its passage

**SB 133-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT adopting omnibus legislation relative to occupational licensure.

PART I: Relative to the definition of "licensing agency" for purposes of licensing places of assembly.

This part has no fiscal impact.

PART II: Establishing a limited plumbing specialist license.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$95,000	\$95,000	\$190,000
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other Office of Professional Licensure and Certification Fund (RSA 310-A:1-e.I(b))			

METHODOLOGY:

This section establishes a new limited plumbing specialist license category. The Office of Professional Licensure and Certification estimates there would be 500 such licenses issued annually with a \$190.00 license fee comparable to that of a journeyman license. The license would be renewed biennially. The OPLC states there would be an indeterminable cost associated with the administrative processing for such licenses.

It is assumed this section of the bill will be effective July 1, 2021.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART III: Repealing the emergency medical services personnel licensure interstate Compact.

This part has no fiscal impact.

PART IV: Relative to hearings of the New Hampshire board of nursing.

This part has no fiscal impact.

PART V: Relative to membership of the professional standards board.

This part has no fiscal impact.

PART VI: Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.

This part has no fiscal impact.

PART VII: Relative to the licensure and regulation of music therapists.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$65,460	\$68,460	\$71,460
Revenue	\$0	\$27,000	\$0	\$22,000
Expenditures	\$0	\$65,460	\$68,460	\$71,460
Funding Source:	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Office of Professional Licensure and Certification Fund (RSA 310-A:1-e,I(b)) and Criminal Records Check Fund (RSA 106-B:7, II)			

METHODOLOGY:

This bill requires the licensure of individuals engaged in music therapy beginning July 1, 2021 and establishes a 5 member governing board within the office of allied health professionals. The bill establishes a new classified position of program assistant II (labor grade 15) to assist the board in its duties. The bill appropriates funds for the salary and benefits of the position and for the per diem and mileage expenses of board members from the Office of Professional Licensure and Certification Fund (OPLC) established in RSA 310-A:1-e.

The OPLC estimates the salary and benefits for the new full-time position to cost \$60,000 in FY22, \$63,000 in FY23 and \$66,000 in FY24.

The OPLC estimates the 5 member board would meet 12 times per year, with expenses for annual per diem and mileage totaling \$5,460 per year, as shown below:

$$5 \text{ members} \times 12 \text{ meetings} \times \$50 \text{ per diem} = \$3,000$$

5 members x 12 meetings x \$41 average mileage reimbursement = \$2,460

The OPLC estimates that approximately 200 licenses would be granted. Such licenses would be renewed every 2 years and all allied health initial licenses are currently set at \$110 payable biennially. This amount would generate \$22,000 in license revenue every 2 years (\$110 x 200 = \$22,000).

The bill prohibits the practice of music therapy without a license but there is no penalty. The addition of this license category also subjects licensees to the allied health criminal records check provision pursuant to RSA 328-F:18-a and performed by the Department of Safety. The \$25 fee associated with such checks is payable by the license applicant. Based on the OPLC estimate of 200 applicants, potential initial revenue of \$5,000 would be generated for the Criminal Records Check Fund pursuant to RSA 106-B:7, II, with an indeterminable amount thereafter based on an unknown number of new applicants.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART VIII: Relative to the authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.

This part has no fiscal impact.

PART IX: Relative to skilled professional medical personnel.

This part has no fiscal impact.

PART X: Relative to temporary licensure of certain licensed nursing assistants.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$7,000	\$0	\$7,000
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other Office of Professional Licensure and Certification Fund (RSA 310-A:1-e.I(b))			

METHODOLOGY:

This bill allows licensure as licensed nursing assistants for individuals who served as temporary health partners for a minimum of 100 hours prior to April 1, 2021. The Office of Professional Licensure and Certification estimates 200 temporary health partners would be eligible for licensure at the current license fee of \$35, yielding an estimated biennial revenue of \$7,000. The amount of resources needed to create a new licensure category via the licensing portal and processing these applications is indeterminable.

It is assumed this section would be effective July 1, 2021.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART XI: Relative to the revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.

This part has no fiscal impact.

PART XII: Relative to schools for barbering, cosmetology, and esthetics.

This part has no fiscal impact.

PART XIII: Relative to telemedicine provided by out of state psychologists.

This part has no fiscal impact.

PART XIV: Establishing program rules within the department of health and human services for sanitary production and distribution of food.

The Department of Health and Human Services was contacted for a fiscal note worksheet on January 13, 2021 and January 28, 2021, which the Department has not supplied as of January 29, 2021.

**SB 133-FN FISCAL NOTE
AS INTRODUCED**

AN ACT adopting omnibus legislation relative to occupational licensure.

PART I Relative to the definition of "licensing agency" for purposes of licensing places of assembly.

This part has no fiscal impact.

PART II Establishing a limited plumbing specialist license.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$95,000	\$95,000	\$190,000
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Office of Professional Licensure and Certification Fund (RSA 310-A:1-e.I(b))			

METHODOLOGY:

This part establishes a new limited plumbing specialist license category. The Office of Professional Licensure and Certification estimates there would be 500 such licenses issued annually with a \$190.00 license fee comparable to that of a journeyman license. The license would be renewed biennially. The OPLC states there would be an indeterminable cost associated with the administrative processing for such licenses.

It is assumed this section of the bill will be effective July 1, 2021.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART III Repealing the emergency medical services personnel licensure interstate Compact.

This part has no fiscal impact.

PART IV Relative to hearings of the New Hampshire board of nursing.

This part has no fiscal impact.

PART V Relative to membership of the professional standards board.

This part has no fiscal impact.

PART VI Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.

This part has no fiscal impact.

PART VII Relative to the licensure and regulation of music therapists.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$65,460	\$68,460	\$71,460
Revenue	\$0	\$27,000	\$0	\$22,000
Expenditures	\$0	\$65,460	\$68,460	\$71,460
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Office of Professional Licensure and Certification Fund (RSA 310-A:1-e, I(b)) and Criminal Records Check Fund (RSA 106-B:7, II)			

METHODOLOGY:

This part of the bill requires the licensure of individuals engaged in music therapy beginning July 1, 2021 and establishes a 5 member governing board within the office of allied health professionals. The bill establishes a new classified position of program assistant II (labor grade 15) to assist the board in its duties. The bill appropriates funds for the salary and benefits of the position and for the per diem and mileage expenses of board members from the Office of Professional Licensure and Certification Fund (OPLC) established in RSA 310-A:1-e.

The OPLC estimates the salary and benefits for the new full-time position to cost \$60,000 in FY22, \$63,000 in FY23 and \$66,000 in FY24.

The OPLC estimates the 5 member board would meet 12 times per year, with expenses for annual per diem and mileage totaling \$5,460 per year, as shown below:

5 members x 12 meetings x \$50 per diem = \$3,000

5 members x 12 meetings x \$41 average mileage reimbursement = \$2,460

The OPLC estimates that approximately 200 licenses would be granted. Such licenses would be renewed every 2 years and all allied health initial licenses are currently set at \$110 payable biennially. This amount would generate \$22,000 in license revenue every 2 years (\$110 x 200 = \$22,000).

The bill prohibits the practice of music therapy without a license but there is no penalty. The addition of this license category also subjects licensees to the allied health criminal records check provision pursuant to RSA 328-F:18-a and performed by the Department of Safety. The \$25 fee associated with such checks is payable by the license applicant. Based on the OPLC estimate of 200 applicants, potential initial revenue of \$5,000 would be generated for the Criminal Records Check Fund pursuant to RSA 106-B:7, II, with an indeterminable amount thereafter based on an unknown number of new applicants.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART VIII Relative to the authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.

This part has no fiscal impact.

PART IX Relative to skilled professional medical personnel.

This part has no fiscal impact.

PART X Relative to temporary licensure of certain licensed nursing assistants.

FISCAL IMPACT: State County Local None

Estimated Increase / (Decrease)
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STATE:	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$7,000	\$0	\$7,000
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other:			
	Office of Professional Licensure and Certification Fund (RSA 310-A:1-e.I(b))			

METHODOLOGY:

This part of the bill allows licensure as licensed nursing assistants for individuals who served as temporary health partners for a minimum of 100 hours prior to April 1, 2021. The Office of Professional Licensure and Certification estimates 200 temporary health partners would be eligible for licensure at the current license fee of \$35, yielding an estimated biennial revenue of \$7,000. The amount of resources needed to create a new licensure category via the licensing portal and processing these applications is indeterminable.

It is assumed this section would be effective July 1, 2021.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART XI Relative to the revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.

This part has no fiscal impact.

PART XII Relative to schools for barbering, cosmetology, and esthetics.

This part has no fiscal impact.

PART XIII Relative to telemedicine provided by out of state psychologists.

This part has no fiscal impact.

PART XIV Establishing program rules within the department of health and human services for sanitary production and distribution of food.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

The Department of Health and Human Services assumes the intent of Part XIV is to codify the program rules for the sanitary production and distribution of food into state law. The language contained in Part XIV repeals the rulemaking authority of the Commissioner of the Department of Health and Human Services for the following: food licensure codified in RSA 143-A:9, homestead food operations codified in RSA 143-A:13, and the sale of uninspected poultry and rabbits codified in RSA 143-A:17.

It is the Department's interpretation that this legislation aims to revert to a previous version of the Food Protection Regulations (NH Code of Administrative Rules, Chapter He-P 2300, Rules for the Sanitary Production and Distribution of Food) that were effective in February 2019, by placing the text of the previously adopted rules into statute. The Department updated its Food Protection Regulations (Chapter He-P 2300) in August of 2019, including incorporating by reference the most recent version of the US Food and Drug Administration's (FDA) Food Code (2017 Food Code). By codifying the rules that were in place in February of 2019 into statute, the current Certified Food Protection Manager (CFPM) requirement (specified in He-P 2303.02, effective August 20, 2019) would not exist, as this was not a requirement in the previous version of the Food Protection Regulations. The Food Protection Regulations that were effective in February of 2019 referenced the 2009 version of the Food Code. The 2009 version of the Food Code did not include a requirement for a Certified Food Protection Manager.

The proposed legislation also contains a requirement for the Department to offer a training course for interested parties to become a CFPM every 30 days. The Department states it will need to hire at least one new trainer Program Specialist III (LG 23) position to conduct the Certified Food Protection Manager training every 30 days. This position is estimated to include salary and benefits totaling \$77,000 in FY 2022, \$81,000 in FY 2023 and \$85,000 in FY 2024. There is no appropriation in this section for this position.

The Department estimates a cost of \$75 per attendee for a textbook and exam. The Department cannot estimate the number of registrations for classes from approximately 8,000 food

establishments, or where such training may be offered and space requirements, what software may be needed for registration and certificates of course completion, or accommodations for multiple language or interpreter services. Therefore the total fiscal impact is indeterminable.

AGENCIES CONTACTED:

Department of Health and Human Services

**SB 133-FN FISCAL NOTE
 AS INTRODUCED**

AN ACT adopting omnibus legislation relative to occupational licensure.

PART I Relative to the definition of "licensing agency" for purposes of licensing places of assembly.

This part has no fiscal impact.

PART II Establishing a limited plumbing specialist license.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$95,000	\$95,000	\$190,000
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Office of Professional Licensure and Certification Fund (RSA 310-A:1-e.I(b))			

METHODOLOGY:

This part establishes a new limited plumbing specialist license category. The Office of Professional Licensure and Certification estimates there would be 500 such licenses issued annually with a \$190.00 license fee comparable to that of a journeyman license. The license would be renewed biennially. The OPLC states there would be an indeterminable cost associated with the administrative processing for such licenses.

It is assumed this section of the bill will be effective July 1, 2021.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART III Repealing the emergency medical services personnel licensure interstate Compact.

This part has no fiscal impact.

PART IV Relative to hearings of the New Hampshire board of nursing.

This part has no fiscal impact.

PART V Relative to membership of the professional standards board.

This part has no fiscal impact.

PART VI Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.

This part has no fiscal impact.

PART VII Relative to the licensure and regulation of music therapists.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$65,460	\$68,460	\$71,460
Revenue	\$0	\$27,000	\$0	\$22,000
Expenditures	\$0	\$65,460	\$68,460	\$71,460
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Office of Professional Licensure and Certification Fund (RSA 310-A:1-e,I(b)) and Criminal Records Check Fund (RSA 106-B:7, II)			

METHODOLOGY:

This part of the bill requires the licensure of individuals engaged in music therapy beginning July 1, 2021 and establishes a 5 member governing board within the office of allied health professionals. The bill establishes a new classified position of program assistant II (labor grade 15) to assist the board in its duties. The bill appropriates funds for the salary and benefits of the position and for the per diem and mileage expenses of board members from the Office of Professional Licensure and Certification Fund (OPLC) established in RSA 310-A:1-e.

The OPLC estimates the salary and benefits for the new full-time position to cost \$60,000 in FY22, \$63,000 in FY23 and \$66,000 in FY24.

The OPLC estimates the 5 member board would meet 12 times per year, with expenses for annual per diem and mileage totaling \$5,460 per year, as shown below:

5 members x 12 meetings x \$50 per diem = \$3,000

5 members x 12 meetings x \$41 average mileage reimbursement = \$2,460

The OPLC estimates that approximately 200 licenses would be granted. Such licenses would be renewed every 2 years and all allied health initial licenses are currently set at \$110 payable biennially. This amount would generate \$22,000 in license revenue every 2 years (\$110 x 200 = \$22,000).

The bill prohibits the practice of music therapy without a license but there is no penalty. The addition of this license category also subjects licensees to the allied health criminal records check provision pursuant to RSA 328-F:18-a and performed by the Department of Safety. The \$25 fee associated with such checks is payable by the license applicant. Based on the OPLC estimate of 200 applicants, potential initial revenue of \$5,000 would be generated for the Criminal Records Check Fund pursuant to RSA 106-B:7, II, with an indeterminable amount thereafter based on an unknown number of new applicants.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART VIII Relative to the authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.

This part has no fiscal impact.

PART IX Relative to skilled professional medical personnel.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This section proposes changes to RSA 151-E:3, Long Term Care; Eligibility. Skilled professional medical personnel shall oversee clinical eligibility determinations and service coverage prior authorizations for Medicaid home and community-based care waiver services. Only skilled professional medical personnel who are registered nurses and currently licensed in accordance with RSA 326-B may render an adverse service coverage determination or adverse clinical eligibility determination.

The Department of Health and Human Services states the Department may need to replace supervisors for affected programs with registered nurses, at significantly higher wage rates. The Department may also be unable to fill positions and issue timely decisions, delaying services, and require medically trained staff for determinations that may be denied for non-clinical reasons.

AGENCIES CONTACTED:

Department of Health and Human Services

PART X Relative to temporary licensure of certain licensed nursing assistants.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$7,000	\$0	\$7,000
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Office of Professional Licensure and Certification Fund (RSA 310-A:1-e.1(b))			

METHODOLOGY:

This part of the bill allows licensure as licensed nursing assistants for individuals who served as temporary health partners for a minimum of 100 hours prior to April 1, 2021. The Office of Professional Licensure and Certification estimates 200 temporary health partners would be eligible for licensure at the current license fee of \$35, yielding an estimated biennial revenue of \$7,000. The amount of resources needed to create a new licensure category via the licensing portal and processing these applications is indeterminable.

It is assumed this section would be effective July 1, 2021.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART XI Relative to the revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.

This part has no fiscal impact.

PART XII Relative to schools for barbering, cosmetology, and esthetics.

This part has no fiscal impact.

PART XIII Relative to telemedicine provided by out of state psychologists.

This part has no fiscal impact.

PART XIV Establishing program rules within the department of health and human services for sanitary production and distribution of food.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

The Department of Health and Human Services assumes the intent of Part XIV is to codify the program rules for the sanitary production and distribution of food into state law. The language contained in Part XIV repeals the rulemaking authority of the Commissioner of the Department of Health and Human Services for the following: food licensure codified in RSA 143-A:9, homestead food operations codified in RSA 143-A:13, and the sale of uninspected poultry and rabbits codified in RSA 143-A:17.

It is the Department's interpretation that this legislation aims to revert to a previous version of the Food Protection Regulations (NH Code of Administrative Rules, Chapter He-P 2300, Rules

for the Sanitary Production and Distribution of Food) that were effective in February 2019, by placing the text of the previously adopted rules into statute. The Department updated its Food Protection Regulations (Chapter He-P 2300) in August of 2019, including incorporating by reference the most recent version of the US Food and Drug Administration's (FDA) Food Code (2017 Food Code). By codifying the rules that were in place in February of 2019 into statute, the current Certified Food Protection Manager (CFPM) requirement (specified in He-P 2303.02, effective August 20, 2019) would not exist, as this was not a requirement in the previous version of the Food Protection Regulations. The Food Protection Regulations that were effective in February of 2019 referenced the 2009 version of the Food Code. The 2009 version of the Food Code did not include a requirement for a Certified Food Protection Manager.

The proposed legislation also contains a requirement for the Department to offer a training course for interested parties to become a CFPM every 30 days. The Department states it will need to hire at least one new trainer Program Specialist III (LG 23) position to conduct the Certified Food Protection Manager training every 30 days. This position is estimated to include salary and benefits totaling \$77,000 in FY 2022, \$81,000 in FY 2023 and \$85,000 in FY 2024. There is no appropriation in this section for this position.

The Department estimates a cost of \$75 per attendee for a textbook and exam. The Department cannot estimate the number of registrations for classes from approximately 8,000 food establishments, or where such training may be offered and space requirements, what software may be needed for registration and certificates of course completion, or accommodations for multiple language or interpreter services. Therefore the total fiscal impact is indeterminable.

AGENCIES CONTACTED:

Department of Health and Human Services

SB 133-FN - AS AMENDED BY THE SENATE

03/18/2021 0779s

2021 SESSION

21-0964
05/04

SENATE BILL **133-FN**

AN ACT adopting omnibus legislation relative to occupational licensure.

SPONSORS: Sen. Carson, Dist 14

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Licensing places of assembly.
- II. Repealing the emergency medical services personnel licensure interstate compact.
- III. Hearings at the board of nursing.
- IV. Membership of the professional standards board.
- V. Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.
- VI. Licensure and regulation of music therapists.
- VII. The authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.
- VIII. Skilled professional medical personnel.
- IX. Temporary licensure of certain licensed nursing assistants.
- X. The revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.
- XI. Schools for barbering, cosmetology, and esthetics.
- XII. Telemedicine provided by out of state psychologists.
- XIII. Sanitary production and distribution of food.

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

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to occupational licensure.

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

1 Sponsorship. This act consists of the following proposed legislation:

2 Part I: LSR 21-0964, relative to the definition of "licensing agency" for purposes of licensing
3 places of assembly, sponsored by Sen. Carson, Prime/Dist 14.

4 Part II: LSR 21-0506, repealing the emergency medical services personnel licensure
5 interstate compact, sponsored by Sen. Rosenwald, Prime/Dist 13, Sen. Cavanaugh, Dist 16; Sen.
6 Carson, Dist 14; Rep. Goley, Hills. 8; Rep. Milz, Rock. 6; Rep. O'Brien, Hills. 36; Rep. S. Pearson,
7 Rock. 6.

8 Part III: LSR 21-0207, relative to hearings of the New Hampshire board of nursing,
9 sponsored by Sen. Ward, Prime/Dist 8.

10 Part IV: LSR 21-0838, relative to membership of the professional standards board,
11 sponsored by Sen. Kahn, Prime/Dist 10; Sen. Prentiss, Dist 5.

12 Part V: LSR 21-0846, adopting the Audiology and Speech-Language Pathology Compact and
13 the Occupational Therapy Licensure Compact, sponsored by Sen. Sherman, Prime/Dist 24; Sen.
14 Soucy, Dist 18; Sen. Carson, Dist 14; Rep. March, Carr. 8.

15 Part VI: LSR 21-0859, relative to the licensure and regulation of music therapists, sponsored
16 by Sen. Avard, Prime/Dist 12; Sen. Watters, Dist 4; Sen. Carson, Dist 14; Sen. Reagan, Dist 17; Sen.
17 Kahn, Dist 10; Sen. Sherman, Dist 24; Sen. Prentiss, Dist 5; Sen. Perkins Kwoka, Dist 21; Rep.
18 McGhee, Hills. 27.

19 Part VII: LSR 21-0899, relative to the authority of the office of professional licensure and
20 certification for administration, rulemaking, and enforcement of investigations, hearings, and
21 appeals, sponsored by Sen. Reagan, Prime/ Dist 17, Sen. Carson, Dist 14; Sen. French, Dist 7; Sen.
22 Kahn, Dist 10; Sen. Prentiss, Dist 5; Sen. Rosenwald, Dist 13; Sen. Bradley, Dist 3; Sen.
23 D'Allesandro, Dist 20; Sen. Ward, Dist 8; Sen. Soucy, Dist 18; Sen. Giuda, Dist 2; Rep. Spillane,
24 Rock. 2; Rep. McGuire, Merr. 29; Rep. Seaworth, Merr. 20.

25 Part VIII: LSR 21-0928, relative to skilled professional medical personnel, sponsored by Sen.
26 Ward, Prime/Dist 8.

27 Part IX: LSR 21-0973, relative to temporary licensure of certain licensed nursing assistants,
28 sponsored by Sen. Hennessey, Dist 1; Sen. Rosenwald, Dist 13; Rep. Dostie, Coos 1; Rep. Thompson,
29 Coos 1.

SB 133-FN - AS AMENDED BY THE SENATE

- Page 2 -

1 Part X: LSR 21-1011, relative to the revocation of licensure for licensed emergency medical
2 service units and emergency medical service vehicles, sponsored by Sen. Prentiss, Prime/Dist 5; Rep.
3 Merchant, Sull. 4; Rep. Goley, Hills. 8; Rep. McGuire, Merr. 29.

4 Part XI: LSR 21-1050, relative to schools for barbering, cosmetology, and esthetics,
5 sponsored by Sen. Reagan, Prime/Dist 17; Sen. Rosenwald, Dist 13; Sen. Prentiss, Dist 5; Sen.
6 Carson, Dist 14; Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Sen. Gannon, Dist 23; Rep.
7 McGuire, Merr. 29; Rep. Roy, Rock. 32; Rep. Harrington, Straf. 3.

8 Part XII: LSR 21-0277, relative to telemedicine provided by out of state psychologists,
9 sponsored by Sen. Reagan, Prime/Dist 17; Sen. Carson, Dist 14; Sen. Bradley, Dist 3; Sen. Prentiss,
10 Dist 5; Sen. French, Dist 7; Sen. Giuda, Dist 2; Sen. Hennessey, Dist 1; Sen. D'Allesandro, Dist 20;
11 Rep. Spillane, Rock. 2; Rep. Tudor, Rock. 1.

12 Part XIII: LSR 21-1049, establishing program rules within the department of health and
13 human services for sanitary production and distribution of food, sponsored by Sen. Giuda,
14 Prime/Dist 2; Sen. Gannon, Dist 23.

15 2 Legislation Enacted. The general court hereby enacts the following legislation:

16 PART I

17 Relative to the definition of "licensing agency" for purposes of licensing places of assembly.

18 1 Places of Assembly; Definition of Licensing Agency. Amend RSA 155:17, II to read as follows:

19 II. "Licensing agency" shall mean the chief of the fire department, the firewards or
20 engineers, if any, otherwise the selectmen of the town or the commissioners of village district as the
21 case may be, *or the state fire marshal, as he or she deems necessary, in consultation with the*
22 *local licensing agency, if any.*

23 2 Places of Assembly; License Required. Amend RSA 155:18 to read as follows:

24 155:18 License Required. No person shall own or operate a place of assembly within this state
25 unless licensed so to do by the licensing agency of the *state*, city, town, or village district where said
26 place of assembly is located, including assemblies occurring on state waters or ice formed on state
27 waters, in accordance with the regulations herein promulgated. In the application of this act to
28 existing places of assembly the licensing agency may modify such of its provisions as would require
29 structural changes if in his or her opinion adequate safety may be obtained otherwise and provided
30 that a permanent record is kept of such modifications and the reasons therefor.

31 3 Effective Date. Part I of this act shall take effect 60 days after its passage.

32 PART II

33 Repealing the emergency medical services personnel licensure interstate compact.

34 1 Repeal. The following are repealed:

35 I. RSA 153-A:36 and the subdivision heading preceding RSA 153-A:36, relative to the
36 emergency medical services personnel licensure interstate compact.

1 II. RSA 153-A:20, XXIV, relative to rulemaking by the department of safety regarding
2 implementation of the compact.

3 2 Effective Date. Part II of this act shall take effect 60 days after its passage.

4 PART III

5 Relative to hearings of the New Hampshire board of nursing.

6 1 Board of Nursing; Adjudicative Hearings. Amend 326-B:38, VIII to read as follows:

7 VIII. The board may hold adjudicative hearings concerning allegations of misconduct or
8 other matters within the scope of this chapter. Such hearings shall be public proceedings. Any
9 member of the board [~~other than the public members~~], or any other qualified person appointed by the
10 board, shall have authority to preside at such a hearing and to issue oaths or affirmations to
11 witnesses.

12 2 Effective Date. Part III of this act shall take effect upon its passage.

13 PART IV

14 Relative to membership of the professional standards board.

15 1 State School Organization; Professional Standards Board. Amend RSA 186:60, I(c) to read as
16 follows:

17 (c) 9 members, 3 representing higher education and 6 *representing* education
18 administration; and

19 2 Professional Standards Board. Amend RSA 186:60, III to read as follows:

20 III. The appointed members of the board shall serve for 3-year terms and may not serve for
21 more than 2 *consecutive* full terms.

22 3 Effective Date. Part IV of this act shall take effect 60 days after its passage.

23 PART V

24 Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy
25 Licensure Compact.

26 1 Chapter Heading Amended; Occupational Compacts. Amend the chapter heading of RSA 329-
27 D to read as follows:

28 ~~[PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT)]~~

29 OCCUPATIONAL COMPACTS

30 2 New Sections; Audiology and Speech-Language Pathology Compact; Occupational Therapy
31 Licensure Compact. Amend RSA 329-D by inserting after section 1 the following new sections:

32 329-D:2 Interstate Compact Adopted. The state of New Hampshire hereby adopts the provisions
33 of the Audiology and Speech-Language Pathology Compact as follows:

34 SECTION 1. PURPOSE

35 The purpose of this Compact is to facilitate interstate practice of audiology and speech-language
36 pathology with the goal of improving public access to audiology and speech-language pathology
37 services. The practice of audiology and speech-language pathology occurs in the state where the

1 patient/client/student is located at the time of the patient/client/student encounter. The Compact
2 preserves the regulatory authority of states to protect public health and safety through the current
3 system of state licensure.

4 This Compact is designed to achieve the following objectives:

- 5 1. Increase public access to audiology and speech-language pathology services by providing for
6 the mutual recognition of other member state licenses;
- 7 2. Enhance the states' ability to protect the public's health and safety;
- 8 3. Encourage the cooperation of member states in regulating multistate audiology and speech-
9 language pathology practice;
- 10 4. Support spouses of relocating active duty military personnel;
- 11 5. Enhance the exchange of licensure, investigative and disciplinary information between
12 member states;
- 13 6. Allow a remote state to hold a provider of services with a compact privilege in that state
14 accountable to that state's practice standards; and
- 15 7. Allow for the use of telehealth technology to facilitate increased access to audiology and
16 speech-language pathology services.

17 326-F:15 Interstate Compact Adopted. The state of New Hampshire hereby adopts the
18 provisions of the Audiology and Speech-Language Pathology Compact as follows:

19 SECTION 1: PURPOSE

20 The purpose of this Compact is to facilitate interstate practice of audiology and speech-language
21 pathology with the goal of improving public access to audiology and speech-language pathology
22 services. The practice of audiology and speech-language pathology occurs in the state where the
23 patient/client/student is located at the time of the patient/client/student encounter. The Compact
24 preserves the regulatory authority of states to protect public health and safety through the current
25 system of state licensure.

26 This Compact is designed to achieve the following objectives:

- 27 1. Increase public access to audiology and speech-language pathology services by providing for
28 the mutual recognition of other member state licenses;
- 29 2. Enhance the states' ability to protect the public's health and safety;
- 30 3. Encourage the cooperation of member states in regulating multistate audiology and speech-
31 language pathology practice;
- 32 4. Support spouses of relocating active duty military personnel;
- 33 5. Enhance the exchange of licensure, investigative and disciplinary information between
34 member states;
- 35 6. Allow a remote state to hold a provider of services with a compact privilege in that state
36 accountable to that state's practice standards; and

1 7. Allow for the use of telehealth technology to facilitate increased access to audiology and
2 speech-language pathology services.

3 SECTION 2. DEFINITIONS

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

5 A. "Active duty military" means full-time duty status in the active uniformed service of the
6 United States, including members of the National Guard and Reserve on active duty orders
7 pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C Chapter 1211.

8 B. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a
9 state's laws which is imposed by a licensing board or other authority against an audiologist or
10 speech-language pathologist, including actions against an individual's license or privilege to practice
11 such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's
12 practice.

13 C. "Alternative program" means a non-disciplinary monitoring process approved by an audiology
14 or speech-language pathology licensing board to address impaired practitioners.

15 D. "Audiologist" means an individual who is licensed by a state to practice audiology.

16 E. "Audiology" means the care and services provided by a licensed audiologist as set forth in the
17 member state's statutes and rules.

18 F. "Audiology and Speech-Language Pathology Compact Commission" or "Commission" means
19 the national administrative body whose membership consists of all states that have enacted the
20 Compact.

21 G. "Audiology and speech-language pathology licensing board," "audiology licensing board,"
22 "speech-language pathology licensing board," or "licensing board" means the agency of a state that is
23 responsible for the licensing and regulation of audiologists and/or speech-language pathologists.

24 H. "Compact privilege" means the authorization granted by a remote state to allow a licensee
25 from another member state to practice as an audiologist or speech-language pathologist in the
26 remote state under its laws and rules. The practice of audiology or speech-language pathology
27 occurs in the member state where the patient/client/student is located at the time of the
28 patient/client/student encounter.

29 I. "Current significant investigative information" means investigative information that a
30 licensing board, after an inquiry or investigation that includes notification and an opportunity for
31 the audiologist or speech-language pathologist to respond, if required by state law, has reason to
32 believe is not groundless and, if proved true, would indicate more than a minor infraction.

33 J. "Data system" means a repository of information about licensees, including, but not limited
34 to, continuing education, examination, licensure, investigative, compact privilege and adverse action.

35 K. "Encumbered license" means a license in which an adverse action restricts the practice of
36 audiology or speech-language pathology by the licensee and said adverse action has been reported to
37 the National Practitioners Data Bank (NPDB).

1 L. "Executive committee" means a group of directors elected or appointed to act on behalf of, and
2 within the powers granted to them by, the Commission.

3 M. "Home state" means the member state that is the licensee's primary state of residence.

4 N. "Impaired practitioner" means individuals whose professional practice is adversely affected
5 by substance abuse, addiction, or other health-related conditions.

6 O. "Licensee" means an individual who currently holds an authorization from the state licensing
7 board to practice as an audiologist or speech-language pathologist.

8 P. "Member state" means a state that has enacted the Compact.

9 Q. "Privilege to practice" means a legal authorization permitting the practice of audiology or
10 speech-language pathology in a remote state.

11 R. "Remote state" means a member state other than the home state where a licensee is
12 exercising or seeking to exercise the compact privilege.

13 S. "Rule" means a regulation, principle or directive promulgated by the Commission that has the
14 force of law.

15 T. "Single-state license" means an audiology or speech-language pathology license issued by a
16 member state that authorizes practice only within the issuing state and does not include a privilege
17 to practice in any other member state.

18 U. "Speech-language pathologist" means an individual who is licensed by a state to practice
19 speech-language pathology.

20 V. "Speech-language pathology" means the care and services provided by a licensed speech-
21 language pathologist as set forth in the member state's statutes and rules.

22 W. "State" means any state, commonwealth, district or territory of the United States of America
23 that regulates the practice of audiology and speech-language pathology.

24 X. "State practice laws" means a member state's laws, rules and regulations that govern the
25 practice of audiology or speech-language pathology, define the scope of audiology or speech-language
26 pathology practice, and create the methods and grounds for imposing discipline.

27 Y. "Telehealth" means the application of telecommunication technology to deliver audiology or
28 speech-language pathology services at a distance for assessment, intervention and/or consultation.

29 SECTION 3. STATE PARTICIPATION IN THE COMPACT

30 A. A license issued to an audiologist or speech-language pathologist by a home state to a
31 resident in that state shall be recognized by each member state as authorizing an audiologist or
32 speech-language pathologist to practice audiology or speech-language pathology, under a privilege to
33 practice, in each member state.

34 B. A state must implement or utilize procedures for considering the criminal history records of
35 applicants for initial privilege to practice. These procedures shall include the submission of
36 fingerprints or other biometric-based information by applicants for the purpose of obtaining an

1 applicant's criminal history record information from the Federal Bureau of Investigation and the
2 agency responsible for retaining that state's criminal records

3 1. A member state must fully implement a criminal background check requirement, within a
4 time frame established by rule, by receiving the results of the Federal Bureau of Investigation record
5 search on criminal background checks and use the results in making licensure decisions.

6 2. Communication between a member state, the Commission and among member states
7 regarding the verification of eligibility for licensure through the Compact shall not include any
8 information received from the Federal Bureau of Investigation relating to a federal criminal records
9 check performed by a member state under Public Law 92-544.

10 C. Upon application for a privilege to practice, the licensing board in the issuing remote state
11 shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a
12 license issued by any other state, whether there are any encumbrances on any license or privilege to
13 practice held by the applicant, whether any adverse action has been taken against any license or
14 privilege to practice held by the applicant.

15 D. Each member state shall require an applicant to obtain or retain a license in the home state
16 and meet the home state's qualifications for licensure or renewal of licensure, as well as, all other
17 applicable state laws.

18 E. For an audiologist:

19 1. Must meet one of the following educational requirements:

20 a. On or before, Dec. 31, 2007, has graduated with a master's degree or doctorate in audiology,
21 or equivalent degree regardless of degree name, from a program that is accredited by an accrediting
22 agency recognized by the Council for Higher Education Accreditation, or its successor, or by the
23 United States Department of Education and operated by a college or university accredited by a
24 regional or national accrediting organization recognized by the board; or

25 b. On or after, Jan. 1, 2008, has graduated with a Doctoral degree in audiology, or equivalent
26 degree, regardless of degree name, from a program that is accredited by an accrediting agency
27 recognized by the Council for Higher Education Accreditation, or its successor, or by the United
28 States Department of Education and operated by a college or university accredited by a regional or
29 national accrediting organization recognized by the board; or

30 c. Has graduated from an audiology program that is housed in an institution of higher education
31 outside of the United States (a) for which the program and institution have been approved by the
32 authorized accrediting body in the applicable country and (b) the degree program has been verified
33 by an independent credentials review agency to be comparable to a state licensing board-approved
34 program.

35 2. Has completed a supervised clinical practicum experience from an accredited educational
36 institution or its cooperating programs as required by the commission;

37 3. Has successfully passed a national examination approved by the Commission;

- 1 4. Holds an active, unencumbered license;
- 2 5. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a
- 3 felony related to the practice of audiology, under applicable state or federal criminal law;
- 4 6. Has a valid United States Social Security or National Practitioner Identification number.
- 5 F. For a speech-language pathologist:
- 6 1. Must meet one of the following educational requirements:
- 7 a. Has graduated with a master's degree from a speech-language pathology program that is
- 8 accredited by an organization recognized by the United States Department of Education and
- 9 operated by a college or university accredited by a regional or national accrediting organization
- 10 recognized by the board; or
- 11 b. Has graduated from a speech-language pathology program that is housed in an institution of
- 12 higher education outside of the United States (a) for which the program and institution have been
- 13 approved by the authorized accrediting body in the applicable country and (b) the degree program
- 14 has been verified by an independent credentials review agency to be comparable to a state licensing
- 15 board-approved program.
- 16 2. Has completed a supervised clinical practicum experience from an educational institution or
- 17 its cooperating programs as required by the Commission;
- 18 3. Has completed a supervised postgraduate professional experience as required by the
- 19 Commission
- 20 4. Has successfully passed a national examination approved by the Commission;
- 21 5. Holds an active, unencumbered license;
- 22 6. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a
- 23 felony related to the practice of speech-language pathology, under applicable state or federal
- 24 criminal law;
- 25 7. Has a valid United States Social Security or National Practitioner Identification number.
- 26 G. The privilege to practice is derived from the home state license.
- 27 H. An audiologist or speech-language pathologist practicing in a member state must comply
- 28 with the state practice laws of the state in which the client is located at the time service is provided.
- 29 The practice of audiology and speech-language pathology shall include all audiology and speech-
- 30 language pathology practice as defined by the state practice laws of the member state in which the
- 31 client is located. The practice of audiology and speech-language pathology in a member state under
- 32 a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction
- 33 of the licensing board, the courts and the laws of the member state in which the client is located at
- 34 the time service is provided.
- 35 I. Individuals not residing in a member state shall continue to be able to apply for a member
- 36 state's single-state license as provided under the laws of each member state. However, the single-
- 37 state license granted to these individuals shall not be recognized as granting the privilege to practice

1 audiology or speech-language pathology in any other member state. Nothing in this Compact shall
2 affect the requirements established by a member state for the issuance of a single-state license.

3 J. Member states may charge a fee for granting a compact privilege.

4 K. Member states must comply with the bylaws and rules and regulations of the Commission.

5 SECTION 4. COMPACT PRIVILEGE

6 A. To exercise the compact privilege under the terms and provisions of the Compact, the
7 audiologist or speech-language pathologist shall:

8 1. Hold an active license in the home state;

9 2. Have no encumbrance on any state license;

10 3. Be eligible for a compact privilege in any member state in accordance with Section 3;

11 4. Have not had any adverse action against any license or compact privilege within the previous
12 2 years from date of application;

13 5. Notify the Commission that the licensee is seeking the compact privilege within a remote
14 state(s);

15 6. Pay any applicable fees, including any state fee, for the compact privilege;

16 7. Report to the Commission adverse action taken by any non-member state within 30 days from
17 the date the adverse action is taken.

18 B. For the purposes of the compact privilege, an audiologist or speech-language pathologist shall
19 only hold one home state license at a time.

20 C. Except as provided in Section 6, if an audiologist or speech-language pathologist changes
21 primary state of residence by moving between two-member states, the audiologist or speech-
22 language pathologist must apply for licensure in the new home state, and the license issued by the
23 prior home state shall be deactivated in accordance with applicable rules adopted by the
24 Commission.

25 D. The audiologist or speech-language pathologist may apply for licensure in advance of a
26 change in primary state of residence.

27 E. A license shall not be issued by the new home state until the audiologist or speech-language
28 pathologist provides satisfactory evidence of a change in primary state of residence to the new home
29 state and satisfies all applicable requirements to obtain a license from the new home state.

30 F. If an audiologist or speech-language pathologist changes primary state of residence by
31 moving from a member state to a non-member state, the license issued by the prior home state shall
32 convert to a single-state license, valid only in the former home state.

33 G. The compact privilege is valid until the expiration date of the home state license. The
34 licensee must comply with the requirements of Section 4A to maintain the compact privilege in the
35 remote state.

36 H. A licensee providing audiology or speech-language pathology services in a remote state under
37 the compact privilege shall function within the laws and regulations of the remote state.

1 I. A licensee providing audiology or speech-language pathology services in a remote state is
2 subject to that state's regulatory authority. A remote state may, in accordance with due process and
3 that state's laws, remove a licensee's compact privilege in the remote state for a specific period of
4 time, impose fines, and/or take any other necessary actions to protect the health and safety of its
5 citizens.

6 J. If a home state license is encumbered, the licensee shall lose the compact privilege in any
7 remote state until the following occur:

- 8 1. The home state license is no longer encumbered; and
- 9 2. Two years have elapsed from the date of the adverse action.

10 K. Once an encumbered license in the home state is restored to good standing, the licensee must
11 meet the requirements of Section 4A to obtain a compact privilege in any remote state.

12 L. Once the requirements of Section 4J have been met, the licensee must meet the requirements
13 in Section 4A to obtain a compact privilege in a remote state.

14 SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

15 Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by
16 a home state in accordance with Section 3 and under rules promulgated by the Commission, to
17 practice audiology or speech-language pathology in any member state via telehealth under a
18 privilege to practice as provided in the Compact and rules promulgated by the Commission.

19 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

20 Active duty military personnel, or their spouse, shall designate a home state where the individual
21 has a current license in good standing. The individual may retain the home state designation during
22 the period the service member is on active duty. Subsequent to designating a home state, the
23 individual shall only change their home state through application for licensure in the new state.

24 SECTION 7. ADVERSE ACTIONS

25 A. In addition to the other powers conferred by state law, a remote state shall have the
26 authority, in accordance with existing state due process law, to:

27 1. Take adverse action against an audiologist's or speech-language pathologist's privilege to
28 practice within that member state.

29 2. Issue subpoenas for both hearings and investigations that require the attendance and
30 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board
31 in a member state for the attendance and testimony of witnesses or the production of evidence from
32 another member state shall be enforced in the latter state by any court of competent jurisdiction,
33 according to the practice and procedure of that court applicable to subpoenas issued in proceedings
34 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and
35 other fees required by the service statutes of the state in which the witnesses or evidence are
36 located.

1 3. Only the home state shall have the power to take adverse action against a audiologist's or
2 speech-language pathologist's license issued by the home state.

3 B. For purposes of taking adverse action, the home state shall give the same priority and effect
4 to reported conduct received from a member state as it would if the conduct had occurred within the
5 home state. In so doing, the home state shall apply its own state laws to determine appropriate
6 action.

7 C. The home state shall complete any pending investigations of an audiologist or speech-
8 language pathologist who changes primary state of residence during the course of the investigations.
9 The home state shall also have the authority to take appropriate action(s) and shall promptly report
10 the conclusions of the investigations to the administrator of the data system. The administrator of
11 the coordinated licensure information system shall promptly notify the new home state of any
12 adverse actions.

13 D. If otherwise permitted by state law, the member state may recover from the affected
14 audiologist or speech-language pathologist the costs of investigations and disposition of cases
15 resulting from any adverse action taken against that audiologist or speech-language pathologist.

16 E. The member state may take adverse action based on the factual findings of the remote state,
17 provided that the member state follows the member state's own procedures for taking the adverse
18 action.

19 F. Joint Investigations

20 1. In addition to the authority granted to a member state by its respective audiology or speech-
21 language pathology practice act or other applicable state law, any member state may participate
22 with other member states in joint investigations of licensees.

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

25 G. If adverse action is taken by the home state against an audiologist's or speech language
26 pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all
27 other member states shall be deactivated until all encumbrances have been removed from the state
28 license. All home state disciplinary orders that impose adverse action against an audiologist's or
29 speech language pathologist's license shall include a statement that the audiologist's or speech-
30 language pathologist's privilege to practice is deactivated in all member states during the pendency
31 of the order.

32 H. If a member state takes adverse action, it shall promptly notify the administrator of the data
33 system. The administrator of the data system shall promptly notify the home state of any adverse
34 actions by remote states.

35 I. Nothing in this Compact shall override a member state's decision that participation in an
36 alternative program may be used in lieu of adverse action.

1 SECTION 8. ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE
2 PATHOLOGY COMPACT COMMISSION

3 A. The Compact member states hereby create and establish a joint public agency known as the
4 Audiology and Speech-Language Pathology Compact Commission:

5 1. The Commission is an instrumentality of the Compact states.

6 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely
7 and exclusively in a court of competent jurisdiction where the principal office of the Commission is
8 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or
9 consents to participate in alternative dispute resolution proceedings.

10 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

11 B. Membership, Voting and Meetings

12 1. Each member state shall have two (2) delegates selected by that member state's licensing
13 board. The delegates shall be current members of the licensing board. One shall be an audiologist
14 and one shall be a speech-language pathologist.

15 2. An additional five (5) delegates, who are either a public member or board administrator from
16 a state licensing board, shall be chosen by the Executive Committee from a pool of nominees
17 provided by the Commission at Large.

18 3. Any delegate may be removed or suspended from office as provided by the law of the state
19 from which the delegate is appointed.

20 4. The member state board shall fill any vacancy occurring on the Commission, within 90 days.

21 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and
22 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs
23 of the Commission.

24 6. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may
25 provide for delegates' participation in meetings by telephone or other means of communication.

26 7. The Commission shall meet at least once during each calendar year. Additional meetings
27 shall be held as set forth in the bylaws.

28 C. The Commission shall have the following powers and duties:

29 1. Establish the fiscal year of the Commission;

30 2. Establish bylaws;

31 3. Establish a Code of Ethics;

32 4. Maintain its financial records in accordance with the bylaws;

33 5. Meet and take actions as are consistent with the provisions of this Compact and the bylaws;

34 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of
35 this Compact. The rules shall have the force and effect of law and shall be binding in all member
36 states;

1 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided
2 that the standing of any state audiology or speech-language pathology licensing board to sue or be
3 sued under applicable law shall not be affected;

4 8. Purchase and maintain insurance and bonds;

5 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees
6 of a member state;

7 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals
8 appropriate authority to carry out the purposes of the Compact, and to establish the Commission's
9 personnel policies and programs relating to conflicts of interest, qualifications of personnel, and
10 other related personnel matters;

11 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
12 materials and services, and to receive, utilize and dispose of the same; provided that at all times the
13 Commission shall avoid any appearance of impropriety and/or conflict of interest;

14 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve
15 or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid
16 any appearance of impropriety;

17 13. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
18 property real, personal, or mixed;

19 14. Establish a budget and make expenditures;

20 15. Borrow money;

21 16. Appoint committees, including standing committees composed of members, and other
22 interested persons as may be designated in this Compact and the bylaws;

23 17. Provide and receive information from, and cooperate with, law enforcement agencies;

24 18. Establish and elect an Executive Committee; and

25 19. Perform other functions as may be necessary or appropriate to achieve the purposes of this
26 Compact consistent with the state regulation of audiology and speech-language pathology licensure
27 and practice.

28 D. The Executive Committee

29 The Executive Committee shall have the power to act on behalf of the Commission according to the
30 terms of this Compact:

31 1. The Executive Committee shall be composed of ten (10) members:

32 a. Seven (7) voting members who are elected by the Commission from the current membership
33 of the Commission;

34 b. Two (2) ex-officios, consisting of one nonvoting member from a recognized national audiology
35 professional association and one nonvoting member from a recognized national speech-language
36 pathology association; and

1 c. One (1) ex-officio, nonvoting member from the recognized membership organization of the
2 audiology and speech-language pathology licensing boards.

3 E. The ex-officio members shall be selected by their respective organizations.

4 1. The Commission may remove any member of the Executive Committee as provided in bylaws.

5 2. The Executive Committee shall meet at least annually.

6 3. The Executive Committee shall have the following duties and responsibilities:

7 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this
8 Compact legislation, fees paid by Compact member states such as annual dues, and any commission
9 Compact fee charged to licensees for the compact privilege;

10 b. Ensure Compact administration services are appropriately provided, contractual or
11 otherwise;

12 c. Prepare and recommend the budget;

13 d. Maintain financial records on behalf of the Commission;

14 e. Monitor Compact compliance of member states and provide compliance reports to the
15 Commission;

16 f. Establish additional committees as necessary; and

17 g. Other duties as provided in rules or bylaws.

18 4. Meetings of the Commission

19 All meetings shall be open to the public, and public notice of meetings shall be given in the same
20 manner as required under the rulemaking provisions in Section 10.

21 5. The Commission or the Executive Committee or other committees of the Commission may
22 convene in a closed, non-public meeting if the Commission or Executive Committee or other
23 committees of the Commission must discuss:

24 a. Non-compliance of a member state with its obligations under the
25 Compact;

26 b. The employment, compensation, discipline or other matters, practices or procedures related to
27 specific employees or other matters related to the Commission's internal personnel practices and
28 procedures;

29 c. Current, threatened, or reasonably anticipated litigation;

30 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

31 e. Accusing any person of a crime or formally censuring any person;

32 f. Disclosure of trade secrets or commercial or financial information that is privileged or
33 confidential;

34 g. Disclosure of information of a personal nature where disclosure would constitute a clearly
35 unwarranted invasion of personal privacy;

36 h. Disclosure of investigative records compiled for law enforcement purposes;

1 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
2 use of the Commission or other committee charged with responsibility of investigation or
3 determination of compliance issues pursuant to the Compact; or

4 j. Matters specifically exempted from disclosure by federal or member state statute.

5 6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's
6 legal counsel or designee shall certify that the meeting may be closed and shall reference each
7 relevant exempting provision.

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

14 8. Financing of the Commission

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

17 b. The Commission may accept any and all appropriate revenue sources, donations, and grants
18 of money, equipment, supplies, materials, and services.

19 c. The Commission may levy on and collect an annual assessment from each member state or
20 impose fees on other parties to cover the cost of the operations and activities of the Commission and
21 its staff, which must be in a total amount sufficient to cover its annual budget as approved each year
22 for which revenue is not provided by other sources. The aggregate annual assessment amount shall
23 be allocated based upon a formula to be determined by the Commission, which shall promulgate a
24 rule binding upon all member states.

25 9. The Commission shall not incur obligations of any kind prior to securing the funds adequate
26 to meet the same; nor shall the Commission pledge the credit of any of the member states, except by
27 and with the authority of the member state.

28 10. The Commission shall keep accurate accounts of all receipts and disbursements. The
29 receipts and disbursements of the Commission shall be subject to the audit and accounting
30 procedures established under its bylaws. However, all receipts and disbursements of funds handled
31 by the Commission shall be audited yearly by a certified or licensed public accountant, and the
32 report of the audit shall be included in and become part of the annual report of the Commission.

33 F. Qualified Immunity, Defense, and Indemnification

34 1. The members, officers, executive director, employees and representatives of the Commission
35 shall be immune from suit and liability, either personally or in their official capacity, for any claim
36 for damage to or loss of property or personal injury or other civil liability caused by or arising out of
37 any actual or alleged act, error or omission that occurred, or that the person against whom the claim

1 is made had a reasonable basis for believing occurred within the scope of Commission employment,
2 duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any
3 person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or
4 willful or wanton misconduct of that person.

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

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

20 SECTION 9. DATA SYSTEM

21 A. The Commission shall provide for the development, maintenance, and utilization of a
22 coordinated database and reporting system containing licensure, adverse action, and investigative
23 information on all licensed individuals in member states.

24 B. Notwithstanding any other provision of state law to the contrary, a member state shall
25 submit a uniform data set to the data system on all individuals to whom this Compact is applicable
26 as required by the rules of the Commission, including:

- 27 1. Identifying information;
- 28 2. Licensure data;
- 29 3. Adverse actions against a license or compact privilege;
- 30 4. Non-confidential information related to alternative program participation;
- 31 5. Any denial of application for licensure, and the reason(s) for denial; and
- 32 6. Other information that may facilitate the administration of this Compact, as determined by
33 the rules of the Commission.

34 C. Investigative information pertaining to a licensee in any member state shall only be available
35 to other member states.

1 D. The Commission shall promptly notify all member states of any adverse action taken against
2 a licensee or an individual applying for a license. Adverse action information pertaining to a licensee
3 in any member state shall be available to any other member state.

4 E. Member states contributing information to the data system may designate information that
5 may not be shared with the public without the express permission of the contributing state.

6 F. Any information submitted to the data system that is subsequently required to be expunged
7 by the laws of the member state contributing the information shall be removed from the data
8 system.

9 SECTION 10. RULEMAKING

10 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in
11 this Section and the rules adopted thereunder. Rules and amendments shall become binding as of
12 the date specified in each rule or amendment.

13 B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute
14 or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of
15 the rule, the rule shall have no further force and effect in any member state.

16 C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
17 Commission.

18 D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least
19 thirty (30) days in advance of the meeting at which the rule shall be considered and voted upon, the
20 Commission shall file a Notice of Proposed Rulemaking:

21 1. On the website of the Commission or other publicly accessible platform; and

22 2. On the website of each member state audiology or speech-language pathology licensing board
23 or other publicly accessible platform or the publication in which each state would otherwise publish
24 proposed rules.

25 E. The Notice of Proposed Rulemaking shall include:

26 1. The proposed time, date, and location of the meeting in which the rule shall be considered and
27 voted upon;

28 2. The text of the proposed rule or amendment and the reason for the proposed rule;

29 3. A request for comments on the proposed rule from any interested person; and

30 4. The manner in which interested persons may submit notice to the Commission of their
31 intention to attend the public hearing and any written comments.

32 F. Prior to the adoption of a proposed rule, the Commission shall allow persons to submit
33 written data, facts, opinions and arguments, which shall be made available to the public.

34 G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or
35 amendment if a hearing is requested by:

36 1. At least twenty-five (25) persons;

37 2. A state or federal governmental subdivision or agency; or

1 3. An association having at least twenty-five (25) members.

2 H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the
3 place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
4 Commission shall publish the mechanism for access to the electronic hearing.

5 1. All persons wishing to be heard at the hearing shall notify the executive director of the
6 Commission or other designated member in writing of their desire to appear and testify at the
7 hearing not less than five (5) business days before the scheduled date of the hearing.

8 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair
9 and reasonable opportunity to comment orally or in writing.

10 3. All hearings shall be recorded. A copy of the recording shall be made available on request.

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

13 I. Following the scheduled hearing date, or by the close of business on the scheduled hearing
14 date if the hearing was not held, the Commission shall consider all written and oral comments
15 received.

16 J. If no written notice of intent to attend the public hearing by interested parties is received, the
17 Commission may proceed with promulgation of the proposed rule without a public hearing.

18 K. The Commission shall, by majority vote of all members, take final action on the proposed rule
19 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full
20 text of the rule.

21 L. Upon determination that an emergency exists, the Commission may consider and adopt an
22 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual
23 rulemaking procedures provided in the Compact and in this section shall be retroactively applied to
24 the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective
25 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
26 immediately in order to:

27 1. Meet an imminent threat to public health, safety, or welfare;

28 2. Prevent a loss of Commission or member state funds; or

29 3. Meet a deadline for the promulgation of an administrative rule that is established by federal
30 law or rule.

31 M. The Commission or an authorized committee of the Commission may direct revisions to a
32 previously adopted rule or amendment for purposes of correcting typographical errors, errors in
33 format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted
34 on the website of the Commission. The revision shall be subject to challenge by any person for a
35 period of thirty (30) days after posting. The revision may be challenged only on grounds that the
36 revision results in a material change to a rule. A challenge shall be made in writing and delivered to
37 the chair of the Commission prior to the end of the notice period. If no challenge is made, the

1 revision shall take effect without further action. If the revision is challenged, the revision may not
2 take effect without the approval of the Commission.

3 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

4 A. Dispute Resolution

5 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to
6 the Compact that arise among member states and between member and non-member states.

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

9 B. Enforcement

10 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and
11 rules of this Compact.

12 2. By majority vote, the Commission may initiate legal action in the United States District
13 Court for the District of Columbia or the federal district where the Commission has its principal
14 offices against a member state in default to enforce compliance with the provisions of the Compact
15 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and
16 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all
17 costs of litigation, including reasonable attorney's fees.

18 3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission
19 may pursue any other remedies available under federal or state law.

20 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERstate COMMISSION FOR
21 AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES,
22 WITHDRAWAL, AND AMENDMENT

23 A. The Compact shall come into effect on the date on which the Compact statute is enacted into
24 law in the 10th member state. The provisions, which become effective at that time, shall be limited
25 to the powers granted to the Commission relating to assembly and the promulgation of rules.
26 Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the
27 implementation and administration of the Compact.

28 B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
29 shall be subject to the rules as they exist on the date on which the Compact becomes law in that
30 state. Any rule that has been previously adopted by the Commission shall have the full force and
31 effect of law on the day the Compact becomes law in that state.

32 C. Any member state may withdraw from this Compact by enacting a statute repealing the
33 same.

34 1. A member state's withdrawal shall not take effect until six (6) months after enactment of the
35 repealing statute.

1 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology
2 or speech-language pathology licensing board to comply with the investigative and adverse action
3 reporting requirements of this act prior to the effective date of withdrawal.

4 D. Nothing contained in this Compact shall be construed to invalidate or prevent any audiology
5 or speech-language pathology licensure agreement or other cooperative arrangement between a
6 member state and a non-member state that does not conflict with the provisions of this Compact.

7 E. This Compact may be amended by the member states. No amendment to this Compact shall
8 become effective and binding upon any member state until it is enacted into the laws of all member
9 states.

10 SECTION 13. CONSTRUCTION AND SEVERABILITY

11 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of
12 this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is
13 declared to be contrary to the constitution of any member state or of the United States or the
14 applicability thereof to any government, agency, person or circumstance is held invalid, the validity
15 of the remainder of this Compact and the applicability thereof to any government, agency, person or
16 circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution
17 of any member state, the Compact shall remain in full force and effect as to the remaining member
18 states and in full force and effect as to the member state affected as to all severable matters.

19 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

20 A. Nothing herein prevents the enforcement of any other law of a member state that is not
21 inconsistent with the Compact.

22 B. All laws in a member state in conflict with the Compact are superseded to the extent of the
23 conflict.

24 C. All lawful actions of the Commission, including all rules and bylaws promulgated by the
25 Commission, are binding upon the member states.

26 D. All agreements between the Commission and the member states are binding in accordance
27 with their terms.

28 E. In the event any provision of the Compact exceeds the constitutional limits imposed on the
29 legislature of any member state, the provision shall be ineffective to the extent of the conflict with
30 the constitutional provision in question in that member state.

31 329-D:3 Occupational Therapy Licensure Compact. The state of New Hampshire hereby adopts
32 the provisions of the Occupational Therapy Licensure Compact as follows:

33 SECTION 1. PURPOSE

34 The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal
35 of improving public access to occupational therapy services. The Practice of occupational therapy
36 occurs in the state where the patient/client is located at the time of the patient/client encounter. The

1 Compact preserves the regulatory authority of states to protect public health and safety through the
2 current system of state licensure.

3 This Compact is designed to achieve the following objectives:

4 A. Increase public access to occupational therapy services by providing for the mutual
5 recognition of other member state licenses;

6 B. Enhance the states' ability to protect the public's health and safety;

7 C. Encourage the cooperation of member states in regulating multi-state occupational therapy
8 practice;

9 D. Support spouses of relocating military members;

10 E. Enhance the exchange of licensure, investigative, and disciplinary information between
11 Member states;

12 F. Allow a remote state to hold a provider of services with a Compact privilege in that state
13 accountable to that state's practice standards; and

14 G. Facilitate the use of telehealth technology in order to increase access to occupational therapy
15 services.

16 SECTION 2. DEFINITIONS

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

18 A. "Active Duty Military" means full-time duty status in the active uniformed service of the
19 United States, including members of the National Guard and Reserve on active duty orders
20 pursuant to 10 U.S.C. Chapter 1209 and Section 1211.

21 B. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a
22 state's laws which is imposed by a licensing board or other authority against an occupational
23 therapist or occupational therapy assistant, including actions against an individual's license or
24 Compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee, or
25 restriction on the licensee's practice.

26 C. "Alternative Program" means a non-disciplinary monitoring process approved by an
27 occupational therapy licensing board.

28 D. "Compact privilege" means the authorization, which is equivalent to a license, granted by a
29 remote state to allow a licensee from another member state to practice as an occupational therapist
30 or practice as an occupational therapy assistant in the remote state under its laws and rules. The
31 practice of occupational therapy occurs in the member state where the patient/client is located at the
32 time of the patient/client encounter.

33 E. "Continuing Competence/Education" means a requirement, as a condition of license renewal,
34 to provide evidence of participation in, and/or completion of, educational and professional activities
35 relevant to practice or area of work.

36 F. "Current significant investigative information" means investigative information that a
37 licensing board, after an inquiry or investigation that includes notification and an opportunity for

1 the occupational therapist or occupational therapy assistant to respond, if required by state law, has
2 reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

3 G. "Data system" means a repository of information about licensees, including but not limited to
4 license status, investigative information, Compact privileges, and adverse actions.

5 H. "Encumbered license" means a license in which an adverse action restricts the practice of
6 occupational therapy by the licensee or said adverse action has been reported to the National
7 Practitioners Data Bank (NPDB).

8 I. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and
9 within the powers granted to them by, the Commission.

10 J. "Home state" means the member state that is the licensee's Primary state of residence.

11 K. "Impaired practitioner" means individuals whose professional practice is adversely affected
12 by substance abuse, addiction, or other health-related conditions.

13 L. "Investigative Information" means information, records, and/or documents received or
14 generated by an occupational therapy licensing board pursuant to an investigation.

15 M. "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws
16 and rules governing the practice of occupational therapy in a state.

17 N. "Licensee" means an individual who currently holds an authorization from the state to
18 practice as an occupational therapist or as an occupational therapy assistant.

19 O. "Member state" means a state that has enacted the Compact.

20 P. "Occupational therapist" means an individual who is licensed by a state to practice
21 occupational therapy.

22 Q. "Occupational therapy assistant" means an individual who is licensed by a state to assist in
23 the practice of occupational therapy.

24 R. "Occupational therapy," "occupational therapy practice," and the "practice of occupational
25 therapy" mean the care and services provided by an occupational therapist or an occupational
26 therapy assistant as set forth in the member state's statutes and regulations.

27 S. "Occupational therapy Compact Commission" or "Commission" means the national
28 administrative body whose membership consists of all states that have enacted the Compact.

29 T. "Occupational therapy licensing board" or "licensing board" means the agency of a state that
30 is authorized to license and regulate occupational therapists and occupational therapy assistants.

31 U. "Primary state of residence" means the state (also known as the home state) in which an
32 occupational therapist or occupational therapy assistant who is not Active Duty Military declares a
33 primary residence for legal purposes as verified by: driver's license, federal income tax return, lease,
34 deed, mortgage or voter registration or other verifying documentation as further defined by
35 Commission rules.

36 V. "Remote state" means a member state other than the home state, where a licensee is
37 exercising or seeking to exercise the Compact privilege.

1 W. "Rule" means a regulation promulgated by the Commission that has the force of law.

2 X. "State" means any state, commonwealth, district, or territory of the United States of America
3 that regulates the practice of occupational therapy.

4 Y. "Single-state license" means an occupational therapist or occupational therapy assistant
5 license issued by a member state that authorizes practice only within the issuing state and does not
6 include a Compact privilege in any other member state.

7 Z. "Telehealth" means the application of telecommunication technology to deliver occupational
8 therapy services for assessment, intervention and/or consultation.

9 SECTION 3. STATE PARTICIPATION IN THE COMPACT

10 A. To participate in the Compact, a member state shall:

11 1. License occupational therapists and occupational therapy assistants

12 2. Participate fully in the Commission's data system, including but not limited to using the
13 Commission's unique identifier as defined in rules of the Commission;

14 3. Have a mechanism in place for receiving and investigating complaints about licensees;

15 4. Notify the Commission, in compliance with the terms of the Compact and rules, of any
16 adverse action or the availability of investigative information regarding a licensee;

17 5. Implement or utilize procedures for considering the criminal history records of applicants for
18 an initial Compact privilege. These procedures shall include the submission of fingerprints or other
19 biometric-based information by applicants for the purpose of obtaining an applicant's criminal
20 history record information from the Federal Bureau of Investigation and the agency responsible for
21 retaining that state's criminal records;

22 a. A member state shall, within a time frame established by the Commission, require a criminal
23 background check for a licensee seeking/applying for a Compact privilege whose Primary state of
24 residence is that member state, by receiving the results of the Federal Bureau of Investigation
25 criminal record search, and shall use the results in making licensure decisions.

26 b. Communication between a member state, the Commission and among member states
27 regarding the verification of eligibility for licensure through the Compact shall not include any
28 information received from the Federal Bureau of Investigation relating to a federal criminal records
29 check performed by a member state under Public Law 92-544.

30 6. Comply with the rules of the Commission;

31 7. Utilize only a recognized national examination as a requirement for licensure pursuant to the
32 rules of the Commission; and

33 8. Have Continuing Competence/Education requirements as a condition for license renewal.

34 B. A member state shall grant the Compact privilege to a licensee holding a valid unencumbered
35 license in another member state in accordance with the terms of the Compact and rules.

36 C. Member states may charge a fee for granting a Compact privilege.

1 D. A member state shall provide for the state's delegate to attend all occupational therapy
2 Compact Commission meetings.

3 E. Individuals not residing in a member state shall continue to be able to apply for a member
4 state's Single-state license as provided under the laws of each member state. However, the Single-
5 state license granted to these individuals shall not be recognized as granting the Compact privilege
6 in any other member state.

7 F. Nothing in this Compact shall affect the requirements established by a member state for the
8 issuance of a Single-state license.

9 SECTION 4. COMPACT PRIVILEGE

10 A. To exercise the Compact privilege under the terms and provisions of the Compact, the
11 licensee shall:

12 1. Hold a license in the home state;

13 2. Have a valid United States Social Security Number or National Practitioner Identification
14 number;

15 3. Have no encumbrance on any state license;

16 4. Be eligible for a Compact privilege in any member state in accordance with Section 4D, F, G,
17 and H;

18 5. Have paid all fines and completed all requirements resulting from any adverse action against
19 any license or Compact privilege, and two years have elapsed from the date of such completion;

20 6. Notify the Commission that the licensee is seeking the Compact privilege within a remote
21 state(s);

22 7. Pay any applicable fees, including any state fee, for the Compact privilege;

23 8. Complete a criminal background check in accordance with Section 3A(5);

24 a. The licensee shall be responsible for the payment of any fee associated with the completion of
25 a criminal background check.

26 9. Meet any jurisprudence requirements established by the remote state(s) in which the licensee
27 is seeking a Compact privilege; and

28 10. Report to the Commission adverse action taken by any non-member state within 30 days
29 from the date the adverse action is taken.

30 B. The Compact privilege is valid until the expiration date of the home state license. The
31 licensee must comply with the requirements of Section 4A to maintain the Compact privilege in the
32 remote state.

33 C. A licensee providing occupational therapy in a remote state under the Compact privilege
34 shall function within the laws and regulations of the remote state.

35 D. Occupational therapy assistants practicing in a remote state shall be supervised by an
36 occupational therapist licensed or holding a Compact privilege in that remote state.

1 E. A licensee providing occupational therapy in a remote state is subject to that state's
2 regulatory authority. A remote state may, in accordance with due process and that state's laws,
3 remove a licensee's Compact privilege in the remote state for a specific period of time, impose fines,
4 and/or take any other necessary actions to protect the health and safety of its citizens. The licensee
5 may be ineligible for a Compact privilege in any state until the specific time for removal has passed
6 and all fines are paid.

7 F. If a home state license is encumbered, the licensee shall lose the Compact privilege in any
8 remote state until the following occur:

9 1. The home state license is no longer encumbered; and

10 2. Two years have elapsed from the date on which the home state license is no longer
11 encumbered in accordance with Section 4(F)(1).

12 G. Once an Encumbered license in the home state is restored to good standing, the licensee must
13 meet the requirements of Section 4A to obtain a Compact privilege in any remote state.

14 H. If a licensee's Compact privilege in any remote state is removed, the individual may lose the
15 Compact privilege in any other remote state until the following occur:

16 1. The specific period of time for which the Compact privilege was removed has ended;

17 2. All fines have been paid and all conditions have been met;

18 3. Two years have elapsed from the date of completing requirements for 4(H)(1) and (2); and

19 4. The Compact privileges are reinstated by the Commission, and the compact data system is
20 updated to reflect reinstatement.

21 I. If a licensee's Compact privilege in any remote state is removed due to an erroneous charge,
22 privileges shall be restored through the compact data system.

23 J. Once the requirements of Section 4H have been met, the license must meet the requirements
24 in Section 4A to obtain a Compact privilege in a remote state.

25 SECTION 5: OBTAINING A NEW HOME state LICENSE BY VIRTUE OF COMPACT PRIVILEGE

26 A. An occupational therapist or occupational therapy assistant may hold a home state license,
27 which allows for Compact privileges in member states, in only one member state at a time.

28 B. If an occupational therapist or occupational therapy assistant changes primary state of
29 residence by moving between two member states:

30 1. The occupational therapist or occupational therapy assistant shall file an application for
31 obtaining a new home state license by virtue of a Compact privilege, pay all applicable fees, and
32 notify the current and new home state in accordance with applicable rules adopted by the
33 Commission.

34 2. Upon receipt of an application for obtaining a new home state license by virtue of compact
35 privilege, the new home state shall verify that the occupational therapist or occupational therapy
36 assistant meets the pertinent criteria outlined in Section 4 via the data system, without need for
37 primary source verification except for:

1 a. An FBI fingerprint based criminal background check if not previously performed or updated
2 pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;

3 b. Other criminal background check as required by the new home state; and

4 c. Submission of any requisite jurisprudence requirements of the new home state.

5 3. The former home state shall convert the former home state license into a Compact privilege
6 once the new home state has activated the new home state license in accordance with applicable
7 rules adopted by the Commission.

8 4. Notwithstanding any other provision of this Compact, if the occupational therapist or
9 occupational therapy assistant cannot meet the criteria in Section 4, the new home state shall apply
10 its requirements for issuing a new Single-state license.

11 5. The occupational therapist or the occupational therapy assistant shall pay all applicable fees
12 to the new home state in order to be issued a new home state license.

13 C. If an occupational therapist or occupational therapy assistant changes primary state of
14 residence by moving from a member state to a non-member state, or from a non-member state to a
15 member state, the state criteria shall apply for issuance of a Single-state license in the new state.

16 D. Nothing in this compact shall interfere with a licensee's ability to hold a Single-state license
17 in multiple states; however, for the purposes of this compact, a licensee shall have only one home
18 state license.

19 E. Nothing in this Compact shall affect the requirements established by a member state for the
20 issuance of a Single-state license.

21 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

22 A. Active Duty Military personnel, or their spouses, shall designate a home state where the
23 individual has a current license in good standing. The individual may retain the home state
24 designation during the period the service member is on active duty. Subsequent to designating a
25 home state, the individual shall only change their home state through application for licensure in the
26 new state or through the process described in Section 5.

27 SECTION 7. ADVERSE ACTIONS

28 A. A home state shall have exclusive power to impose adverse action against an occupational
29 therapist's or occupational therapy assistant's license issued by the home state.

30 B. In addition to the other powers conferred by state law, a remote state shall have the
31 authority, in accordance with existing state due process law, to:

32 1. Take adverse action against an occupational therapist's or occupational therapy assistant's
33 Compact privilege within that member state.

34 2. Issue subpoenas for both hearings and investigations that require the attendance and
35 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board
36 in a member state for the attendance and testimony of witnesses or the production of evidence from
37 another member state shall be enforced in the latter state by any court of competent jurisdiction,

1 according to the practice and procedure of that court applicable to subpoenas issued in proceedings
2 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and
3 other fees required by the service statutes of the state in which the witnesses or evidence are
4 located.

5 C. For purposes of taking adverse action, the home state shall give the same priority and effect
6 to reported conduct received from a member state as it would if the conduct had occurred within the
7 home state. In so doing, the home state shall apply its own state laws to determine appropriate
8 action.

9 D. The home state shall complete any pending investigations of an occupational therapist or
10 occupational therapy assistant who changes primary state of residence during the course of the
11 investigations. The home state, where the investigations were initiated, shall also have the
12 authority to take appropriate action(s) and shall promptly report the conclusions of the
13 investigations to the OT Compact Commission data system. The occupational therapy Compact
14 Commission data system administrator shall promptly notify the new home state of any adverse
15 actions.

16 E. A member state, if otherwise permitted by state law, may recover from the affected
17 occupational therapist or occupational therapy assistant the costs of investigations and disposition of
18 cases resulting from any adverse action taken against that occupational therapist or occupational
19 therapy assistant.

20 F. A member state may take adverse action based on the factual findings of the remote state,
21 provided that the member state follows its own procedures for taking the adverse action.

22 G. Joint Investigations

23 1. In addition to the authority granted to a member state by its respective state occupational
24 therapy laws and regulations or other applicable state law, any member state may participate with
25 other member states in joint investigations of licensees.

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

28 H. If an adverse action is taken by the home state against an occupational therapist's or
29 occupational therapy assistant's license, the occupational therapist's or occupational therapy
30 assistant's Compact privilege in all other member states shall be deactivated until all encumbrances
31 have been removed from the state license. All home state disciplinary orders that impose adverse
32 action against an occupational therapist's or occupational therapy assistant's license shall include a
33 statement that the occupational therapist's or occupational therapy assistant's Compact privilege is
34 deactivated in all member states during the pendency of the order.

35 I. If a member state takes adverse action, it shall promptly notify the administrator of the data
36 system. The administrator of the data system shall promptly notify the home state of any adverse
37 actions by remote states.

1 J. Nothing in this Compact shall override a member state's decision that participation in an
2 Alternative Program may be used in lieu of adverse action.

3 SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT
4 COMMISSION.

5 A. The Compact member states hereby create and establish a joint public agency known as the
6 occupational therapy Compact Commission:

7 1. The Commission is an instrumentality of the Compact states.

8 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely
9 and exclusively in a court of competent jurisdiction where the principal office of the Commission is
10 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or
11 consents to participate in alternative dispute resolution proceedings.

12 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

13 B. Membership, Voting, and Meetings

14 1. Each member state shall have and be limited to one (1) delegate selected by that member
15 state's licensing board.

16 2. The delegate shall be either:

17 a. A current member of the licensing board, who is an occupational therapist, occupational
18 therapy assistant, or public member; or

19 b. An administrator of the licensing board.

20 3. Any delegate may be removed or suspended from office as provided by the law of the state
21 from which the delegate is appointed.

22 4. The member state board shall fill any vacancy occurring in the Commission within 90 days.

23 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and
24 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs
25 of the Commission. A delegate shall vote in person or by such other means as provided in the
26 bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other
27 means of communication.

28 6. The Commission shall meet at least once during each calendar year. Additional meetings
29 shall be held as set forth in the bylaws.

30 7. The Commission shall establish by rule a term of office for delegates.

31 C. The Commission shall have the following powers and duties:

32 1. Establish a Code of Ethics for the Commission;

33 2. Establish the fiscal year of the Commission;

34 3. Establish bylaws;

35 4. Maintain its financial records in accordance with the bylaws;

36 5. Meet and take such actions as are consistent with the provisions of this Compact and the
37 bylaws;

1 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of
2 this Compact. The rules shall have the force and effect of law and shall be binding in all member
3 states;

4 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided
5 that the standing of any state occupational therapy licensing board to sue or be sued under
6 applicable law shall not be affected;

7 8. Purchase and maintain insurance and bonds;

8 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees
9 of a member state;

10 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such
11 individuals appropriate authority to carry out the purposes of the Compact, and establish the
12 Commission's personnel policies and programs relating to conflicts of interest, qualifications of
13 personnel, and other related personnel matters;

14 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
15 materials and services, and receive, utilize and dispose of the same; provided that at all times the
16 Commission shall avoid any appearance of impropriety and/or conflict of interest;

17 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or
18 use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any
19 appearance of impropriety;

20 13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
21 property real, personal, or mixed;

22 14. Establish a budget and make expenditures;

23 15. Borrow money;

24 16. Appoint committees, including standing committees composed of members, state regulators,
25 state legislators or their representatives, and consumer representatives, and such other interested
26 persons as may be designated in this Compact and the bylaws;

27 17. Provide and receive information from, and cooperate with, law enforcement agencies;

28 18. Establish and elect an Executive Committee; and

29 19. Perform such other functions as may be necessary or appropriate to achieve the purposes of
30 this Compact consistent with the state regulation of occupational therapy licensure and practice.

31 D. The Executive Committee. The Executive Committee shall have the power to act on behalf of
32 the Commission according to the terms of this Compact.

33 1. The Executive Committee shall be composed of nine members:

34 a. Seven voting members who are elected by the Commission from the current membership of
35 the Commission;

36 b. One ex-officio, nonvoting member from a recognized national occupational therapy
37 professional association; and

1 c. One ex-officio, nonvoting member from a recognized national occupational therapy
2 certification organization.

3 2. The ex-officio members will be selected by their respective organizations.

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

5 4. The Executive Committee shall meet at least annually.

6 5. The Executive Committee shall have the following duties and responsibilities:

7 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this
8 Compact legislation, fees paid by Compact member states such as annual dues, and any Commission
9 Compact fee charged to licensees for the Compact privilege;

10 b. Ensure Compact administration services are appropriately provided, contractual or
11 otherwise;

12 c. Prepare and recommend the budget;

13 d. Maintain financial records on behalf of the Commission;

14 e. Monitor Compact compliance of member states and provide compliance reports to the
15 Commission;

16 f. Establish additional committees as necessary; and

17 g. Perform other duties as provided in rules or bylaws.

18 E. Meetings of the Commission

19 1. All meetings shall be open to the public, and public notice of meetings shall be given in the
20 same manner as required under the rulemaking provisions in Section 10.

21 2. The Commission or the Executive Committee or other committees of the Commission may
22 convene in a closed, non-public meeting if the Commission or Executive Committee or other
23 committees of the Commission must discuss:

24 a. Non-compliance of a member state with its obligations under the Compact;

25 b. The employment, compensation, discipline or other matters, practices or procedures related to
26 specific employees or other matters related to the Commission's internal personnel practices and
27 procedures;

28 c. Current, threatened, or reasonably anticipated litigation;

29 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

30 e. Accusing any person of a crime or formally censuring any person;

31 f. Disclosure of trade secrets or commercial or financial information that is privileged or
32 confidential;

33 g. Disclosure of information of a personal nature where disclosure would constitute a clearly
34 unwarranted invasion of personal privacy;

35 h. Disclosure of investigative records compiled for law enforcement purposes;

1 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
2 use of the Commission or other committee charged with responsibility of investigation or
3 determination of compliance issues pursuant to the Compact; or

4 j. Matters specifically exempted from disclosure by federal or member state statute.

5 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's
6 legal counsel or designee shall certify that the meeting may be closed and shall reference each
7 relevant exempting provision.

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

14 F. Financing of the Commission

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

17 2. The Commission may accept any and all appropriate revenue sources, donations, and grants
18 of money, equipment, supplies, materials, and services.

19 3. The Commission may levy on and collect an annual assessment from each member state or
20 impose fees on other parties to cover the cost of the operations and activities of the Commission and
21 its staff, which must be in a total amount sufficient to cover its annual budget as approved by the
22 Commission each year for which revenue is not provided by other sources. The aggregate annual
23 assessment amount shall be allocated based upon a formula to be determined by the Commission,
24 which shall promulgate a rule binding upon all member states.

25 4. The Commission shall not incur obligations of any kind prior to securing the funds adequate
26 to meet the same; nor shall the Commission pledge the credit of any of the member states, except by
27 and with the authority of the member state.

28 5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts
29 and disbursements of the Commission shall be subject to the audit and accounting procedures
30 established under its bylaws. However, all receipts and disbursements of funds handled by the
31 Commission shall be audited yearly by a certified or licensed public accountant, and the report of the
32 audit shall be included in and become part of the annual report of the Commission.

33 G. Qualified Immunity, Defense, and Indemnification

34 1. The members, officers, executive director, employees and representatives of the Commission
35 shall be immune from suit and liability, either personally or in their official capacity, for any claim
36 for damage to or loss of property or personal injury or other civil liability caused by or arising out of
37 any actual or alleged act, error or omission that occurred, or that the person against whom the claim

1 is made had a reasonable basis for believing occurred within the scope of Commission employment,
2 duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any
3 such person from suit and/or liability for any damage, loss, injury, or liability caused by the
4 intentional or willful or wanton misconduct of that person.

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

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

20 SECTION 9. DATA SYSTEM

21 A. The Commission shall provide for the development, maintenance, and utilization of a
22 coordinated database and reporting system containing licensure, adverse action, and investigative
23 information on all licensed individuals in member states.

24 B. A member state shall submit a uniform data set to the data system on all individuals to
25 whom this Compact is applicable (utilizing a unique identifier) as required by the rules of the
26 Commission, including:

- 27 1. Identifying information;
- 28 2. Licensure data;
- 29 3. Adverse actions against a license or Compact privilege;
- 30 4. Non-confidential information related to Alternative Program participation;
- 31 5. Any denial of application for licensure, and the reason(s) for such denial;
- 32 6. Other information that may facilitate the administration of this Compact, as determined by
33 the rules of the Commission; and
- 34 7. Current significant investigative information.

35 C. Current significant investigative information and other investigative information pertaining
36 to a licensee in any member state will only be available to other member states.

1 D. The Commission shall promptly notify all member states of any adverse action taken against
2 a licensee or an individual applying for a license. adverse action information pertaining to a licensee
3 in any member state will be available to any other member state.

4 E. Member states contributing information to the data system may designate information that
5 may not be shared with the public without the express permission of the contributing state.

6 F. Any information submitted to the data system that is subsequently required to be expunged
7 by the laws of the member state contributing the information shall be removed from the data
8 system.

9 **SECTION 10. RULEMAKING**

10 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in
11 this Section and the rules adopted thereunder. Rules and amendments shall become binding as of
12 the date specified in each rule or amendment.

13 B. The Commission shall promulgate reasonable rules in order to effectively and efficiently
14 achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission
15 exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the
16 Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid
17 and have no force and effect.

18 C. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute
19 or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of
20 the rule, then such rule shall have no further force and effect in any member state.

21 D. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
22 Commission.

23 E. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least
24 thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the
25 Commission shall file a notice of proposed rulemaking:

- 26 1. On the website of the Commission or other publicly accessible platform; and
27 2. On the website of each member state occupational therapy licensing board or other publicly
28 accessible platform or the publication in which each state would otherwise publish proposed rules.

29 F. The notice of proposed rulemaking shall include:

- 30 1. The proposed time, date, and location of the meeting in which the rule will be considered and
31 voted upon;
32 2. The text of the proposed rule or amendment and the reason for the proposed rule;
33 3. A request for comments on the proposed rule from any interested person; and
34 4. The manner in which interested persons may submit notice to the Commission of their
35 intention to attend the public hearing and any written comments.

36 G. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written
37 data, facts, opinions, and arguments, which shall be made available to the public.

1 H. The Commission shall grant an opportunity for a public hearing before it adopts a rule or
2 amendment if a hearing is requested by:

- 3 1. At least twenty five (25) persons;
- 4 2. A state or federal governmental subdivision or agency; or
- 5 3. An association or organization having at least twenty five (25) members.

6 I. If a hearing is held on the proposed rule or amendment, the Commission shall publish the
7 place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
8 Commission shall publish the mechanism for access to the electronic hearing.

9 1. All persons wishing to be heard at the hearing shall notify the executive director of the
10 Commission or other designated member in writing of their desire to appear and testify at the
11 hearing not less than five (5) business days before the scheduled date of the hearing.

12 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair
13 and reasonable opportunity to comment orally or in writing.

14 3. All hearings will be recorded. A copy of the recording will be made available on request.

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

17 J. Following the scheduled hearing date, or by the close of business on the scheduled hearing
18 date if the hearing was not held, the Commission shall consider all written and oral comments
19 received.

20 K. If no written notice of intent to attend the public hearing by interested parties is received, the
21 Commission may proceed with promulgation of the proposed rule without a public hearing.

22 L. The Commission shall, by majority vote of all members, take final action on the proposed rule
23 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full
24 text of the rule.

25 M. Upon determination that an emergency exists, the Commission may consider and adopt an
26 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual
27 rulemaking procedures provided in the Compact and in this section shall be retroactively applied to
28 the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective
29 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
30 immediately in order to:

- 31 1. Meet an imminent threat to public health, safety, or welfare;
- 32 2. Prevent a loss of Commission or member state funds;
- 33 3. Meet a deadline for the promulgation of an administrative rule that is established by federal
34 law or rule; or
- 35 4. Protect public health and safety.

36 N. The Commission or an authorized committee of the Commission may direct revisions to a
37 previously adopted rule or amendment for purposes of correcting typographical errors, errors in

1 format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted
2 on the website of the Commission. The revision shall be subject to challenge by any person for a
3 period of thirty (30) days after posting. The revision may be challenged only on grounds that the
4 revision results in a material change to a rule. A challenge shall be made in writing and delivered to
5 the chair of the Commission prior to the end of the notice period. If no challenge is made, the
6 revision will take effect without further action. If the revision is challenged, the revision may not
7 take effect without the approval of the Commission.

8 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

9 A. Oversight

10 1. The executive, legislative, and judicial branches of state government in each member state
11 shall enforce this Compact and take all actions necessary and appropriate to effectuate the
12 Compact's purposes and intent. The provisions of this Compact and the rules promulgated
13 hereunder shall have standing as statutory law.

14 2. All courts shall take judicial notice of the Compact and the rules in any judicial or
15 administrative proceeding in a member state pertaining to the subject matter of this Compact which
16 may affect the powers, responsibilities, or actions of the Commission.

17 3. The Commission shall be entitled to receive service of process in any such proceeding, and
18 shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of
19 process to the Commission shall render a judgment or order void as to the Commission, this
20 Compact, or promulgated rules.

21 B. Default, Technical Assistance, and Termination

22 1. If the Commission determines that a member state has defaulted in the performance of its
23 obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

24 a. Provide written notice to the defaulting state and other member states of the nature of the
25 default, the proposed means of curing the default and/or any other action to be taken by the
26 Commission; and

27 b. Provide remedial training and specific technical assistance regarding the default.

28 2. If a state in default fails to cure the default, the defaulting state may be terminated from the
29 Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and
30 benefits conferred by this Compact may be terminated on the effective date of termination. A cure of
31 the default does not relieve the offending state of obligations or liabilities incurred during the period
32 of default.

33 3. Termination of membership in the Compact shall be imposed only after all other means of
34 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by
35 the Commission to the governor, the majority and minority leaders of the defaulting state's
36 legislature, and each of the member states.

1 4. A state that has been terminated is responsible for all assessments, obligations, and liabilities
2 incurred through the effective date of termination, including obligations that extend beyond the
3 effective date of termination.

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

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

11 C. Dispute Resolution

12 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to
13 the Compact that arise among member states and between member and non-member states.

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

16 D. Enforcement

17 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and
18 rules of this Compact.

19 2. By majority vote, the Commission may initiate legal action in the United States District
20 Court for the District of Columbia or the federal district where the Commission has its principal
21 offices against a member state in default to enforce compliance with the provisions of the Compact
22 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and
23 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all
24 costs of such litigation, including reasonable attorney's fees.

25 3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission
26 may pursue any other remedies available under federal or state law.

27 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR
28 OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND
29 AMENDMENT

30 A. The Compact shall come into effect on the date on which the Compact statute is enacted into
31 law in the tenth member state. The provisions, which become effective at that time, shall be limited
32 to the powers granted to the Commission relating to assembly and the promulgation of rules.
33 Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the
34 implementation and administration of the Compact.

35 B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
36 shall be subject to the rules as they exist on the date on which the Compact becomes law in that

1 state. Any rule that has been previously adopted by the Commission shall have the full force and
2 effect of law on the day the Compact becomes law in that state.

3 C. Any member state may withdraw from this Compact by enacting a statute repealing the
4 same.

5 1. A member state's withdrawal shall not take effect until six (6) months after enactment of the
6 repealing statute.

7 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's
8 occupational therapy licensing board to comply with the investigative and adverse action reporting
9 requirements of this act prior to the effective date of withdrawal.

10 D. Nothing contained in this Compact shall be construed to invalidate or prevent any
11 occupational therapy licensure agreement or other cooperative arrangement between a member state
12 and a non-member state that does not conflict with the provisions of this Compact.

13 E. This Compact may be amended by the member states. No amendment to this Compact shall
14 become effective and binding upon any member state until it is enacted into the laws of all member
15 states.

16 SECTION 13. CONSTRUCTION AND SEVERABILITY

17 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of
18 this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is
19 declared to be contrary to the constitution of any member state or of the United States or the
20 applicability thereof to any government, agency, person, or circumstance is held invalid, the validity
21 of the remainder of this Compact and the applicability thereof to any government, agency, person, or
22 circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution
23 of any member state, the Compact shall remain in full force and effect as to the remaining member
24 states and in full force and effect as to the member state affected as to all severable matters.

25 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

26 A. A licensee providing occupational therapy in a remote state under the Compact privilege
27 shall function within the laws and regulations of the remote state.

28 B. Nothing herein prevents the enforcement of any other law of a member state that is not
29 inconsistent with the Compact.

30 C. Any laws in a member state in conflict with the Compact are superseded to the extent of the
31 conflict.

32 D. Any lawful actions of the Commission, including all rules and bylaws promulgated by the
33 Commission, are binding upon the member states.

34 E. All agreements between the Commission and the member states are binding in accordance
35 with their terms.

1 F. In the event any provision of the Compact exceeds the constitutional limits imposed on the
2 legislature of any member state, the provision shall be ineffective to the extent of the conflict with
3 the constitutional provision in question in that member state.

4 3 Effective Date. Part V of this act shall take effect July 1, 2021.

5 PART VI

6 Relative to the licensure and regulation of music therapists.

7 1 New Chapter; Music Therapists. Amend RSA by inserting after chapter 326-L the following
8 new chapter:

9 CHAPTER 326-M

10 MUSIC THERAPISTS

11 326-M:1 Definitions. In this chapter and RSA 328-F:

12 I. "Board" means the music therapists governing board established in RSA 328-F.

13 II. "Board certified music therapist" means an individual who holds current board
14 certification from the Certification Board for Music Therapists.

15 III. "Executive director" means the executive director of the office of professional licensure
16 and certification.

17 IV. "Music therapist" means a person licensed to practice music therapy pursuant to this
18 chapter.

19 V. "Music therapy" means the clinical and evidence based use of music interventions to
20 accomplish individualized goals for people of all ages and ability levels within a therapeutic
21 relationship by a board certified music therapist. The music therapy interventions may include,
22 music improvisation, receptive music listening, song writing, lyric discussion, music and imagery,
23 singing, music performance, learning through music, music combined with other arts, music-assisted
24 relaxation, music-based patient education, electronic music technology, adapted music intervention
25 and movement to music. The practice of music therapy does not include the screening, diagnosis, or
26 assessment of any physical, mental, or communication disorder. This term may include:

27 (a) Acceptance of clients referred for music therapy by other health care or educational
28 professionals, family members, or caregivers.

29 (b) Assessment of clients to determine appropriate music therapy services.

30 (c) Development and implementation of individualized music therapy treatment plans
31 that identify goals, objectives, and strategies of music therapy that are appropriate for clients.

32 (d) Use of music therapy techniques such as improvisation, performance, receptive
33 music listening, song writing, lyric discussion, guided imagery with music, learning through music,
34 and movement to music.

35 (e) Evaluation of a client's response to music therapy techniques and to the client's
36 individualized music therapy treatment plan.

1 (f) Any necessary modification of the client's individualized music therapy treatment
2 plan.

3 (g) Any necessary collaboration with the other health care professionals treating a client.

4 (h) Minimizing of barriers that may restrict a client's ability to receive or fully benefit
5 from music therapy services.

6 326-M:2 Prohibition on Unlicensed Practice; Professional Identification.

7 I. No person without a license as a music therapist shall use the title "music therapist" or
8 similar title or practice music therapy.

9 II. Nothing in this chapter shall be construed to prohibit or restrict the practice, services, or
10 activities of the following:

11 (a) Any person licensed, certified, or regulated under the laws of this state in another
12 profession or occupation or personnel supervised by a licensed professional in this state performing
13 work, including the use of music, incidental to the practice of his or her licensed, certified, or
14 regulated profession or occupation, if that person does not represent himself or herself as a music
15 therapist; or

16 (b) Any person whose training and national certification attests to the individual's
17 preparation and ability to practice his or her certified profession or occupation, if that person does
18 not represent himself or herself as a music therapist; or

19 (c) Any practice of music therapy as an integral part of a program of study for students
20 enrolled in an accredited music therapy program, if the student does not represent himself or herself
21 as a music therapist; or

22 (d) Any person who practices music therapy under the supervision of a licensed music
23 therapist, if the person does not represent himself or herself as a music therapist.

24 326-M:3 Licensure of Music Therapists. In addition to requirements under RSA 328-F:

25 I. The board shall issue a license to an applicant for a music therapy license when such
26 applicant has completed and submitted an application upon a form and in such manner as the
27 executive director prescribes, accompanied by applicable fees, and evidence satisfactory to the board
28 that:

29 (a) The applicant is in good standing based on a review of the applicant's music therapy
30 licensure history in other jurisdictions, including a review of any alleged misconduct or neglect in the
31 practice of music therapy on the part of the applicant, and a review of the criminal background check
32 required under RSA 328-F:18-a.

33 (b) The applicant provides proof of passing the examination for board certification
34 offered by the Certification Board for Music Therapists or any successor organization or provides
35 proof that the applicant is currently a board certified music therapist.

36 II. The board shall issue a license to an applicant for a music therapist license when such
37 applicant has completed and submitted an application upon a form and in such manner as the

1 executive director prescribes, accompanied by applicable fees, and evidence satisfactory to the board
2 that the applicant is licensed and in good standing as a music therapist in another jurisdiction where
3 the qualifications required are equal to or greater than those required in this chapter at the date of
4 application.

5 326-M:4 Music Therapists Governing Board; Duties. In addition to the duties of a governing
6 board under RSA 328-F:

7 I. The board may facilitate the development of materials that the office of professional
8 licensure and certification may utilize to educate the public concerning music therapist licensure, the
9 benefits of music therapy, and utilization of music therapy by individuals and in facilities or
10 institutional settings.

11 II. The board may act as a facilitator of statewide dissemination of information between
12 music therapists, the American Music Therapy Association or any successor organization, the
13 Certification Board for Music Therapists or any successor organization, and the executive director.

14 III. The executive director shall seek the advice of the board for issues related to the
15 regulation of music therapists.

16 2 Allied Health Professionals; Definition; Governing Board. Amend RSA 328-F:2, II to read as
17 follows:

18 II. "Governing boards" means individual licensing boards of athletic trainers, occupational
19 therapy assistants, occupational therapists, recreational therapists, physical therapists, physical
20 therapist assistants, respiratory care practitioners, speech-language pathologists, [and] genetic
21 counselors, *and music therapists*.

22 3 New Paragraph; Allied Health Professionals; Music Therapists. Amend RSA 328-F:2 by
23 inserting after paragraph X the following new paragraph:

24 XI. "Music therapist" means music therapist as defined in RSA 326-M:1.

25 4 Governing Board; Establishment. Amend RSA 328-F:3, I to read as follows:

26 I. There shall be established governing boards of athletic trainers, occupational therapists,
27 recreational therapists, respiratory care practitioners, physical therapists, speech-language
28 pathologists, [and] genetic counselors, *and music therapists*.

29 5 New Paragraph; Music Therapists Governing Board; Appointment. Amend RSA 328-F:4 by
30 inserting after paragraph X the following new paragraph:

31 XI. The music therapists governing board shall consist of 3 licensed music therapists, who
32 have actively engaged in the practice of music therapy in this state for at least 2 years, one member
33 who is a licensed health care provider who is not a music therapist, and one public member. Initial
34 appointment of professional members by the governor and council shall be qualified persons
35 practicing music therapy in this state. All subsequent appointments or reappointments shall require
36 licensure.

37 6 Renewals; Reference to Music Therapists Added. Amend RSA 328-F:19, I to read as follows:

1 I. Initial licenses and renewals shall be valid for 2 years, except that timely and complete
2 application for license renewal by eligible applicants shall continue the validity of the licenses being
3 renewed until the governing board has acted on the renewal application. Licenses issued pursuant
4 to RSA 328-A, RSA 326-G, [~~and~~] RSA 326-J, **and RSA 326-M** shall expire in even-numbered years
5 and licenses issued pursuant to RSA 326-C, RSA 326-E, RSA 326-F, and RSA 326-K shall expire in
6 odd-numbered years.

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

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

10 II. The amount necessary to pay for the position established in paragraph 7 and for the per
11 diem and travel reimbursement as required under RSA 328-F:6 for the music therapy governing
12 board established in this act is hereby appropriated to the executive director of the office of
13 professional licensure and certification. Salaries and necessary expenses shall be a charge against
14 the office of professional licensure and certification fund established in RSA 310-A:1-e.

15 8 Effective Date. Part VI of this act shall take effect July 1, 2021.

16 PART VII

17 Relative to the authority of the office of professional licensure and certification for administration,
18 rulemaking, and enforcement of investigations, hearings, and appeals.

19 1 Office of Professional Licensure and Certification; Administration; Rulemaking. Amend RSA
20 310-A:1-d, II(h)(2) to read as follows:

21 (2) Such organizational and procedural rules necessary to administer the boards,
22 commissions, and councils in the office of professional licensure and certification, including rules
23 governing the administration of complaints and investigations, **hearings, disciplinary**
24 **proceedings**, payment processing procedures, and application procedures; and

25 2 New Sections; Office of Professional Licensure and Certification; Investigations; Hearings;
26 Penalties; Appeals. Amend RSA 310-A by inserting after section 1-g the following new sections:

27 310-A:1-h Investigations.

28 I. Boards, which shall include all boards, councils, and commissions within the office of
29 professional licensure and certification, may authorize an investigation of allegations of misconduct
30 by licensees (a) upon their own initiative or (b) upon written complaint of any person that charges
31 that a person licensed by the board has committed misconduct. In consultation with the board, the
32 office shall assign an investigator, who shall complete the investigation in accordance with rules
33 adopted by the executive director.

34 II. The following information obtained during investigations shall be held confidential and
35 shall be exempt from the disclosure requirements of RSA 91-A:

36 (a) Complaints received by the office.

37 (b) Information and records acquired by the office during the investigation.

1 (c) Reports and records made by the office as a result of its investigation.

2 III. For the purpose of carrying out investigations, the executive director is authorized to:

3 (a) Retain qualified experts.

4 (b) Conduct inspections of places of business of licensees or certificate holders.

5 (c) Retain legal counsel when authorized to do so by the attorney general.

6 (d) Issue subpoenas for persons, relevant documents and relevant things in accordance
7 with the following conditions:

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

10 (2) Subpoenas for documents and things shall not require compliance in fewer than
11 15 days after receipt of service.

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

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

18 IV. The office or the boards, councils, and commissions within the office may disclose
19 information acquired in an investigation to law enforcement or health licensing agencies in this state
20 or any other jurisdiction, or in response to specific statutory requirements or court orders.

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

30 VI. The board may dismiss a complaint if the allegations do not state a claim of professional
31 misconduct.

32 310-A:1-i Disciplinary Proceedings; Remedial Proceedings.

33 I. Boards, which shall include all boards, councils, and commissions within the office of
34 professional licensure and certification, are authorized to conduct disciplinary proceedings in
35 accordance with procedural rules adopted by the executive director.

1 II. For the purpose of carrying out disciplinary proceedings, each board is authorized to
2 issue subpoenas for persons, relevant documents and relevant things in accordance with the
3 following conditions:

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

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

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

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

14 III. At any time before or during disciplinary proceedings, complaints may be dismissed or
15 disposed of, in whole or in part, by written settlement agreement approved by the board and the
16 licensees or certified individuals involved, provided that any complainant shall have the opportunity,
17 before the settlement agreement has been executed, to comment on the terms of the proposed
18 settlement. The board, council, or commission may hold a settlement agreement hearing prior to its
19 approval of the settlement agreement.

20 IV. Disciplinary proceedings shall be open to the public. Final board actions having the
21 effect of terminating disciplinary proceedings, whether taken before, during or after the completion
22 of the proceedings, shall be set forth in a written record that shall be available to the public after
23 service upon the licensees or certified individuals involved.

24 V. In carrying out disciplinary or licensing proceedings, each board shall have the authority
25 to:

26 (a) Hold pre-hearing conferences exempt from the provisions of RSA 91-A.

27 (b) Appoint a board member or other qualified person as presiding officer.

28 (c) Administer, and authorize an appointed presiding officer to administer, oaths and
29 affirmations.

30 VI. Neither the office nor the boards, councils, and commissions shall have an obligation or
31 authority to appoint or pay the fees of attorneys representing licensees, certified individuals, or
32 witnesses during investigations or adjudicatory proceedings.

33 VII. Boards, councils, and commissions may take non-disciplinary remedial action against
34 any person licensed by it upon finding that the person is afflicted with physical or mental disability,
35 disease, disorder, or condition deemed dangerous to the public health. Upon making an affirmative
36 finding, the board, council, or commission may take non-disciplinary remedial action:

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

3 (b) By revocation of license.

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

7 310-A:1-j Hearings, Decisions and Appeals.

8 I. Disciplinary proceedings shall be open to the public, except upon order by the board,
9 council, or commission upon good cause shown. The public docket file for each such proceeding shall
10 be retained in accordance with the retention policy established by the office of professional licensure
11 and certification.

12 II. Notwithstanding any other provision of law, allegations of misconduct or lack of
13 professional qualifications that are not settled shall be heard by the board, council, or commission, or
14 a panel of the board, council, or commission with a minimum of 3 members appointed by the chair of
15 the board or other designee. Any member of the board, or other person qualified to act as presiding
16 officer and duly designated by the board, shall have the authority to preside at such hearing and to
17 issue oaths or affirmations to witnesses, rule on evidentiary and other procedural matters, and
18 prepare a recommended decision. In the case of a hearing before a panel, the presiding officer shall
19 prepare a recommended decision for the board, council, or commission, which shall determine
20 sanctions.

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

27 IV. In disciplinary and licensing proceedings, the presiding officer may hold prehearing
28 conferences that are closed to the public and exempt from the provisions of RSA 91-A until such time
29 as a public evidentiary hearing is convened. In all instances, settlement discussions engaged in by
30 the parties at prehearing conferences may be conducted off the record.

31 V. The board may dispose of issues or allegations at any time during an investigation or
32 disciplinary proceeding by approving a settlement agreement or issuing a consent order or an order
33 of dismissal for default or failure to state a proper basis for disciplinary action. Disciplinary action
34 taken by the board at any stage of a proceeding, and any dispositive action taken after the issuance
35 of a public hearing notice, shall be reduced to writing and made available to the public. Such
36 decisions shall not be public until they are served upon the parties.

1 VI. All proceedings for non-disciplinary remedial action shall be exempt from the provisions
2 of RSA 91-A, except that the board may disclose any final remedial action that affects the status of a
3 license, including any non-disciplinary restrictions imposed.

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

8 310-A:1-k Penalties.

9 I. Upon making an affirmative finding that a licensee or certificate holder has committed
10 professional misconduct, boards, which shall include all boards, councils, and commissions within
11 the office of professional licensure and certification, may take disciplinary action in any one or more
12 of the following ways:

13 (a) By reprimand.

14 (b) By suspension of a license or certificate for a period of time as determined reasonable
15 by the board.

16 (c) By revocation of license.

17 (d) By placing the licensee or certificate holder on probationary status. The board may
18 require the person to submit to any of the following:

19 (1) Regular reporting to the board concerning the matters which are the basis of the
20 probation.

21 (2) Continuing professional education until a satisfactory degree of skill has been
22 achieved in those areas which are the basis of probation.

23 (3) Submitting to the care, counseling, or treatment of a physician, counseling
24 service, health care facility, professional assistance program, or any comparable person or facility
25 approved by the board.

26 (4) Practicing under the direct supervision of another licensee for a period of time
27 specified by the board.

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

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

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

5 IV. In cases involving imminent danger to life or health, a board may order suspension of a
6 license or certification pending hearing for a period of no more than 10 business days, unless the
7 licensee or certified individual agrees in writing to a longer period. In such cases, the board shall
8 comply with RSA 541-A:30.

9 V. Any person whose license has been suspended or revoked by the board may apply to the
10 board, in writing, to request a hearing for reinstatement. Upon a hearing, the board may issue a
11 new license or modify the suspension or revocation of the license.

12 VI. For any order issued in resolution of an disciplinary proceeding by the board, where the
13 board has found misconduct sufficient to support disciplinary action, the board may require the
14 licensee or certificate holder who is the subject of such finding to pay the office a sum not to exceed
15 the reasonable cost of investigation and prosecution of the proceeding. This sum shall not exceed
16 \$10,000. This sum may be imposed in addition to any otherwise authorized administrative fines
17 levied by the board as part of the penalty. The investigative and prosecution costs shall be assessed
18 by the board and any sums recovered shall be credited to the office's fund and disbursed by the office
19 for any future investigations of complaints and activities that violate this chapter or rules adopted
20 under this chapter.

21 VII. When an investigation of a complaint is determined to be unfounded, the board shall
22 dismiss the complaint and explain in writing to the complainant and the licensee or certificate
23 holder its reason for dismissing the complaint. After six years, the board may destroy all
24 information concerning the investigation, retaining only a record noting that an investigation was
25 conducted and that the board determined the complaint to be unfounded. For the purpose of this
26 paragraph, a complaint shall be deemed to be unfounded if it does not fall within the jurisdiction of
27 the board, does not relate to the actions of the licensee or certificate holder, or is determined by the
28 board to be frivolous.

29 VIII. Whoever, not being licensed or otherwise authorized to practice according to the laws
30 of this state, shall advertise oneself as engaging in a profession licensed or certified by the office of
31 professional licensure and certification, shall engage in activity requiring professional licensure, or
32 in any way hold oneself out as qualified to do so, or call oneself a licensed professional, or whoever
33 does such acts after receiving notice that such person's license to practice has been suspended or
34 revoked, is engaged in unlawful practice. After hearing and upon making an affirmative finding of
35 unlawful practice, the board, council, or commission may take action in any one of the following
36 ways:

1 (a) Issue a cease and desist order against any person or entity engaged in unlawful,
2 which shall be enforceable in superior court.

3 (b) Impose a fine not to exceed the amount of any gain or economic benefit that the
4 person derived from the violation or \$10,000 for each offense, whichever amount is greater. Each
5 violation of unlicensed or unlawful practice shall be deemed a separate offense.

6 (c) The attorney general, board, council, or commission, or prosecuting attorney of any
7 county or municipality where the act to unlawful practice takes place may maintain an action to
8 enjoin any person or entity from continuing to do acts of unlawful practice. The action to enjoin shall
9 not replace any other civil, criminal, or regulatory remedy. An injunction without bond is available
10 to any board, council, or commission.

11 310-A:1-1 Rehearing; Appeals.

12 I. Any person who has been refused a license or certification by the board, which shall
13 include all boards, councils, and commissions within the office of professional licensure and
14 certification, or has been disciplined by the board shall have the right to petition for a rehearing
15 within 30 days after the original final decision.

16 II. Appeals from a decision on rehearing shall be by appeal to the supreme court pursuant to
17 RSA 541.

18 III. No sanction shall be stayed by the board during an appeal.

19 3 Effective Date. Part VII of this act shall take effect January 1, 2022.

20 PART VIII

21 Relative to skilled professional medical personnel.

22 1 Long Term Care; Eligibility and Service Coverage Authorization. Amend RSA 151-E:3, II to
23 read as follows:

24 151-E:3 Eligibility *and Service Coverage Authorization*.

25 II. Skilled professional medical personnel employed by or designated to act on behalf of the
26 department shall determine clinical eligibility in accordance with the criteria in subparagraph I(a).
27 The clinical eligibility determination shall be based upon an assessment tool, approved by the
28 department, performed by skilled professional medical personnel employed by the department^[5] or
29 ~~[by an individual with equivalent training]~~ designated by the department. The department shall
30 train all persons performing the assessment to use the assessment tool. ~~[For the purposes of this~~
31 ~~section, "skilled professional medical personnel" shall have the same meaning as in 42 C.F.R. section~~
32 ~~432.50(d)(1)(ii).]~~ *Only skilled professional medical personnel who are registered nurses and*
33 *currently licensed in accordance with RSA 326-B may render an adverse clinical eligibility*
34 *determination.*

35 2 New Paragraph; Service Coverage Authorization; Skilled Professional Medical Personnel.
36 Amend RSA 151-E: 3 by inserting after paragraph III the following new paragraph:

1 III-a. Skilled professional medical personnel shall oversee service coverage prior
2 authorizations for Medicaid home and community-based care waiver services. Only skilled
3 professional medical personnel who are registered nurses and currently licensed in accordance with
4 RSA 326-B may render an adverse service coverage determination.

5 3 New Paragraph; Definition; Skilled Professional Medical Personnel. Amend RSA 151-E: 3 by
6 inserting after paragraph IV the following new paragraph:

7 V. In this section "skilled professional medical personnel" shall have the same meaning as in
8 42 C.F.R. section 432.2, except that the skilled professional medical personnel need not be in an
9 employer-employee relationship with the department. Additionally, the skilled professional medical
10 personnel shall have "professional education and training," as that term is defined in 42 C.F.R.
11 section 432.50(d)(1)(ii).

12 4 Effective Date. Part VIII of this act shall take effect 60 days after its passage.

13 PART IX

14 Relative to temporary licensure of certain licensed nursing assistants.

15 1 Statement of Purpose. The general court acknowledges the critical importance of ensuring the
16 quality, accessibility, and sustainability of Medicaid services provided in nursing homes, and
17 recognizes the critical shortage of licensed nursing assistants throughout the state. The purpose of
18 this act is to strengthen the frontline staffing in nursing homes. The general court finds that during
19 the COVID-19 pandemic federal regulatory and statutory provisions were waived to facilitate the
20 hiring of nurse aides by nursing homes. Under state emergency order, these individuals were
21 allowed to work in nursing homes as temporary health partners following no less than 8 hours of
22 training provided either by a national association or a New Hampshire educational program. As a
23 matter of public policy, the general court finds that these workers were indispensable as facilities
24 struggled with staffing issues, particularly during outbreaks of the COVID-19 virus. Accordingly,
25 this act shall provide the board of nursing with the additional authority to expand the workforce of
26 licensed nursing assistants by recognizing the service of temporary health partners during the
27 COVID-19 pandemic.

28 2 Special Licensure as a Licensed Nursing Assistant; Applicants Who Served as Temporary
29 Health Partners.

30 I. Persons who have worked no fewer than 100 hours as temporary health partners in a
31 licensed nursing home by April 1, 2021 have demonstrated, through their work experience during a
32 national and state public health emergency, the competency to transition to status as a licensed
33 nursing assistant.

34 II. Notwithstanding any provision of law to the contrary, the state-approved training
35 program for licensed nursing assistants shall take into account the training and experience acquired
36 during the COVID-19 pandemic to transition these individuals to placement on the state's licensed

1 nursing assistant registry pursuant to RSA 326-B:26. Such individuals shall be subject to all
2 continuing education requirements under RSA 326-B:31.

3 III. For purposes of this act:

4 (a) "COVID-19" means the novel coronavirus first identified in 2019, or SARS-CoV-2.

5 (b) "Temporary health partner" means anyone authorized to work in a nursing home by
6 Emergency Order 42 issued by the governor on May 11, 2020, and required to complete training of
7 no less than eight hours and work under the supervision of an RN, APRN, or LPN, as is required of
8 LNAs under RSA 326-B:14.

9 3 Effective Date. Part IX of this act shall take effect 60 days after its passage.

10 PART X

11 Relative to the revocation of licensure for licensed emergency medical service units and emergency
12 medical service vehicles.

13 1 Emergency Medical and Trauma Services; Revocation of License. Amend the introductory
14 paragraph of RSA 153-A:13, I to read as follows:

15 I. The commissioner [~~shall~~] **may** deny an application for issuance or renewal of a license, or
16 **issue a letter of concern**, suspend, or revoke a license, when the commissioner finds that the
17 applicant is guilty of any of the following acts or offenses:

18 2 Effective Date. Part X of this act shall take effect 60 days after its passage.

19 PART XI

20 Relative to schools for barbering, cosmetology, and esthetics.

21 1 Barbering, Cosmetology, and Esthetics; Definition; School. Amend RSA 313-A:1, XIII to read
22 as follows:

23 XIII. "School" means a school or other institution, **or a dedicated program within such**
24 **school or institution**, conducted for the purpose of teaching cosmetology, manicuring, barbering, or
25 esthetics.

26 2 Duties of the Board; Schools; Manicuring, Cosmetology, Barbering, Esthetics RSA 313-A:7, II
27 is repealed and reenacted to read as follows:

28 II. The board may license a school to operate either:

29 (a) Dedicated programs within secondary schools, the purpose of which is to teach
30 cosmetology, manicuring, barbering, or esthetics; or

31 (b) Postsecondary programs conducted for the purpose of teaching cosmetology,
32 manicuring, barbering, or esthetics, including postsecondary programs leading to a certificate in
33 manicuring, barbering, cosmetology, or esthetics.

34 3 Barbering, Cosmetology, Esthetics, Manicuring; Apprenticeship Certificates. Amend RSA
35 313-A:24 to read as follows:

36 313-A:24 Apprentice Registration and [~~Licensure~~] **Certificates**.

1 I. No person shall enter an apprenticeship or enroll in a school under this chapter unless
2 such person has registered with the board as an apprentice and been issued an apprentice [license]
3 **certificate**. The board shall have sole authority to regulate apprentices and apprenticeship under
4 this chapter. The board shall issue an apprentice [license] **certificate** to any student receiving
5 instruction within a licensed school or shop to learn barbering, cosmetology, esthetics, or
6 manicuring.

7 II. A person applying for [a-license] **an apprentice certificate** under this section shall be
8 granted such [license] **certificate** upon:

9 (a) Submitting proof sufficient to the board to show that such person is at least 16 years
10 of age;

11 (b) Paying a fee established by the [board] **office of professional licensure and**
12 **certification**; and

13 (c) Being deemed by the board to be of good professional character.

14 III. No salon or barbershop shall at any one time have more than one apprentice per
15 licensed professional, except as follows:

16 (a) Each licensed barber may have up to 2 apprentices for barbering.

17 (b) Each licensed master barber may have up to 2 apprentices for barbering, or one
18 apprentice master barber and one apprentice barber.

19 IV. Upon completing the number of hours specified in the board's apprentice rules, an
20 apprentice shall be eligible to apply to the board for licensure.

21 **V. Notwithstanding RSA 161-B:11, VI-a, an applicant for an apprentice certificate**
22 **shall not be required to provide a social security number as a prerequisite for obtaining a**
23 **certificate.**

24 4 Effective Date. Part XI of this act shall take effect 60 days after its passage.

25 PART XII

26 Relative to telemedicine provided by out of state psychologists.

27 1 Psychologists; Electronic Practice of Psychology. RSA 329-B:16 is repealed and reenacted to
28 read as follows:

29 329-B:16 Electronic Practice of Psychology, Telehealth, Telemedicine.

30 I. Telepsychology, telehealth, and telemedicine services, as provided by psychologists,
31 include those psychology services that utilize electronic means to engage in visual or virtual presence
32 in contemporaneous time. Such provision of services shall require a New Hampshire tele-pass
33 license for provision of such care to people in New Hampshire. Contacts that are exempt from this
34 requirement are:

35 (a) Persons exempted by 329-B:28.

36 (b) Screenings for inclusion in voluntary research projects that have been properly
37 approved by a New Hampshire based institutional review board.

1 (c) Psychologists licensed by the board, who may provide tele-psychology services to a
2 person within the state of New Hampshire without acquiring a tele-pass psychology license.

3 II. A doctoral level psychologist who is not licensed in New Hampshire shall be eligible to
4 provide telepsychology services to a person in New Hampshire, providing that the psychologist:

5 (a) Is licensed in one of the jurisdictions in the United States or Canada;

6 (b) Is in good standing in all license jurisdictions in the United States and Canada;

7 (c) Has satisfied conditions determined in rules adopted by the board;

8 and

9 (d) Has applied for and obtained a valid New Hampshire tele-pass psychology license
10 with effective dates that cover the dates of care provided.

11 III. The tele-pass psychology licensee shall agree to conditions including, but not limited to,
12 conditions stipulated by the board that the licensee shall:

13 (a) Conform to all New Hampshire statutes and rules.

14 (b) Agree that electronic attendance for appearances shall be deemed adequate for
15 regulatory enforcement purposes and that in-person appearances by the licensee are optional and
16 such associated costs for in-person attendance are the full responsibility of the tele-pass psychology
17 licensee.

18 (c) Understand that false statements or failure to comply with official requests and
19 official orders shall constitute sufficient cause for revocation of the tele-pass psychology license.

20 (d) Understand that all conditions of tele-pass psychology license to practice and
21 enforcement shall be pursuant to New Hampshire law.

22 (e) Grant the New Hampshire board of psychologists and its investigators authority to
23 disclose to law enforcement and related regulatory authorities, at their discretion, information
24 including but not limited to status of application, actions and information pertinent to investigations
25 and enforcement of the laws and rules pertaining to the licensee's conduct.

26 IV. The board shall adopt rules pursuant to RSA 541-A for:

27 (a) The application procedure for a New Hampshire tele-pass psychology license;

28 (b) Additional requirements for a psychologist licensed in another state of Canada to
29 acquire a tele-pass psychology license, including attestations;

30 (c) Any fees required to apply for or to be issued a tele-pass psychology license;

31 (d) The standards of care for telemedicine practice of psychology and their enforcement;

32 and

33 (e) Procedures for the revocation of a tele-pass psychology license.

34 2 Effective Date. Part XII of this act shall take effect July 1, 2021.

35
36 PART XIII

37 Relative to certified food protection managers.

1 1 New Section; Food Service Licensure; Certified Food Protection Manager. Amend RSA 143-A
2 by inserting after RSA 143-A:11 the following new section:

3 143-A:11-a Certified Food Protection Manager

4 I. Each food service establishment licensed by the state under RSA 143-A:6 shall:

5 (a) Have a person in charge and present during all hours of operation trained as a
6 certified food protection manager by a program approved by the Conference for Food Protection or
7 other equivalent industry standards program.

8 (b) The requirement in RSA 143-A:11-a, I(a) shall not apply under these conditions:

9 (1) Food establishments having at least one certified food protection manager on
10 staff shall not be required to have the certified food protection manager present when no food
11 preparation is taking place;

12 (2) Food establishments having at least one certified food protection manager on
13 staff shall not be required to have the certified food protection manager present when food
14 preparation is limited to reheating commercially prepared food or ready to eat food; or

15 (3) Food establishments having 5 food employees or less on duty are required to have
16 only one certified food protection manager on staff who is available, although not required to be
17 present, during all hours of operation.

18 II. This section shall not apply to any food service establishment exempt from licensure or
19 inspection under RSA 143-A:5.

20 III. This section shall not apply to food establishments licensed under RSA 143-A:6 as food
21 processing plants, cold storage or refrigerating warehouses; retail stores with no food preparation or
22 limited to self service foods, servicing areas, bed and breakfasts, lodging facilities serving continental
23 breakfasts, home delivery services of packaged frozen food; pushcarts and other mobile food units,
24 those serving packaged food and non-potentially hazardous unwrapped foods only;
25 wholesalers/distributors; on-site vending machines, bars/lounges without a food preparation area;
26 arena/theater concessions serving non-potentially hazardous; sellers of pre-packaged frozen meat or
27 poultry that is processed in a USDA-inspected plant; homestead food operations.

28 2 Effective Date. Part XIII of this act shall take effect upon its passage.

SB 133-FN - AS AMENDED BY THE SENATE

03/18/2021 0779s

2021 SESSION

21-0964
05/04

SENATE BILL

133-FN

AN ACT

adopting omnibus legislation relative to occupational licensure.

SPONSORS:

Sen. Carson, Dist 14

COMMITTEE:

Executive Departments and Administration

OTP/A 5-0

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Licensing places of assembly.
- II. Repealing the emergency medical services personnel licensure interstate compact.
- III. Hearings at the board of nursing.
- IV. Membership of the professional standards board.
- V. Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.
- VI. Licensure and regulation of music therapists.
- VII. The authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.
- VIII. Skilled professional medical personnel.
- IX. Temporary licensure of certain licensed nursing assistants.
- X. The revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.
- XI. Schools for barbering, cosmetology, and esthetics.
- XII. Telemedicine provided by out of state psychologists.
- XIII. Sanitary production and distribution of food.

05T
04/01/21

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 One

AN ACT adopting omnibus legislation relative to occupational licensure.

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

1 Sponsorship. This act consists of the following proposed legislation:

2 Part I: LSR 21-0964, relative to the definition of "licensing agency" for purposes of licensing
3 places of assembly, sponsored by Sen. Carson, Prime/Dist 14.

4 Part II: LSR 21-0506, repealing the emergency medical services personnel licensure
5 interstate compact, sponsored by Sen. Rosenwald, Prime/Dist 13, Sen. Cavanaugh, Dist 16; Sen.
6 Carson, Dist 14; Rep. Goley, Hills. 8; Rep. Milz, Rock. 6; Rep. O'Brien, Hills. 36; Rep. S. Pearson,
7 Rock. 6.

8 Part III: LSR 21-0207, relative to hearings of the New Hampshire board of nursing,
9 sponsored by Sen. Ward, Prime/Dist 8.

10 Part IV: LSR 21-0838, relative to membership of the professional standards board,
11 sponsored by Sen. Kahn, Prime/Dist 10; Sen. Prentiss, Dist 5.

12 Part V: LSR 21-0846, adopting the Audiology and Speech-Language Pathology Compact and
13 the Occupational Therapy Licensure Compact, sponsored by Sen. Sherman, Prime/Dist 24; Sen.
14 Soucy, Dist 18; Sen. Carson, Dist 14; Rep. March, Carr. 8.

15 Part VI: LSR 21-0859, relative to the licensure and regulation of music therapists, sponsored
16 by Sen. Avard, Prime/Dist 12; Sen. Watters, Dist 4; Sen. Carson, Dist 14; Sen. Reagan, Dist 17; Sen.
17 Kahn, Dist 10; Sen. Sherman, Dist 24; Sen. Prentiss, Dist 5; Sen. Perkins Kwoka, Dist 21; Rep.
18 McGhee, Hills. 27.

19 Part VII: LSR 21-0899, relative to the authority of the office of professional licensure and
20 certification for administration, rulemaking, and enforcement of investigations, hearings, and
21 appeals, sponsored by Sen. Reagan, Prime/ Dist 17, Sen. Carson, Dist 14; Sen. French, Dist 7; Sen.
22 Kahn, Dist 10; Sen. Prentiss, Dist 5; Sen. Rosenwald, Dist 13; Sen. Bradley, Dist 3; Sen.
23 D'Allesandro, Dist 20; Sen. Ward, Dist 8; Sen. Soucy, Dist 18; Sen. Giuda, Dist 2; Rep. Spillane,
24 Rock. 2; Rep. McGuire, Merr. 29; Rep. Seaworth, Merr. 20.

25 Part VIII: LSR 21-0928, relative to skilled professional medical personnel, sponsored by Sen.
26 Ward, Prime/Dist 8.

27 Part IX: LSR 21-0973, relative to temporary licensure of certain licensed nursing assistants,
28 sponsored by Sen. Hennessey, Dist 1; Sen. Rosenwald, Dist 13; Rep. Dostie, Coos 1; Rep. Thompson,
29 Coos 1.

SB 133-FN - AS AMENDED BY THE SENATE

- Page 2 -

1 Part X: LSR 21-1011, relative to the revocation of licensure for licensed emergency medical
2 service units and emergency medical service vehicles, sponsored by Sen. Prentiss, Prime/Dist 5; Rep.
3 Merchant, Sull. 4; Rep. Goley, Hills. 8; Rep. McGuire, Merr. 29.

4 Part XI: LSR 21-1050, relative to schools for barbering, cosmetology, and esthetics,
5 sponsored by Sen. Reagan, Prime/Dist 17; Sen. Rosenwald, Dist 13; Sen. Prentiss, Dist 5; Sen.
6 Carson, Dist 14; Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Sen. Gannon, Dist 23; Rep.
7 McGuire, Merr. 29; Rep. Roy, Rock. 32; Rep. Harrington, Straf. 3.

8 Part XII: LSR 21-0277, relative to telemedicine provided by out of state psychologists,
9 sponsored by Sen. Reagan, Prime/Dist 17; Sen. Carson, Dist 14; Sen. Bradley, Dist 3; Sen. Prentiss,
10 Dist 5; Sen. French, Dist 7; Sen. Giuda, Dist 2; Sen. Hennessey, Dist 1; Sen. D'Allesandro, Dist 20;
11 Rep. Spillane, Rock. 2; Rep. Tudor, Rock. 1.

12 Part XIII: LSR 21-1049, establishing program rules within the department of health and
13 human services for sanitary production and distribution of food, sponsored by Sen. Giuda,
14 Prime/Dist 2; Sen. Gannon, Dist 23.

15 2 Legislation Enacted. The general court hereby enacts the following legislation:

16 PART I

17 Relative to the definition of "licensing agency" for purposes of licensing places of assembly.

18 1 Places of Assembly; Definition of Licensing Agency. Amend RSA 155:17, II to read as follows:

19 II. "Licensing agency" shall mean the chief of the fire department, the firewards or
20 engineers, if any, otherwise the selectmen of the town or the commissioners of village district as the
21 case may be, *or the state fire marshal, as he or she deems necessary, in consultation with the*
22 *local licensing agency, if any.*

23 2 Places of Assembly; License Required. Amend RSA 155:18 to read as follows:

24 155:18 License Required. No person shall own or operate a place of assembly within this state
25 unless licensed so to do by the licensing agency of the *state*, city, town, or village district where said
26 place of assembly is located, including assemblies occurring on state waters or ice formed on state
27 waters, in accordance with the regulations herein promulgated. In the application of this act to
28 existing places of assembly the licensing agency may modify such of its provisions as would require
29 structural changes if in his or her opinion adequate safety may be obtained otherwise and provided
30 that a permanent record is kept of such modifications and the reasons therefor.

31 3 Effective Date. Part I of this act shall take effect 60 days after its passage.

32 PART II

33 Repealing the emergency medical services personnel licensure interstate compact.

34 1 Repeal. The following are repealed:

35 I. RSA 153-A:36 and the subdivision heading preceding RSA 153-A:36, relative to the
36 emergency medical services personnel licensure interstate compact.

1 II. RSA 153-A:20, XXIV, relative to rulemaking by the department of safety regarding
2 implementation of the compact.

3 2 Effective Date. Part II of this act shall take effect 60 days after its passage.

4 PART III

5 Relative to hearings of the New Hampshire board of nursing.

6 1 Board of Nursing; Adjudicative Hearings. Amend 326-B:38, VIII to read as follows:

7 VIII. The board may hold adjudicative hearings concerning allegations of misconduct or
8 other matters within the scope of this chapter. Such hearings shall be public proceedings. Any
9 member of the board [~~other than the public members~~], or any other qualified person appointed by the
10 board, shall have authority to preside at such a hearing and to issue oaths or affirmations to
11 witnesses.

12 2 Effective Date. Part III of this act shall take effect upon its passage.

13 PART IV

14 Relative to membership of the professional standards board.

15 1 State School Organization; Professional Standards Board. Amend RSA 186:60, I(c) to read as
16 follows:

17 (c) 9 members, 3 representing higher education and 6 *representing* education
18 administration; and

19 2 Professional Standards Board. Amend RSA 186:60, III to read as follows:

20 III. The appointed members of the board shall serve for 3-year terms and may not serve for
21 more than 2 *consecutive* full terms.

22 3 Effective Date. Part IV of this act shall take effect 60 days after its passage.

23 PART V

24 Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy
25 Licensure Compact.

26 1 Chapter Heading Amended; Occupational Compacts. Amend the chapter heading of RSA 329-
27 D to read as follows:

28 ~~[PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT)]~~

29 **OCCUPATIONAL COMPACTS**

30 2 New Sections; Audiology and Speech-Language Pathology Compact; Occupational Therapy
31 Licensure Compact. Amend RSA 329-D by inserting after section 1 the following new sections:

32 329-D:2 Interstate Compact Adopted. The state of New Hampshire hereby adopts the provisions
33 of the Audiology and Speech-Language Pathology Compact as follows:

34 SECTION 1. PURPOSE

35 The purpose of this Compact is to facilitate interstate practice of audiology and speech-language
36 pathology with the goal of improving public access to audiology and speech-language pathology
37 services. The practice of audiology and speech-language pathology occurs in the state where the

1 patient/client/student is located at the time of the patient/client/student encounter. The Compact
2 preserves the regulatory authority of states to protect public health and safety through the current
3 system of state licensure.

4 This Compact is designed to achieve the following objectives:

- 5 1. Increase public access to audiology and speech-language pathology services by providing for
6 the mutual recognition of other member state licenses;
- 7 2. Enhance the states' ability to protect the public's health and safety;
- 8 3. Encourage the cooperation of member states in regulating multistate audiology and speech-
9 language pathology practice;
- 10 4. Support spouses of relocating active duty military personnel;
- 11 5. Enhance the exchange of licensure, investigative and disciplinary information between
12 member states;
- 13 6. Allow a remote state to hold a provider of services with a compact privilege in that state
14 accountable to that state's practice standards; and
- 15 7. Allow for the use of telehealth technology to facilitate increased access to audiology and
16 speech-language pathology services.

17 326-F:15 Interstate Compact Adopted. The state of New Hampshire hereby adopts the
18 provisions of the Audiology and Speech-Language Pathology Compact as follows:

19 SECTION 1: PURPOSE

20 The purpose of this Compact is to facilitate interstate practice of audiology and speech-language
21 pathology with the goal of improving public access to audiology and speech-language pathology
22 services. The practice of audiology and speech-language pathology occurs in the state where the
23 patient/client/student is located at the time of the patient/client/student encounter. The Compact
24 preserves the regulatory authority of states to protect public health and safety through the current
25 system of state licensure.

26 This Compact is designed to achieve the following objectives:

- 27 1. Increase public access to audiology and speech-language pathology services by providing for
28 the mutual recognition of other member state licenses;
- 29 2. Enhance the states' ability to protect the public's health and safety;
- 30 3. Encourage the cooperation of member states in regulating multistate audiology and speech-
31 language pathology practice;
- 32 4. Support spouses of relocating active duty military personnel;
- 33 5. Enhance the exchange of licensure, investigative and disciplinary information between
34 member states;
- 35 6. Allow a remote state to hold a provider of services with a compact privilege in that state
36 accountable to that state's practice standards; and

1 7. Allow for the use of telehealth technology to facilitate increased access to audiology and
2 speech-language pathology services.

3 SECTION 2. DEFINITIONS

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

5 A. "Active duty military" means full-time duty status in the active uniformed service of the
6 United States, including members of the National Guard and Reserve on active duty orders
7 pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C Chapter 1211.

8 B. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a
9 state's laws which is imposed by a licensing board or other authority against an audiologist or
10 speech-language pathologist, including actions against an individual's license or privilege to practice
11 such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's
12 practice.

13 C. "Alternative program" means a non-disciplinary monitoring process approved by an audiology
14 or speech-language pathology licensing board to address impaired practitioners.

15 D. "Audiologist" means an individual who is licensed by a state to practice audiology.

16 E. "Audiology" means the care and services provided by a licensed audiologist as set forth in the
17 member state's statutes and rules.

18 F. "Audiology and Speech-Language Pathology Compact Commission" or "Commission" means
19 the national administrative body whose membership consists of all states that have enacted the
20 Compact.

21 G. "Audiology and speech-language pathology licensing board," "audiology licensing board,"
22 "speech-language pathology licensing board," or "licensing board" means the agency of a state that is
23 responsible for the licensing and regulation of audiologists and/or speech-language pathologists.

24 H. "Compact privilege" means the authorization granted by a remote state to allow a licensee
25 from another member state to practice as an audiologist or speech-language pathologist in the
26 remote state under its laws and rules. The practice of audiology or speech-language pathology
27 occurs in the member state where the patient/client/student is located at the time of the
28 patient/client/student encounter.

29 I. "Current significant investigative information" means investigative information that a
30 licensing board, after an inquiry or investigation that includes notification and an opportunity for
31 the audiologist or speech-language pathologist to respond, if required by state law, has reason to
32 believe is not groundless and, if proved true, would indicate more than a minor infraction.

33 J. "Data system" means a repository of information about licensees, including, but not limited
34 to, continuing education, examination, licensure, investigative, compact privilege and adverse action.

35 K. "Encumbered license" means a license in which an adverse action restricts the practice of
36 audiology or speech-language pathology by the licensee and said adverse action has been reported to
37 the National Practitioners Data Bank (NPDB).

1 L. "Executive committee" means a group of directors elected or appointed to act on behalf of, and
2 within the powers granted to them by, the Commission.

3 M. "Home state" means the member state that is the licensee's primary state of residence.

4 N. "Impaired practitioner" means individuals whose professional practice is adversely affected
5 by substance abuse, addiction, or other health-related conditions.

6 O. "Licensee" means an individual who currently holds an authorization from the state licensing
7 board to practice as an audiologist or speech-language pathologist.

8 P. "Member state" means a state that has enacted the Compact.

9 Q. "Privilege to practice" means a legal authorization permitting the practice of audiology or
10 speech-language pathology in a remote state.

11 R. "Remote state" means a member state other than the home state where a licensee is
12 exercising or seeking to exercise the compact privilege.

13 S. "Rule" means a regulation, principle or directive promulgated by the Commission that has the
14 force of law.

15 T. "Single-state license" means an audiology or speech-language pathology license issued by a
16 member state that authorizes practice only within the issuing state and does not include a privilege
17 to practice in any other member state.

18 U. "Speech-language pathologist" means an individual who is licensed by a state to practice
19 speech-language pathology.

20 V. "Speech-language pathology" means the care and services provided by a licensed speech-
21 language pathologist as set forth in the member state's statutes and rules.

22 W. "State" means any state, commonwealth, district or territory of the United States of America
23 that regulates the practice of audiology and speech-language pathology.

24 X. "State practice laws" means a member state's laws, rules and regulations that govern the
25 practice of audiology or speech-language pathology, define the scope of audiology or speech-language
26 pathology practice, and create the methods and grounds for imposing discipline.

27 Y. "Telehealth" means the application of telecommunication technology to deliver audiology or
28 speech-language pathology services at a distance for assessment, intervention and/or consultation.

29 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

30 A. A license issued to an audiologist or speech-language pathologist by a home state to a
31 resident in that state shall be recognized by each member state as authorizing an audiologist or
32 speech-language pathologist to practice audiology or speech-language pathology, under a privilege to
33 practice, in each member state.

34 B. A state must implement or utilize procedures for considering the criminal history records of
35 applicants for initial privilege to practice. These procedures shall include the submission of
36 fingerprints or other biometric-based information by applicants for the purpose of obtaining an

1 applicant's criminal history record information from the Federal Bureau of Investigation and the
2 agency responsible for retaining that state's criminal records

3 1. A member state must fully implement a criminal background check requirement, within a
4 time frame established by rule, by receiving the results of the Federal Bureau of Investigation record
5 search on criminal background checks and use the results in making licensure decisions.

6 2. Communication between a member state, the Commission and among member states
7 regarding the verification of eligibility for licensure through the Compact shall not include any
8 information received from the Federal Bureau of Investigation relating to a federal criminal records
9 check performed by a member state under Public Law 92-544.

10 C. Upon application for a privilege to practice, the licensing board in the issuing remote state
11 shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a
12 license issued by any other state, whether there are any encumbrances on any license or privilege to
13 practice held by the applicant, whether any adverse action has been taken against any license or
14 privilege to practice held by the applicant.

15 D. Each member state shall require an applicant to obtain or retain a license in the home state
16 and meet the home state's qualifications for licensure or renewal of licensure, as well as, all other
17 applicable state laws.

18 E. For an audiologist:

19 1. Must meet one of the following educational requirements:

20 a. On or before, Dec. 31, 2007, has graduated with a master's degree or doctorate in audiology,
21 or equivalent degree regardless of degree name, from a program that is accredited by an accrediting
22 agency recognized by the Council for Higher Education Accreditation, or its successor, or by the
23 United States Department of Education and operated by a college or university accredited by a
24 regional or national accrediting organization recognized by the board; or

25 b. On or after, Jan. 1, 2008, has graduated with a Doctoral degree in audiology, or equivalent
26 degree, regardless of degree name, from a program that is accredited by an accrediting agency
27 recognized by the Council for Higher Education Accreditation, or its successor, or by the United
28 States Department of Education and operated by a college or university accredited by a regional or
29 national accrediting organization recognized by the board; or

30 c. Has graduated from an audiology program that is housed in an institution of higher education
31 outside of the United States (a) for which the program and institution have been approved by the
32 authorized accrediting body in the applicable country and (b) the degree program has been verified
33 by an independent credentials review agency to be comparable to a state licensing board-approved
34 program.

35 2. Has completed a supervised clinical practicum experience from an accredited educational
36 institution or its cooperating programs as required by the commission;

37 3. Has successfully passed a national examination approved by the Commission;

- 1 4. Holds an active, unencumbered license;
- 2 5. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a
- 3 felony related to the practice of audiology, under applicable state or federal criminal law;
- 4 6. Has a valid United States Social Security or National Practitioner Identification number.
- 5 F. For a speech-language pathologist:
- 6 1. Must meet one of the following educational requirements:
- 7 a. Has graduated with a master's degree from a speech-language pathology program that is
- 8 accredited by an organization recognized by the United States Department of Education and
- 9 operated by a college or university accredited by a regional or national accrediting organization
- 10 recognized by the board; or
- 11 b. Has graduated from a speech-language pathology program that is housed in an institution of
- 12 higher education outside of the United States (a) for which the program and institution have been
- 13 approved by the authorized accrediting body in the applicable country and (b) the degree program
- 14 has been verified by an independent credentials review agency to be comparable to a state licensing
- 15 board-approved program.
- 16 2. Has completed a supervised clinical practicum experience from an educational institution or
- 17 its cooperating programs as required by the Commission;
- 18 3. Has completed a supervised postgraduate professional experience as required by the
- 19 Commission
- 20 4. Has successfully passed a national examination approved by the Commission;
- 21 5. Holds an active, unencumbered license;
- 22 6. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a
- 23 felony related to the practice of speech-language pathology, under applicable state or federal
- 24 criminal law;
- 25 7. Has a valid United States Social Security or National Practitioner Identification number.
- 26 G. The privilege to practice is derived from the home state license.
- 27 H. An audiologist or speech-language pathologist practicing in a member state must comply
- 28 with the state practice laws of the state in which the client is located at the time service is provided.
- 29 The practice of audiology and speech-language pathology shall include all audiology and speech-
- 30 language pathology practice as defined by the state practice laws of the member state in which the
- 31 client is located. The practice of audiology and speech-language pathology in a member state under
- 32 a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction
- 33 of the licensing board, the courts and the laws of the member state in which the client is located at
- 34 the time service is provided.
- 35 I. Individuals not residing in a member state shall continue to be able to apply for a member
- 36 state's single-state license as provided under the laws of each member state. However, the single-
- 37 state license granted to these individuals shall not be recognized as granting the privilege to practice

1 audiology or speech-language pathology in any other member state. Nothing in this Compact shall
2 affect the requirements established by a member state for the issuance of a single-state license.

3 J. Member states may charge a fee for granting a compact privilege.

4 K. Member states must comply with the bylaws and rules and regulations of the Commission.

5 SECTION 4. COMPACT PRIVILEGE

6 A. To exercise the compact privilege under the terms and provisions of the Compact, the
7 audiologist or speech-language pathologist shall:

8 1. Hold an active license in the home state;

9 2. Have no encumbrance on any state license;

10 3. Be eligible for a compact privilege in any member state in accordance with Section 3;

11 4. Have not had any adverse action against any license or compact privilege within the previous
12 2 years from date of application;

13 5. Notify the Commission that the licensee is seeking the compact privilege within a remote
14 state(s);

15 6. Pay any applicable fees, including any state fee, for the compact privilege;

16 7. Report to the Commission adverse action taken by any non-member state within 30 days from
17 the date the adverse action is taken.

18 B. For the purposes of the compact privilege, an audiologist or speech-language pathologist shall
19 only hold one home state license at a time.

20 C. Except as provided in Section 6, if an audiologist or speech-language pathologist changes
21 primary state of residence by moving between two-member states, the audiologist or speech-
22 language pathologist must apply for licensure in the new home state, and the license issued by the
23 prior home state shall be deactivated in accordance with applicable rules adopted by the
24 Commission.

25 D. The audiologist or speech-language pathologist may apply for licensure in advance of a
26 change in primary state of residence.

27 E. A license shall not be issued by the new home state until the audiologist or speech-language
28 pathologist provides satisfactory evidence of a change in primary state of residence to the new home
29 state and satisfies all applicable requirements to obtain a license from the new home state.

30 F. If an audiologist or speech-language pathologist changes primary state of residence by
31 moving from a member state to a non-member state, the license issued by the prior home state shall
32 convert to a single-state license, valid only in the former home state.

33 G. The compact privilege is valid until the expiration date of the home state license. The
34 licensee must comply with the requirements of Section 4A to maintain the compact privilege in the
35 remote state.

36 H. A licensee providing audiology or speech-language pathology services in a remote state under
37 the compact privilege shall function within the laws and regulations of the remote state.

1 I. A licensee providing audiology or speech-language pathology services in a remote state is
2 subject to that state's regulatory authority. A remote state may, in accordance with due process and
3 that state's laws, remove a licensee's compact privilege in the remote state for a specific period of
4 time, impose fines, and/or take any other necessary actions to protect the health and safety of its
5 citizens.

6 J. If a home state license is encumbered, the licensee shall lose the compact privilege in any
7 remote state until the following occur:

- 8 1. The home state license is no longer encumbered; and
- 9 2. Two years have elapsed from the date of the adverse action.

10 K. Once an encumbered license in the home state is restored to good standing, the licensee must
11 meet the requirements of Section 4A to obtain a compact privilege in any remote state.

12 L. Once the requirements of Section 4J have been met, the licensee must meet the requirements
13 in Section 4A to obtain a compact privilege in a remote state.

14 SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

15 Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by
16 a home state in accordance with Section 3 and under rules promulgated by the Commission, to
17 practice audiology or speech-language pathology in any member state via telehealth under a
18 privilege to practice as provided in the Compact and rules promulgated by the Commission.

19 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

20 Active duty military personnel, or their spouse, shall designate a home state where the individual
21 has a current license in good standing. The individual may retain the home state designation during
22 the period the service member is on active duty. Subsequent to designating a home state, the
23 individual shall only change their home state through application for licensure in the new state.

24 SECTION 7. ADVERSE ACTIONS

25 A. In addition to the other powers conferred by state law, a remote state shall have the
26 authority, in accordance with existing state due process law, to:

27 1. Take adverse action against an audiologist's or speech-language pathologist's privilege to
28 practice within that member state.

29 2. Issue subpoenas for both hearings and investigations that require the attendance and
30 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board
31 in a member state for the attendance and testimony of witnesses or the production of evidence from
32 another member state shall be enforced in the latter state by any court of competent jurisdiction,
33 according to the practice and procedure of that court applicable to subpoenas issued in proceedings
34 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and
35 other fees required by the service statutes of the state in which the witnesses or evidence are
36 located.

1 3. Only the home state shall have the power to take adverse action against a audiologist's or
2 speech-language pathologist's license issued by the home state.

3 B. For purposes of taking adverse action, the home state shall give the same priority and effect
4 to reported conduct received from a member state as it would if the conduct had occurred within the
5 home state. In so doing, the home state shall apply its own state laws to determine appropriate
6 action.

7 C. The home state shall complete any pending investigations of an audiologist or speech-
8 language pathologist who changes primary state of residence during the course of the investigations.
9 The home state shall also have the authority to take appropriate action(s) and shall promptly report
10 the conclusions of the investigations to the administrator of the data system. The administrator of
11 the coordinated licensure information system shall promptly notify the new home state of any
12 adverse actions.

13 D. If otherwise permitted by state law, the member state may recover from the affected
14 audiologist or speech-language pathologist the costs of investigations and disposition of cases
15 resulting from any adverse action taken against that audiologist or speech-language pathologist.

16 E. The member state may take adverse action based on the factual findings of the remote state,
17 provided that the member state follows the member state's own procedures for taking the adverse
18 action.

19 F. Joint Investigations

20 1. In addition to the authority granted to a member state by its respective audiology or speech-
21 language pathology practice act or other applicable state law, any member state may participate
22 with other member states in joint investigations of licensees.

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

25 G. If adverse action is taken by the home state against an audiologist's or speech language
26 pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all
27 other member states shall be deactivated until all encumbrances have been removed from the state
28 license. All home state disciplinary orders that impose adverse action against an audiologist's or
29 speech language pathologist's license shall include a statement that the audiologist's or speech-
30 language pathologist's privilege to practice is deactivated in all member states during the pendency
31 of the order.

32 H. If a member state takes adverse action, it shall promptly notify the administrator of the data
33 system. The administrator of the data system shall promptly notify the home state of any adverse
34 actions by remote states.

35 I. Nothing in this Compact shall override a member state's decision that participation in an
36 alternative program may be used in lieu of adverse action.

1 SECTION 8. ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE
2 PATHOLOGY COMPACT COMMISSION

3 A. The Compact member states hereby create and establish a joint public agency known as the
4 Audiology and Speech-Language Pathology Compact Commission:

5 1. The Commission is an instrumentality of the Compact states.

6 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely
7 and exclusively in a court of competent jurisdiction where the principal office of the Commission is
8 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or
9 consents to participate in alternative dispute resolution proceedings.

10 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

11 B. Membership, Voting and Meetings

12 1. Each member state shall have two (2) delegates selected by that member state's licensing
13 board. The delegates shall be current members of the licensing board. One shall be an audiologist
14 and one shall be a speech-language pathologist.

15 2. An additional five (5) delegates, who are either a public member or board administrator from
16 a state licensing board, shall be chosen by the Executive Committee from a pool of nominees
17 provided by the Commission at Large.

18 3. Any delegate may be removed or suspended from office as provided by the law of the state
19 from which the delegate is appointed.

20 4. The member state board shall fill any vacancy occurring on the Commission, within 90 days.

21 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and
22 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs
23 of the Commission.

24 6. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may
25 provide for delegates' participation in meetings by telephone or other means of communication.

26 7. The Commission shall meet at least once during each calendar year. Additional meetings
27 shall be held as set forth in the bylaws.

28 C. The Commission shall have the following powers and duties:

29 1. Establish the fiscal year of the Commission;

30 2. Establish bylaws;

31 3. Establish a Code of Ethics;

32 4. Maintain its financial records in accordance with the bylaws;

33 5. Meet and take actions as are consistent with the provisions of this Compact and the bylaws;

34 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of
35 this Compact. The rules shall have the force and effect of law and shall be binding in all member
36 states;

1 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided
2 that the standing of any state audiology or speech-language pathology licensing board to sue or be
3 sued under applicable law shall not be affected;

4 8. Purchase and maintain insurance and bonds;

5 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees
6 of a member state;

7 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals
8 appropriate authority to carry out the purposes of the Compact, and to establish the Commission's
9 personnel policies and programs relating to conflicts of interest, qualifications of personnel, and
10 other related personnel matters;

11 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
12 materials and services, and to receive, utilize and dispose of the same; provided that at all times the
13 Commission shall avoid any appearance of impropriety and/or conflict of interest;

14 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve
15 or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid
16 any appearance of impropriety;

17 13. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
18 property real, personal, or mixed;

19 14. Establish a budget and make expenditures;

20 15. Borrow money;

21 16. Appoint committees, including standing committees composed of members, and other
22 interested persons as may be designated in this Compact and the bylaws;

23 17. Provide and receive information from, and cooperate with, law enforcement agencies;

24 18. Establish and elect an Executive Committee; and

25 19. Perform other functions as may be necessary or appropriate to achieve the purposes of this
26 Compact consistent with the state regulation of audiology and speech-language pathology licensure
27 and practice.

28 D. The Executive Committee

29 The Executive Committee shall have the power to act on behalf of the Commission according to the
30 terms of this Compact:

31 1. The Executive Committee shall be composed of ten (10) members:

32 a. Seven (7) voting members who are elected by the Commission from the current membership
33 of the Commission;

34 b. Two (2) ex-officios, consisting of one nonvoting member from a recognized national audiology
35 professional association and one nonvoting member from a recognized national speech-language
36 pathology association; and

- 1 c. One (1) ex-officio, nonvoting member from the recognized membership organization of the
2 audiology and speech-language pathology licensing boards.
- 3 E. The ex-officio members shall be selected by their respective organizations.
- 4 1. The Commission may remove any member of the Executive Committee as provided in bylaws.
5 2. The Executive Committee shall meet at least annually.
6 3. The Executive Committee shall have the following duties and responsibilities:
- 7 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this
8 Compact legislation, fees paid by Compact member states such as annual dues, and any commission
9 Compact fee charged to licensees for the compact privilege;
- 10 b. Ensure Compact administration services are appropriately provided, contractual or
11 otherwise;
- 12 c. Prepare and recommend the budget;
- 13 d. Maintain financial records on behalf of the Commission;
- 14 e. Monitor Compact compliance of member states and provide compliance reports to the
15 Commission;
- 16 f. Establish additional committees as necessary; and
17 g. Other duties as provided in rules or bylaws.
- 18 4. Meetings of the Commission
- 19 All meetings shall be open to the public, and public notice of meetings shall be given in the same
20 manner as required under the rulemaking provisions in Section 10.
- 21 5. The Commission or the Executive Committee or other committees of the Commission may
22 convene in a closed, non-public meeting if the Commission or Executive Committee or other
23 committees of the Commission must discuss:
- 24 a. Non-compliance of a member state with its obligations under the
25 Compact;
- 26 b. The employment, compensation, discipline or other matters, practices or procedures related to
27 specific employees or other matters related to the Commission's internal personnel practices and
28 procedures;
- 29 c. Current, threatened, or reasonably anticipated litigation;
- 30 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- 31 e. Accusing any person of a crime or formally censuring any person;
- 32 f. Disclosure of trade secrets or commercial or financial information that is privileged or
33 confidential;
- 34 g. Disclosure of information of a personal nature where disclosure would constitute a clearly
35 unwarranted invasion of personal privacy;
- 36 h. Disclosure of investigative records compiled for law enforcement purposes;

1 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
2 use of the Commission or other committee charged with responsibility of investigation or
3 determination of compliance issues pursuant to the Compact; or

4 j. Matters specifically exempted from disclosure by federal or member state statute.

5 6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's
6 legal counsel or designee shall certify that the meeting may be closed and shall reference each
7 relevant exempting provision.

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

14 8. Financing of the Commission

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

17 b. The Commission may accept any and all appropriate revenue sources, donations, and grants
18 of money, equipment, supplies, materials, and services.

19 c. The Commission may levy on and collect an annual assessment from each member state or
20 impose fees on other parties to cover the cost of the operations and activities of the Commission and
21 its staff, which must be in a total amount sufficient to cover its annual budget as approved each year
22 for which revenue is not provided by other sources. The aggregate annual assessment amount shall
23 be allocated based upon a formula to be determined by the Commission, which shall promulgate a
24 rule binding upon all member states.

25 9. The Commission shall not incur obligations of any kind prior to securing the funds adequate
26 to meet the same; nor shall the Commission pledge the credit of any of the member states, except by
27 and with the authority of the member state.

28 10. The Commission shall keep accurate accounts of all receipts and disbursements. The
29 receipts and disbursements of the Commission shall be subject to the audit and accounting
30 procedures established under its bylaws. However, all receipts and disbursements of funds handled
31 by the Commission shall be audited yearly by a certified or licensed public accountant, and the
32 report of the audit shall be included in and become part of the annual report of the Commission.

33 F. Qualified Immunity, Defense, and Indemnification

34 1. The members, officers, executive director, employees and representatives of the Commission
35 shall be immune from suit and liability, either personally or in their official capacity, for any claim
36 for damage to or loss of property or personal injury or other civil liability caused by or arising out of
37 any actual or alleged act, error or omission that occurred, or that the person against whom the claim

1 is made had a reasonable basis for believing occurred within the scope of Commission employment,
2 duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any
3 person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or
4 willful or wanton misconduct of that person.

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

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

20 SECTION 9. DATA SYSTEM

21 A. The Commission shall provide for the development, maintenance, and utilization of a
22 coordinated database and reporting system containing licensure, adverse action, and investigative
23 information on all licensed individuals in member states.

24 B. Notwithstanding any other provision of state law to the contrary, a member state shall
25 submit a uniform data set to the data system on all individuals to whom this Compact is applicable
26 as required by the rules of the Commission, including:

27 1. Identifying information;

28 2. Licensure data;

29 3. Adverse actions against a license or compact privilege;

30 4. Non-confidential information related to alternative program participation;

31 5. Any denial of application for licensure, and the reason(s) for denial; and

32 6. Other information that may facilitate the administration of this Compact, as determined by
33 the rules of the Commission.

34 C. Investigative information pertaining to a licensee in any member state shall only be available
35 to other member states.

1 D. The Commission shall promptly notify all member states of any adverse action taken against
2 a licensee or an individual applying for a license. Adverse action information pertaining to a licensee
3 in any member state shall be available to any other member state.

4 E. Member states contributing information to the data system may designate information that
5 may not be shared with the public without the express permission of the contributing state.

6 F. Any information submitted to the data system that is subsequently required to be expunged
7 by the laws of the member state contributing the information shall be removed from the data
8 system.

9 SECTION 10. RULEMAKING

10 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in
11 this Section and the rules adopted thereunder. Rules and amendments shall become binding as of
12 the date specified in each rule or amendment.

13 B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute
14 or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of
15 the rule, the rule shall have no further force and effect in any member state.

16 C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
17 Commission.

18 D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least
19 thirty (30) days in advance of the meeting at which the rule shall be considered and voted upon, the
20 Commission shall file a Notice of Proposed Rulemaking:

21 1. On the website of the Commission or other publicly accessible platform; and

22 2. On the website of each member state audiology or speech-language pathology licensing board
23 or other publicly accessible platform or the publication in which each state would otherwise publish
24 proposed rules.

25 E. The Notice of Proposed Rulemaking shall include:

26 1. The proposed time, date, and location of the meeting in which the rule shall be considered and
27 voted upon;

28 2. The text of the proposed rule or amendment and the reason for the proposed rule;

29 3. A request for comments on the proposed rule from any interested person; and

30 4. The manner in which interested persons may submit notice to the Commission of their
31 intention to attend the public hearing and any written comments.

32 F. Prior to the adoption of a proposed rule, the Commission shall allow persons to submit
33 written data, facts, opinions and arguments, which shall be made available to the public.

34 G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or
35 amendment if a hearing is requested by:

36 1. At least twenty-five (25) persons;

37 2. A state or federal governmental subdivision or agency; or

1 3. An association having at least twenty-five (25) members.

2 H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the
3 place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
4 Commission shall publish the mechanism for access to the electronic hearing.

5 1. All persons wishing to be heard at the hearing shall notify the executive director of the
6 Commission or other designated member in writing of their desire to appear and testify at the
7 hearing not less than five (5) business days before the scheduled date of the hearing.

8 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair
9 and reasonable opportunity to comment orally or in writing.

10 3. All hearings shall be recorded. A copy of the recording shall be made available on request.

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

13 I. Following the scheduled hearing date, or by the close of business on the scheduled hearing
14 date if the hearing was not held, the Commission shall consider all written and oral comments
15 received.

16 J. If no written notice of intent to attend the public hearing by interested parties is received, the
17 Commission may proceed with promulgation of the proposed rule without a public hearing.

18 K. The Commission shall, by majority vote of all members, take final action on the proposed rule
19 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full
20 text of the rule.

21 L. Upon determination that an emergency exists, the Commission may consider and adopt an
22 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual
23 rulemaking procedures provided in the Compact and in this section shall be retroactively applied to
24 the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective
25 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
26 immediately in order to:

27 1. Meet an imminent threat to public health, safety, or welfare;

28 2. Prevent a loss of Commission or member state funds; or

29 3. Meet a deadline for the promulgation of an administrative rule that is established by federal
30 law or rule.

31 M. The Commission or an authorized committee of the Commission may direct revisions to a
32 previously adopted rule or amendment for purposes of correcting typographical errors, errors in
33 format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted
34 on the website of the Commission. The revision shall be subject to challenge by any person for a
35 period of thirty (30) days after posting. The revision may be challenged only on grounds that the
36 revision results in a material change to a rule. A challenge shall be made in writing and delivered to
37 the chair of the Commission prior to the end of the notice period. If no challenge is made, the

1 revision shall take effect without further action. If the revision is challenged, the revision may not
2 take effect without the approval of the Commission.

3 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

4 A. Dispute Resolution

5 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to
6 the Compact that arise among member states and between member and non-member states.

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

9 B. Enforcement

10 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and
11 rules of this Compact.

12 2. By majority vote, the Commission may initiate legal action in the United States District
13 Court for the District of Columbia or the federal district where the Commission has its principal
14 offices against a member state in default to enforce compliance with the provisions of the Compact
15 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and
16 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all
17 costs of litigation, including reasonable attorney's fees.

18 3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission
19 may pursue any other remedies available under federal or state law.

20 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERstate COMMISSION FOR
21 AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES,
22 WITHDRAWAL, AND AMENDMENT

23 A. The Compact shall come into effect on the date on which the Compact statute is enacted into
24 law in the 10th member state. The provisions, which become effective at that time, shall be limited
25 to the powers granted to the Commission relating to assembly and the promulgation of rules.
26 Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the
27 implementation and administration of the Compact.

28 B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
29 shall be subject to the rules as they exist on the date on which the Compact becomes law in that
30 state. Any rule that has been previously adopted by the Commission shall have the full force and
31 effect of law on the day the Compact becomes law in that state.

32 C. Any member state may withdraw from this Compact by enacting a statute repealing the
33 same.

34 1. A member state's withdrawal shall not take effect until six (6) months after enactment of the
35 repealing statute.

1 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology
2 or speech-language pathology licensing board to comply with the investigative and adverse action
3 reporting requirements of this act prior to the effective date of withdrawal.

4 D. Nothing contained in this Compact shall be construed to invalidate or prevent any audiology
5 or speech-language pathology licensure agreement or other cooperative arrangement between a
6 member state and a non-member state that does not conflict with the provisions of this Compact.

7 E. This Compact may be amended by the member states. No amendment to this Compact shall
8 become effective and binding upon any member state until it is enacted into the laws of all member
9 states.

10 SECTION 13. CONSTRUCTION AND SEVERABILITY

11 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of
12 this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is
13 declared to be contrary to the constitution of any member state or of the United States or the
14 applicability thereof to any government, agency, person or circumstance is held invalid, the validity
15 of the remainder of this Compact and the applicability thereof to any government, agency, person or
16 circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution
17 of any member state, the Compact shall remain in full force and effect as to the remaining member
18 states and in full force and effect as to the member state affected as to all severable matters.

19 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

20 A. Nothing herein prevents the enforcement of any other law of a member state that is not
21 inconsistent with the Compact.

22 B. All laws in a member state in conflict with the Compact are superseded to the extent of the
23 conflict.

24 C. All lawful actions of the Commission, including all rules and bylaws promulgated by the
25 Commission, are binding upon the member states.

26 D. All agreements between the Commission and the member states are binding in accordance
27 with their terms.

28 E. In the event any provision of the Compact exceeds the constitutional limits imposed on the
29 legislature of any member state, the provision shall be ineffective to the extent of the conflict with
30 the constitutional provision in question in that member state.

31 329-D:3 Occupational Therapy Licensure Compact. The state of New Hampshire hereby adopts
32 the provisions of the Occupational Therapy Licensure Compact as follows:

33 SECTION 1. PURPOSE

34 The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal
35 of improving public access to occupational therapy services. The Practice of occupational therapy
36 occurs in the state where the patient/client is located at the time of the patient/client encounter. The

1 Compact preserves the regulatory authority of states to protect public health and safety through the
2 current system of state licensure.

3 This Compact is designed to achieve the following objectives:

4 A. Increase public access to occupational therapy services by providing for the mutual
5 recognition of other member state licenses;

6 B. Enhance the states' ability to protect the public's health and safety;

7 C. Encourage the cooperation of member states in regulating multi-state occupational therapy
8 practice;

9 D. Support spouses of relocating military members;

10 E. Enhance the exchange of licensure, investigative, and disciplinary information between
11 Member states;

12 F. Allow a remote state to hold a provider of services with a Compact privilege in that state
13 accountable to that state's practice standards; and

14 G. Facilitate the use of telehealth technology in order to increase access to occupational therapy
15 services.

16 SECTION 2. DEFINITIONS

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

18 A. "Active Duty Military" means full-time duty status in the active uniformed service of the
19 United States, including members of the National Guard and Reserve on active duty orders
20 pursuant to 10 U.S.C. Chapter 1209 and Section 1211.

21 B. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a
22 state's laws which is imposed by a licensing board or other authority against an occupational
23 therapist or occupational therapy assistant, including actions against an individual's license or
24 Compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee, or
25 restriction on the licensee's practice.

26 C. "Alternative Program" means a non-disciplinary monitoring process approved by an
27 occupational therapy licensing board.

28 D. "Compact privilege" means the authorization, which is equivalent to a license, granted by a
29 remote state to allow a licensee from another member state to practice as an occupational therapist
30 or practice as an occupational therapy assistant in the remote state under its laws and rules. The
31 practice of occupational therapy occurs in the member state where the patient/client is located at the
32 time of the patient/client encounter.

33 E. "Continuing Competence/Education" means a requirement, as a condition of license renewal,
34 to provide evidence of participation in, and/or completion of, educational and professional activities
35 relevant to practice or area of work.

36 F. "Current significant investigative information" means investigative information that a
37 licensing board, after an inquiry or investigation that includes notification and an opportunity for

1 the occupational therapist or occupational therapy assistant to respond, if required by state law, has
2 reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

3 G. "Data system" means a repository of information about licensees, including but not limited to
4 license status, investigative information, Compact privileges, and adverse actions.

5 H. "Encumbered license" means a license in which an adverse action restricts the practice of
6 occupational therapy by the licensee or said adverse action has been reported to the National
7 Practitioners Data Bank (NPDB).

8 I. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and
9 within the powers granted to them by, the Commission.

10 J. "Home state" means the member state that is the licensee's Primary state of residence.

11 K. "Impaired practitioner" means individuals whose professional practice is adversely affected
12 by substance abuse, addiction, or other health-related conditions.

13 L. "Investigative Information" means information, records, and/or documents received or
14 generated by an occupational therapy licensing board pursuant to an investigation.

15 M. "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws
16 and rules governing the practice of occupational therapy in a state.

17 N. "Licensee" means an individual who currently holds an authorization from the state to
18 practice as an occupational therapist or as an occupational therapy assistant.

19 O. "Member state" means a state that has enacted the Compact.

20 P. "Occupational therapist" means an individual who is licensed by a state to practice
21 occupational therapy.

22 Q. "Occupational therapy assistant" means an individual who is licensed by a state to assist in
23 the practice of occupational therapy.

24 R. "Occupational therapy," "occupational therapy practice," and the "practice of occupational
25 therapy" mean the care and services provided by an occupational therapist or an occupational
26 therapy assistant as set forth in the member state's statutes and regulations.

27 S. "Occupational therapy Compact Commission" or "Commission" means the national
28 administrative body whose membership consists of all states that have enacted the Compact.

29 T. "Occupational therapy licensing board" or "licensing board" means the agency of a state that
30 is authorized to license and regulate occupational therapists and occupational therapy assistants.

31 U. "Primary state of residence" means the state (also known as the home state) in which an
32 occupational therapist or occupational therapy assistant who is not Active Duty Military declares a
33 primary residence for legal purposes as verified by: driver's license, federal income tax return, lease,
34 deed, mortgage or voter registration or other verifying documentation as further defined by
35 Commission rules.

36 V. "Remote state" means a member state other than the home state, where a licensee is
37 exercising or seeking to exercise the Compact privilege.

1 W. "Rule" means a regulation promulgated by the Commission that has the force of law.

2 X. "State" means any state, commonwealth, district, or territory of the United States of America
3 that regulates the practice of occupational therapy.

4 Y. "Single-state license" means an occupational therapist or occupational therapy assistant
5 license issued by a member state that authorizes practice only within the issuing state and does not
6 include a Compact privilege in any other member state.

7 Z. "Telehealth" means the application of telecommunication technology to deliver occupational
8 therapy services for assessment, intervention and/or consultation.

9 SECTION 3. STATE PARTICIPATION IN THE COMPACT

10 A. To participate in the Compact, a member state shall:

11 1. License occupational therapists and occupational therapy assistants

12 2. Participate fully in the Commission's data system, including but not limited to using the
13 Commission's unique identifier as defined in rules of the Commission;

14 3. Have a mechanism in place for receiving and investigating complaints about licensees;

15 4. Notify the Commission, in compliance with the terms of the Compact and rules, of any
16 adverse action or the availability of investigative information regarding a licensee;

17 5. Implement or utilize procedures for considering the criminal history records of applicants for
18 an initial Compact privilege. These procedures shall include the submission of fingerprints or other
19 biometric-based information by applicants for the purpose of obtaining an applicant's criminal
20 history record information from the Federal Bureau of Investigation and the agency responsible for
21 retaining that state's criminal records;

22 a. A member state shall, within a time frame established by the Commission, require a criminal
23 background check for a licensee seeking/applying for a Compact privilege whose Primary state of
24 residence is that member state, by receiving the results of the Federal Bureau of Investigation
25 criminal record search, and shall use the results in making licensure decisions.

26 b. Communication between a member state, the Commission and among member states
27 regarding the verification of eligibility for licensure through the Compact shall not include any
28 information received from the Federal Bureau of Investigation relating to a federal criminal records
29 check performed by a member state under Public Law 92-544.

30 6. Comply with the rules of the Commission;

31 7. Utilize only a recognized national examination as a requirement for licensure pursuant to the
32 rules of the Commission; and

33 8. Have Continuing Competence/Education requirements as a condition for license renewal.

34 B. A member state shall grant the Compact privilege to a licensee holding a valid unencumbered
35 license in another member state in accordance with the terms of the Compact and rules.

36 C. Member states may charge a fee for granting a Compact privilege.

1 D. A member state shall provide for the state's delegate to attend all occupational therapy
2 Compact Commission meetings.

3 E. Individuals not residing in a member state shall continue to be able to apply for a member
4 state's Single-state license as provided under the laws of each member state. However, the Single-
5 state license granted to these individuals shall not be recognized as granting the Compact privilege
6 in any other member state.

7 F. Nothing in this Compact shall affect the requirements established by a member state for the
8 issuance of a Single-state license.

9 SECTION 4. COMPACT PRIVILEGE

10 A. To exercise the Compact privilege under the terms and provisions of the Compact, the
11 licensee shall:

12 1. Hold a license in the home state;

13 2. Have a valid United States Social Security Number or National Practitioner Identification
14 number;

15 3. Have no encumbrance on any state license;

16 4. Be eligible for a Compact privilege in any member state in accordance with Section 4D, F, G,
17 and H;

18 5. Have paid all fines and completed all requirements resulting from any adverse action against
19 any license or Compact privilege, and two years have elapsed from the date of such completion;

20 6. Notify the Commission that the licensee is seeking the Compact privilege within a remote
21 state(s);

22 7. Pay any applicable fees, including any state fee, for the Compact privilege;

23 8. Complete a criminal background check in accordance with Section 3A(5);

24 a. The licensee shall be responsible for the payment of any fee associated with the completion of
25 a criminal background check.

26 9. Meet any jurisprudence requirements established by the remote state(s) in which the licensee
27 is seeking a Compact privilege; and

28 10. Report to the Commission adverse action taken by any non-member state within 30 days
29 from the date the adverse action is taken.

30 B. The Compact privilege is valid until the expiration date of the home state license. The
31 licensee must comply with the requirements of Section 4A to maintain the Compact privilege in the
32 remote state.

33 C. A licensee providing occupational therapy in a remote state under the Compact privilege
34 shall function within the laws and regulations of the remote state.

35 D. Occupational therapy assistants practicing in a remote state shall be supervised by an
36 occupational therapist licensed or holding a Compact privilege in that remote state.

1 E. A licensee providing occupational therapy in a remote state is subject to that state's
2 regulatory authority. A remote state may, in accordance with due process and that state's laws,
3 remove a licensee's Compact privilege in the remote state for a specific period of time, impose fines,
4 and/or take any other necessary actions to protect the health and safety of its citizens. The licensee
5 may be ineligible for a Compact privilege in any state until the specific time for removal has passed
6 and all fines are paid.

7 F. If a home state license is encumbered, the licensee shall lose the Compact privilege in any
8 remote state until the following occur:

9 1. The home state license is no longer encumbered; and

10 2. Two years have elapsed from the date on which the home state license is no longer
11 encumbered in accordance with Section 4(F)(1).

12 G. Once an Encumbered license in the home state is restored to good standing, the licensee must
13 meet the requirements of Section 4A to obtain a Compact privilege in any remote state.

14 H. If a licensee's Compact privilege in any remote state is removed, the individual may lose the
15 Compact privilege in any other remote state until the following occur:

16 1. The specific period of time for which the Compact privilege was removed has ended;

17 2. All fines have been paid and all conditions have been met;

18 3. Two years have elapsed from the date of completing requirements for 4(H)(1) and (2); and

19 4. The Compact privileges are reinstated by the Commission, and the compact data system is
20 updated to reflect reinstatement.

21 I. If a licensee's Compact privilege in any remote state is removed due to an erroneous charge,
22 privileges shall be restored through the compact data system.

23 J. Once the requirements of Section 4H have been met, the license must meet the requirements
24 in Section 4A to obtain a Compact privilege in a remote state.

25 **SECTION 5: OBTAINING A NEW HOME state LICENSE BY VIRTUE OF COMPACT PRIVILEGE**

26 A. An occupational therapist or occupational therapy assistant may hold a home state license,
27 which allows for Compact privileges in member states, in only one member state at a time.

28 B. If an occupational therapist or occupational therapy assistant changes primary state of
29 residence by moving between two member states:

30 1. The occupational therapist or occupational therapy assistant shall file an application for
31 obtaining a new home state license by virtue of a Compact privilege, pay all applicable fees, and
32 notify the current and new home state in accordance with applicable rules adopted by the
33 Commission.

34 2. Upon receipt of an application for obtaining a new home state license by virtue of compact
35 privilege, the new home state shall verify that the occupational therapist or occupational therapy
36 assistant meets the pertinent criteria outlined in Section 4 via the data system, without need for
37 primary source verification except for:

1 a. An FBI fingerprint based criminal background check if not previously performed or updated
2 pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;

3 b. Other criminal background check as required by the new home state; and

4 c. Submission of any requisite jurisprudence requirements of the new home state.

5 3. The former home state shall convert the former home state license into a Compact privilege
6 once the new home state has activated the new home state license in accordance with applicable
7 rules adopted by the Commission.

8 4. Notwithstanding any other provision of this Compact, if the occupational therapist or
9 occupational therapy assistant cannot meet the criteria in Section 4, the new home state shall apply
10 its requirements for issuing a new Single-state license.

11 5. The occupational therapist or the occupational therapy assistant shall pay all applicable fees
12 to the new home state in order to be issued a new home state license.

13 C. If an occupational therapist or occupational therapy assistant changes primary state of
14 residence by moving from a member state to a non-member state, or from a non-member state to a
15 member state, the state criteria shall apply for issuance of a Single-state license in the new state.

16 D. Nothing in this compact shall interfere with a licensee's ability to hold a Single-state license
17 in multiple states; however, for the purposes of this compact, a licensee shall have only one home
18 state license.

19 E. Nothing in this Compact shall affect the requirements established by a member state for the
20 issuance of a Single-state license.

21 **SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

22 A. Active Duty Military personnel, or their spouses, shall designate a home state where the
23 individual has a current license in good standing. The individual may retain the home state
24 designation during the period the service member is on active duty. Subsequent to designating a
25 home state, the individual shall only change their home state through application for licensure in the
26 new state or through the process described in Section 5.

27 **SECTION 7. ADVERSE ACTIONS**

28 A. A home state shall have exclusive power to impose adverse action against an occupational
29 therapist's or occupational therapy assistant's license issued by the home state.

30 B. In addition to the other powers conferred by state law, a remote state shall have the
31 authority, in accordance with existing state due process law, to:

32 1. Take adverse action against an occupational therapist's or occupational therapy assistant's
33 Compact privilege within that member state.

34 2. Issue subpoenas for both hearings and investigations that require the attendance and
35 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board
36 in a member state for the attendance and testimony of witnesses or the production of evidence from
37 another member state shall be enforced in the latter state by any court of competent jurisdiction,

1 according to the practice and procedure of that court applicable to subpoenas issued in proceedings
2 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and
3 other fees required by the service statutes of the state in which the witnesses or evidence are
4 located.

5 C. For purposes of taking adverse action, the home state shall give the same priority and effect
6 to reported conduct received from a member state as it would if the conduct had occurred within the
7 home state. In so doing, the home state shall apply its own state laws to determine appropriate
8 action.

9 D. The home state shall complete any pending investigations of an occupational therapist or
10 occupational therapy assistant who changes primary state of residence during the course of the
11 investigations. The home state, where the investigations were initiated, shall also have the
12 authority to take appropriate action(s) and shall promptly report the conclusions of the
13 investigations to the OT Compact Commission data system. The occupational therapy Compact
14 Commission data system administrator shall promptly notify the new home state of any adverse
15 actions.

16 E. A member state, if otherwise permitted by state law, may recover from the affected
17 occupational therapist or occupational therapy assistant the costs of investigations and disposition of
18 cases resulting from any adverse action taken against that occupational therapist or occupational
19 therapy assistant.

20 F. A member state may take adverse action based on the factual findings of the remote state,
21 provided that the member state follows its own procedures for taking the adverse action.

22 G. Joint Investigations

23 1. In addition to the authority granted to a member state by its respective state occupational
24 therapy laws and regulations or other applicable state law, any member state may participate with
25 other member states in joint investigations of licensees.

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

28 H. If an adverse action is taken by the home state against an occupational therapist's or
29 occupational therapy assistant's license, the occupational therapist's or occupational therapy
30 assistant's Compact privilege in all other member states shall be deactivated until all encumbrances
31 have been removed from the state license. All home state disciplinary orders that impose adverse
32 action against an occupational therapist's or occupational therapy assistant's license shall include a
33 statement that the occupational therapist's or occupational therapy assistant's Compact privilege is
34 deactivated in all member states during the pendency of the order.

35 I. If a member state takes adverse action, it shall promptly notify the administrator of the data
36 system. The administrator of the data system shall promptly notify the home state of any adverse
37 actions by remote states.

1 J. Nothing in this Compact shall override a member state's decision that participation in an
2 Alternative Program may be used in lieu of adverse action.

3 SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT
4 COMMISSION.

5 A. The Compact member states hereby create and establish a joint public agency known as the
6 occupational therapy Compact Commission:

7 1. The Commission is an instrumentality of the Compact states.

8 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely
9 and exclusively in a court of competent jurisdiction where the principal office of the Commission is
10 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or
11 consents to participate in alternative dispute resolution proceedings.

12 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

13 B. Membership, Voting, and Meetings

14 1. Each member state shall have and be limited to one (1) delegate selected by that member
15 state's licensing board.

16 2. The delegate shall be either:

17 a. A current member of the licensing board, who is an occupational therapist, occupational
18 therapy assistant, or public member; or

19 b. An administrator of the licensing board.

20 3. Any delegate may be removed or suspended from office as provided by the law of the state
21 from which the delegate is appointed.

22 4. The member state board shall fill any vacancy occurring in the Commission within 90 days.

23 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and
24 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs
25 of the Commission. A delegate shall vote in person or by such other means as provided in the
26 bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other
27 means of communication.

28 6. The Commission shall meet at least once during each calendar year. Additional meetings
29 shall be held as set forth in the bylaws.

30 7. The Commission shall establish by rule a term of office for delegates.

31 C. The Commission shall have the following powers and duties:

32 1. Establish a Code of Ethics for the Commission;

33 2. Establish the fiscal year of the Commission;

34 3. Establish bylaws;

35 4. Maintain its financial records in accordance with the bylaws;

36 5. Meet and take such actions as are consistent with the provisions of this Compact and the
37 bylaws;

- 1 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of
2 this Compact. The rules shall have the force and effect of law and shall be binding in all member
3 states;
- 4 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided
5 that the standing of any state occupational therapy licensing board to sue or be sued under
6 applicable law shall not be affected;
- 7 8. Purchase and maintain insurance and bonds;
- 8 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees
9 of a member state;
- 10 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such
11 individuals appropriate authority to carry out the purposes of the Compact, and establish the
12 Commission's personnel policies and programs relating to conflicts of interest, qualifications of
13 personnel, and other related personnel matters;
- 14 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
15 materials and services, and receive, utilize and dispose of the same; provided that at all times the
16 Commission shall avoid any appearance of impropriety and/or conflict of interest;
- 17 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or
18 use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any
19 appearance of impropriety;
- 20 13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
21 property real, personal, or mixed;
- 22 14. Establish a budget and make expenditures;
- 23 15. Borrow money;
- 24 16. Appoint committees, including standing committees composed of members, state regulators,
25 state legislators or their representatives, and consumer representatives, and such other interested
26 persons as may be designated in this Compact and the bylaws;
- 27 17. Provide and receive information from, and cooperate with, law enforcement agencies;
- 28 18. Establish and elect an Executive Committee; and
- 29 19. Perform such other functions as may be necessary or appropriate to achieve the purposes of
30 this Compact consistent with the state regulation of occupational therapy licensure and practice.
- 31 D. The Executive Committee. The Executive Committee shall have the power to act on behalf of
32 the Commission according to the terms of this Compact.
- 33 1. The Executive Committee shall be composed of nine members:
 - 34 a. Seven voting members who are elected by the Commission from the current membership of
35 the Commission;
 - 36 b. One ex-officio, nonvoting member from a recognized national occupational therapy
37 professional association; and

- 1 c. One ex-officio, nonvoting member from a recognized national occupational therapy
2 certification organization.
- 3 2. The ex-officio members will be selected by their respective organizations.
- 4 3. The Commission may remove any member of the Executive Committee as provided in bylaws.
- 5 4. The Executive Committee shall meet at least annually.
- 6 5. The Executive Committee shall have the following duties and responsibilities:
 - 7 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this
8 Compact legislation, fees paid by Compact member states such as annual dues, and any Commission
9 Compact fee charged to licensees for the Compact privilege;
 - 10 b. Ensure Compact administration services are appropriately provided, contractual or
11 otherwise;
 - 12 c. Prepare and recommend the budget;
 - 13 d. Maintain financial records on behalf of the Commission;
 - 14 e. Monitor Compact compliance of member states and provide compliance reports to the
15 Commission;
 - 16 f. Establish additional committees as necessary; and
 - 17 g. Perform other duties as provided in rules or bylaws.
- 18 E. Meetings of the Commission
 - 19 1. All meetings shall be open to the public, and public notice of meetings shall be given in the
20 same manner as required under the rulemaking provisions in Section 10.
 - 21 2. The Commission or the Executive Committee or other committees of the Commission may
22 convene in a closed, non-public meeting if the Commission or Executive Committee or other
23 committees of the Commission must discuss:
 - 24 a. Non-compliance of a member state with its obligations under the Compact;
 - 25 b. The employment, compensation, discipline or other matters, practices or procedures related to
26 specific employees or other matters related to the Commission's internal personnel practices and
27 procedures;
 - 28 c. Current, threatened, or reasonably anticipated litigation;
 - 29 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
 - 30 e. Accusing any person of a crime or formally censuring any person;
 - 31 f. Disclosure of trade secrets or commercial or financial information that is privileged or
32 confidential;
 - 33 g. Disclosure of information of a personal nature where disclosure would constitute a clearly
34 unwarranted invasion of personal privacy;
 - 35 h. Disclosure of investigative records compiled for law enforcement purposes;

1 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
2 use of the Commission or other committee charged with responsibility of investigation or
3 determination of compliance issues pursuant to the Compact; or

4 j. Matters specifically exempted from disclosure by federal or member state statute.

5 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's
6 legal counsel or designee shall certify that the meeting may be closed and shall reference each
7 relevant exempting provision.

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

14 F. Financing of the Commission

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

17 2. The Commission may accept any and all appropriate revenue sources, donations, and grants
18 of money, equipment, supplies, materials, and services.

19 3. The Commission may levy on and collect an annual assessment from each member state or
20 impose fees on other parties to cover the cost of the operations and activities of the Commission and
21 its staff, which must be in a total amount sufficient to cover its annual budget as approved by the
22 Commission each year for which revenue is not provided by other sources. The aggregate annual
23 assessment amount shall be allocated based upon a formula to be determined by the Commission,
24 which shall promulgate a rule binding upon all member states.

25 4. The Commission shall not incur obligations of any kind prior to securing the funds adequate
26 to meet the same; nor shall the Commission pledge the credit of any of the member states, except by
27 and with the authority of the member state.

28 5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts
29 and disbursements of the Commission shall be subject to the audit and accounting procedures
30 established under its bylaws. However, all receipts and disbursements of funds handled by the
31 Commission shall be audited yearly by a certified or licensed public accountant, and the report of the
32 audit shall be included in and become part of the annual report of the Commission.

33 G. Qualified Immunity, Defense, and Indemnification

34 1. The members, officers, executive director, employees and representatives of the Commission
35 shall be immune from suit and liability, either personally or in their official capacity, for any claim
36 for damage to or loss of property or personal injury or other civil liability caused by or arising out of
37 any actual or alleged act, error or omission that occurred, or that the person against whom the claim

1 is made had a reasonable basis for believing occurred within the scope of Commission employment,
2 duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any
3 such person from suit and/or liability for any damage, loss, injury, or liability caused by the
4 intentional or willful or wanton misconduct of that person.

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

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

20 SECTION 9. DATA SYSTEM

21 A. The Commission shall provide for the development, maintenance, and utilization of a
22 coordinated database and reporting system containing licensure, adverse action, and investigative
23 information on all licensed individuals in member states.

24 B. A member state shall submit a uniform data set to the data system on all individuals to
25 whom this Compact is applicable (utilizing a unique identifier) as required by the rules of the
26 Commission, including:

27 1. Identifying information;

28 2. Licensure data;

29 3. Adverse actions against a license or Compact privilege;

30 4. Non-confidential information related to Alternative Program participation;

31 5. Any denial of application for licensure, and the reason(s) for such denial;

32 6. Other information that may facilitate the administration of this Compact, as determined by
33 the rules of the Commission; and

34 7. Current significant investigative information.

35 C. Current significant investigative information and other investigative information pertaining
36 to a licensee in any member state will only be available to other member states.

1 D. The Commission shall promptly notify all member states of any adverse action taken against
2 a licensee or an individual applying for a license. adverse action information pertaining to a licensee
3 in any member state will be available to any other member state.

4 E. Member states contributing information to the data system may designate information that
5 may not be shared with the public without the express permission of the contributing state.

6 F. Any information submitted to the data system that is subsequently required to be expunged
7 by the laws of the member state contributing the information shall be removed from the data
8 system.

9 SECTION 10. RULEMAKING

10 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in
11 this Section and the rules adopted thereunder. Rules and amendments shall become binding as of
12 the date specified in each rule or amendment.

13 B. The Commission shall promulgate reasonable rules in order to effectively and efficiently
14 achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission
15 exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the
16 Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid
17 and have no force and effect.

18 C. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute
19 or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of
20 the rule, then such rule shall have no further force and effect in any member state.

21 D. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
22 Commission.

23 E. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least
24 thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the
25 Commission shall file a notice of proposed rulemaking:

- 26 1. On the website of the Commission or other publicly accessible platform; and
27 2. On the website of each member state occupational therapy licensing board or other publicly
28 accessible platform or the publication in which each state would otherwise publish proposed rules.

29 F. The notice of proposed rulemaking shall include:

- 30 1. The proposed time, date, and location of the meeting in which the rule will be considered and
31 voted upon;
32 2. The text of the proposed rule or amendment and the reason for the proposed rule;
33 3. A request for comments on the proposed rule from any interested person; and
34 4. The manner in which interested persons may submit notice to the Commission of their
35 intention to attend the public hearing and any written comments.

36 G. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written
37 data, facts, opinions, and arguments, which shall be made available to the public.

1 H. The Commission shall grant an opportunity for a public hearing before it adopts a rule or
2 amendment if a hearing is requested by:

- 3 1. At least twenty five (25) persons;
- 4 2. A state or federal governmental subdivision or agency; or
- 5 3. An association or organization having at least twenty five (25) members.

6 I. If a hearing is held on the proposed rule or amendment, the Commission shall publish the
7 place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
8 Commission shall publish the mechanism for access to the electronic hearing.

9 1. All persons wishing to be heard at the hearing shall notify the executive director of the
10 Commission or other designated member in writing of their desire to appear and testify at the
11 hearing not less than five (5) business days before the scheduled date of the hearing.

12 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair
13 and reasonable opportunity to comment orally or in writing.

14 3. All hearings will be recorded. A copy of the recording will be made available on request.

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

17 J. Following the scheduled hearing date, or by the close of business on the scheduled hearing
18 date if the hearing was not held, the Commission shall consider all written and oral comments
19 received.

20 K. If no written notice of intent to attend the public hearing by interested parties is received, the
21 Commission may proceed with promulgation of the proposed rule without a public hearing.

22 L. The Commission shall, by majority vote of all members, take final action on the proposed rule
23 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full
24 text of the rule.

25 M. Upon determination that an emergency exists, the Commission may consider and adopt an
26 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual
27 rulemaking procedures provided in the Compact and in this section shall be retroactively applied to
28 the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective
29 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
30 immediately in order to:

- 31 1. Meet an imminent threat to public health, safety, or welfare;
- 32 2. Prevent a loss of Commission or member state funds;
- 33 3. Meet a deadline for the promulgation of an administrative rule that is established by federal
34 law or rule; or
- 35 4. Protect public health and safety.

36 N. The Commission or an authorized committee of the Commission may direct revisions to a
37 previously adopted rule or amendment for purposes of correcting typographical errors, errors in

1 format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted
2 on the website of the Commission. The revision shall be subject to challenge by any person for a
3 period of thirty (30) days after posting. The revision may be challenged only on grounds that the
4 revision results in a material change to a rule. A challenge shall be made in writing and delivered to
5 the chair of the Commission prior to the end of the notice period. If no challenge is made, the
6 revision will take effect without further action. If the revision is challenged, the revision may not
7 take effect without the approval of the Commission.

8 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

9 A. Oversight

10 1. The executive, legislative, and judicial branches of state government in each member state
11 shall enforce this Compact and take all actions necessary and appropriate to effectuate the
12 Compact's purposes and intent. The provisions of this Compact and the rules promulgated
13 hereunder shall have standing as statutory law.

14 2. All courts shall take judicial notice of the Compact and the rules in any judicial or
15 administrative proceeding in a member state pertaining to the subject matter of this Compact which
16 may affect the powers, responsibilities, or actions of the Commission.

17 3. The Commission shall be entitled to receive service of process in any such proceeding, and
18 shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of
19 process to the Commission shall render a judgment or order void as to the Commission, this
20 Compact, or promulgated rules.

21 B. Default, Technical Assistance, and Termination

22 1. If the Commission determines that a member state has defaulted in the performance of its
23 obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

24 a. Provide written notice to the defaulting state and other member states of the nature of the
25 default, the proposed means of curing the default and/or any other action to be taken by the
26 Commission; and

27 b. Provide remedial training and specific technical assistance regarding the default.

28 2. If a state in default fails to cure the default, the defaulting state may be terminated from the
29 Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and
30 benefits conferred by this Compact may be terminated on the effective date of termination. A cure of
31 the default does not relieve the offending state of obligations or liabilities incurred during the period
32 of default.

33 3. Termination of membership in the Compact shall be imposed only after all other means of
34 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by
35 the Commission to the governor, the majority and minority leaders of the defaulting state's
36 legislature, and each of the member states.

1 4. A state that has been terminated is responsible for all assessments, obligations, and liabilities
2 incurred through the effective date of termination, including obligations that extend beyond the
3 effective date of termination.

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

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

11 C. Dispute Resolution

12 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to
13 the Compact that arise among member states and between member and non-member states.

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

16 D. Enforcement

17 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and
18 rules of this Compact.

19 2. By majority vote, the Commission may initiate legal action in the United States District
20 Court for the District of Columbia or the federal district where the Commission has its principal
21 offices against a member state in default to enforce compliance with the provisions of the Compact
22 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and
23 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all
24 costs of such litigation, including reasonable attorney's fees.

25 3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission
26 may pursue any other remedies available under federal or state law.

27 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR
28 OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND
29 AMENDMENT

30 A. The Compact shall come into effect on the date on which the Compact statute is enacted into
31 law in the tenth member state. The provisions, which become effective at that time, shall be limited
32 to the powers granted to the Commission relating to assembly and the promulgation of rules.
33 Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the
34 implementation and administration of the Compact.

35 B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
36 shall be subject to the rules as they exist on the date on which the Compact becomes law in that

1 state. Any rule that has been previously adopted by the Commission shall have the full force and
2 effect of law on the day the Compact becomes law in that state.

3 C. Any member state may withdraw from this Compact by enacting a statute repealing the
4 same.

5 1. A member state's withdrawal shall not take effect until six (6) months after enactment of the
6 repealing statute.

7 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's
8 occupational therapy licensing board to comply with the investigative and adverse action reporting
9 requirements of this act prior to the effective date of withdrawal.

10 D. Nothing contained in this Compact shall be construed to invalidate or prevent any
11 occupational therapy licensure agreement or other cooperative arrangement between a member state
12 and a non-member state that does not conflict with the provisions of this Compact.

13 E. This Compact may be amended by the member states. No amendment to this Compact shall
14 become effective and binding upon any member state until it is enacted into the laws of all member
15 states.

16 **SECTION 13. CONSTRUCTION AND SEVERABILITY**

17 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of
18 this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is
19 declared to be contrary to the constitution of any member state or of the United States or the
20 applicability thereof to any government, agency, person, or circumstance is held invalid, the validity
21 of the remainder of this Compact and the applicability thereof to any government, agency, person, or
22 circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution
23 of any member state, the Compact shall remain in full force and effect as to the remaining member
24 states and in full force and effect as to the member state affected as to all severable matters.

25 **SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS**

26 A. A licensee providing occupational therapy in a remote state under the Compact privilege
27 shall function within the laws and regulations of the remote state.

28 B. Nothing herein prevents the enforcement of any other law of a member state that is not
29 inconsistent with the Compact.

30 C. Any laws in a member state in conflict with the Compact are superseded to the extent of the
31 conflict.

32 D. Any lawful actions of the Commission, including all rules and bylaws promulgated by the
33 Commission, are binding upon the member states.

34 E. All agreements between the Commission and the member states are binding in accordance
35 with their terms.

1 F. In the event any provision of the Compact exceeds the constitutional limits imposed on the
2 legislature of any member state, the provision shall be ineffective to the extent of the conflict with
3 the constitutional provision in question in that member state.

4 3 Effective Date. Part V of this act shall take effect July 1, 2021.

5 PART VI

6 Relative to the licensure and regulation of music therapists.

7 1 New Chapter; Music Therapists. Amend RSA by inserting after chapter 326-L the following
8 new chapter:

9 CHAPTER 326-M

10 MUSIC THERAPISTS

11 326-M:1 Definitions. In this chapter and RSA 328-F:

12 I. "Board" means the music therapists governing board established in RSA 328-F.

13 II. "Board certified music therapist" means an individual who holds current board
14 certification from the Certification Board for Music Therapists.

15 III. "Executive director" means the executive director of the office of professional licensure
16 and certification.

17 IV. "Music therapist" means a person licensed to practice music therapy pursuant to this
18 chapter.

19 V. "Music therapy" means the clinical and evidence based use of music interventions to
20 accomplish individualized goals for people of all ages and ability levels within a therapeutic
21 relationship by a board certified music therapist. The music therapy interventions may include,
22 music improvisation, receptive music listening, song writing, lyric discussion, music and imagery,
23 singing, music performance, learning through music, music combined with other arts, music-assisted
24 relaxation, music-based patient education, electronic music technology, adapted music intervention
25 and movement to music. The practice of music therapy does not include the screening, diagnosis, or
26 assessment of any physical, mental, or communication disorder. This term may include:

27 (a) Acceptance of clients referred for music therapy by other health care or educational
28 professionals, family members, or caregivers.

29 (b) Assessment of clients to determine appropriate music therapy services.

30 (c) Development and implementation of individualized music therapy treatment plans
31 that identify goals, objectives, and strategies of music therapy that are appropriate for clients.

32 (d) Use of music therapy techniques such as improvisation, performance, receptive
33 music listening, song writing, lyric discussion, guided imagery with music, learning through music,
34 and movement to music.

35 (e) Evaluation of a client's response to music therapy techniques and to the client's
36 individualized music therapy treatment plan.

1 (f) Any necessary modification of the client's individualized music therapy treatment
2 plan.

3 (g) Any necessary collaboration with the other health care professionals treating a client.

4 (h) Minimizing of barriers that may restrict a client's ability to receive or fully benefit
5 from music therapy services.

6 326-M:2 Prohibition on Unlicensed Practice; Professional Identification.

7 I. No person without a license as a music therapist shall use the title "music therapist" or
8 similar title or practice music therapy.

9 II. Nothing in this chapter shall be construed to prohibit or restrict the practice, services, or
10 activities of the following:

11 (a) Any person licensed, certified, or regulated under the laws of this state in another
12 profession or occupation or personnel supervised by a licensed professional in this state performing
13 work, including the use of music, incidental to the practice of his or her licensed, certified, or
14 regulated profession or occupation, if that person does not represent himself or herself as a music
15 therapist; or

16 (b) Any person whose training and national certification attests to the individual's
17 preparation and ability to practice his or her certified profession or occupation, if that person does
18 not represent himself or herself as a music therapist; or

19 (c) Any practice of music therapy as an integral part of a program of study for students
20 enrolled in an accredited music therapy program, if the student does not represent himself or herself
21 as a music therapist; or

22 (d) Any person who practices music therapy under the supervision of a licensed music
23 therapist, if the person does not represent himself or herself as a music therapist.

24 326-M:3 Licensure of Music Therapists. In addition to requirements under RSA 328-F:

25 I. The board shall issue a license to an applicant for a music therapy license when such
26 applicant has completed and submitted an application upon a form and in such manner as the
27 executive director prescribes, accompanied by applicable fees, and evidence satisfactory to the board
28 that:

29 (a) The applicant is in good standing based on a review of the applicant's music therapy
30 licensure history in other jurisdictions, including a review of any alleged misconduct or neglect in the
31 practice of music therapy on the part of the applicant, and a review of the criminal background check
32 required under RSA 328-F:18-a.

33 (b) The applicant provides proof of passing the examination for board certification
34 offered by the Certification Board for Music Therapists or any successor organization or provides
35 proof that the applicant is currently a board certified music therapist.

36 II. The board shall issue a license to an applicant for a music therapist license when such
37 applicant has completed and submitted an application upon a form and in such manner as the

1 executive director prescribes, accompanied by applicable fees, and evidence satisfactory to the board
 2 that the applicant is licensed and in good standing as a music therapist in another jurisdiction where
 3 the qualifications required are equal to or greater than those required in this chapter at the date of
 4 application.

5 326-M:4 Music Therapists Governing Board; Duties. In addition to the duties of a governing
 6 board under RSA 328-F:

7 I. The board may facilitate the development of materials that the office of professional
 8 licensure and certification may utilize to educate the public concerning music therapist licensure, the
 9 benefits of music therapy, and utilization of music therapy by individuals and in facilities or
 10 institutional settings.

11 II. The board may act as a facilitator of statewide dissemination of information between
 12 music therapists, the American Music Therapy Association or any successor organization, the
 13 Certification Board for Music Therapists or any successor organization, and the executive director.

14 III. The executive director shall seek the advice of the board for issues related to the
 15 regulation of music therapists.

16 2 Allied Health Professionals; Definition; Governing Board. Amend RSA 328-F:2, II to read as
 17 follows:

18 II. "Governing boards" means individual licensing boards of athletic trainers, occupational
 19 therapy assistants, occupational therapists, recreational therapists, physical therapists, physical
 20 therapist assistants, respiratory care practitioners, speech-language pathologists, [and] genetic
 21 counselors, **and music therapists**.

22 3 New Paragraph; Allied Health Professionals; Music Therapists. Amend RSA 328-F:2 by
 23 inserting after paragraph X the following new paragraph:

24 XI. "Music therapist" means music therapist as defined in RSA 326-M:1.

25 4 Governing Board; Establishment. Amend RSA 328-F:3, I to read as follows:

26 I. There shall be established governing boards of athletic trainers, occupational therapists,
 27 recreational therapists, respiratory care practitioners, physical therapists, speech-language
 28 pathologists, [and] genetic counselors, **and music therapists**.

29 5 New Paragraph; Music Therapists Governing Board; Appointment. Amend RSA 328-F:4 by
 30 inserting after paragraph X the following new paragraph:

31 XI. The music therapists governing board shall consist of 3 licensed music therapists, who
 32 have actively engaged in the practice of music therapy in this state for at least 2 years, one member
 33 who is a licensed health care provider who is not a music therapist, and one public member. Initial
 34 appointment of professional members by the governor and council shall be qualified persons
 35 practicing music therapy in this state. All subsequent appointments or reappointments shall require
 36 licensure.

37 6 Renewals; Reference to Music Therapists Added. Amend RSA 328-F:19, I to read as follows:

1 I. Initial licenses and renewals shall be valid for 2 years, except that timely and complete
2 application for license renewal by eligible applicants shall continue the validity of the licenses being
3 renewed until the governing board has acted on the renewal application. Licenses issued pursuant
4 to RSA 328-A, RSA 326-G, [~~and~~] RSA 326-J, **and RSA 326-M** shall expire in even-numbered years
5 and licenses issued pursuant to RSA 326-C, RSA 326-E, RSA 326-F, and RSA 326-K shall expire in
6 odd-numbered years.

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

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

10 II. The amount necessary to pay for the position established in paragraph I and for the per
11 diem and travel reimbursement as required under RSA 328-F:6 for the music therapy governing
12 board established in this act is hereby appropriated to the executive director of the office of
13 professional licensure and certification. Salaries and necessary expenses shall be a charge against
14 the office of professional licensure and certification fund established in RSA 310-A:1-e.

15 8 Effective Date. Part VI of this act shall take effect July 1, 2021.

16 PART VII

17 Relative to the authority of the office of professional licensure and certification for administration,
18 rulemaking, and enforcement of investigations, hearings, and appeals.

19 1 Office of Professional Licensure and Certification; Administration; Rulemaking. Amend RSA
20 310-A:1-d, II(h)(2) to read as follows:

21 (2) Such organizational and procedural rules necessary to administer the boards,
22 commissions, and councils in the office of professional licensure and certification, including rules
23 governing the administration of complaints and investigations, **hearings, disciplinary**
24 **proceedings**, payment processing procedures, and application procedures; and

25 2 New Sections; Office of Professional Licensure and Certification; Investigations; Hearings;
26 Penalties; Appeals. Amend RSA 310-A by inserting after section 1-g the following new sections:

27 310-A:1-h Investigations.

28 I. Boards, which shall include all boards, councils, and commissions within the office of
29 professional licensure and certification, may authorize an investigation of allegations of misconduct
30 by licensees (a) upon their own initiative or (b) upon written complaint of any person that charges
31 that a person licensed by the board has committed misconduct. In consultation with the board, the
32 office shall assign an investigator, who shall complete the investigation in accordance with rules
33 adopted by the executive director.

34 II. The following information obtained during investigations shall be held confidential and
35 shall be exempt from the disclosure requirements of RSA 91-A:

36 (a) Complaints received by the office.

37 (b) Information and records acquired by the office during the investigation.

1 (c) Reports and records made by the office as a result of its investigation.

2 III. For the purpose of carrying out investigations, the executive director is authorized to:

3 (a) Retain qualified experts.

4 (b) Conduct inspections of places of business of licensees or certificate holders.

5 (c) Retain legal counsel when authorized to do so by the attorney general.

6 (d) Issue subpoenas for persons, relevant documents and relevant things in accordance
7 with the following conditions:

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

10 (2) Subpoenas for documents and things shall not require compliance in fewer than
11 15 days after receipt of service.

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

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

18 IV. The office or the boards, councils, and commissions within the office may disclose
19 information acquired in an investigation to law enforcement or health licensing agencies in this state
20 or any other jurisdiction, or in response to specific statutory requirements or court orders.

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

30 VI. The board may dismiss a complaint if the allegations do not state a claim of professional
31 misconduct.

32 310-A:1-i Disciplinary Proceedings; Remedial Proceedings.

33 I. Boards, which shall include all boards, councils, and commissions within the office of
34 professional licensure and certification, are authorized to conduct disciplinary proceedings in
35 accordance with procedural rules adopted by the executive director.

1 II. For the purpose of carrying out disciplinary proceedings, each board is authorized to
2 issue subpoenas for persons, relevant documents and relevant things in accordance with the
3 following conditions:

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

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

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

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

14 III. At any time before or during disciplinary proceedings, complaints may be dismissed or
15 disposed of, in whole or in part, by written settlement agreement approved by the board and the
16 licensees or certified individuals involved, provided that any complainant shall have the opportunity,
17 before the settlement agreement has been executed, to comment on the terms of the proposed
18 settlement. The board, council, or commission may hold a settlement agreement hearing prior to its
19 approval of the settlement agreement.

20 IV. Disciplinary proceedings shall be open to the public. Final board actions having the
21 effect of terminating disciplinary proceedings, whether taken before, during or after the completion
22 of the proceedings, shall be set forth in a written record that shall be available to the public after
23 service upon the licensees or certified individuals involved.

24 V. In carrying out disciplinary or licensing proceedings, each board shall have the authority
25 to:

26 (a) Hold pre-hearing conferences exempt from the provisions of RSA 91-A.

27 (b) Appoint a board member or other qualified person as presiding officer.

28 (c) Administer, and authorize an appointed presiding officer to administer, oaths and
29 affirmations.

30 VI. Neither the office nor the boards, councils, and commissions shall have an obligation or
31 authority to appoint or pay the fees of attorneys representing licensees, certified individuals, or
32 witnesses during investigations or adjudicatory proceedings.

33 VII. Boards, councils, and commissions may take non-disciplinary remedial action against
34 any person licensed by it upon finding that the person is afflicted with physical or mental disability,
35 disease, disorder, or condition deemed dangerous to the public health. Upon making an affirmative
36 finding, the board, council, or commission may take non-disciplinary remedial action:

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

3 (b) By revocation of license.

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

7 310-A:1-j Hearings, Decisions and Appeals.

8 I. Disciplinary proceedings shall be open to the public, except upon order by the board,
9 council, or commission upon good cause shown. The public docket file for each such proceeding shall
10 be retained in accordance with the retention policy established by the office of professional licensure
11 and certification.

12 II. Notwithstanding any other provision of law, allegations of misconduct or lack of
13 professional qualifications that are not settled shall be heard by the board, council, or commission, or
14 a panel of the board, council, or commission with a minimum of 3 members appointed by the chair of
15 the board or other designee. Any member of the board, or other person qualified to act as presiding
16 officer and duly designated by the board, shall have the authority to preside at such hearing and to
17 issue oaths or affirmations to witnesses, rule on evidentiary and other procedural matters, and
18 prepare a recommended decision. In the case of a hearing before a panel, the presiding officer shall
19 prepare a recommended decision for the board, council, or commission, which shall determine
20 sanctions.

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

27 IV. In disciplinary and licensing proceedings, the presiding officer may hold prehearing
28 conferences that are closed to the public and exempt from the provisions of RSA 91-A until such time
29 as a public evidentiary hearing is convened. In all instances, settlement discussions engaged in by
30 the parties at prehearing conferences may be conducted off the record.

31 V. The board may dispose of issues or allegations at any time during an investigation or
32 disciplinary proceeding by approving a settlement agreement or issuing a consent order or an order
33 of dismissal for default or failure to state a proper basis for disciplinary action. Disciplinary action
34 taken by the board at any stage of a proceeding, and any dispositive action taken after the issuance
35 of a public hearing notice, shall be reduced to writing and made available to the public. Such
36 decisions shall not be public until they are served upon the parties.

1 VI. All proceedings for non-disciplinary remedial action shall be exempt from the provisions
2 of RSA 91-A, except that the board may disclose any final remedial action that affects the status of a
3 license, including any non-disciplinary restrictions imposed.

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

8 310-A:1-k Penalties.

9 I. Upon making an affirmative finding that a licensee or certificate holder has committed
10 professional misconduct, boards, which shall include all boards, councils, and commissions within
11 the office of professional licensure and certification, may take disciplinary action in any one or more
12 of the following ways:

13 (a) By reprimand.

14 (b) By suspension of a license or certificate for a period of time as determined reasonable
15 by the board.

16 (c) By revocation of license.

17 (d) By placing the licensee or certificate holder on probationary status. The board may
18 require the person to submit to any of the following:

19 (1) Regular reporting to the board concerning the matters which are the basis of the
20 probation.

21 (2) Continuing professional education until a satisfactory degree of skill has been
22 achieved in those areas which are the basis of probation.

23 (3) Submitting to the care, counseling, or treatment of a physician, counseling
24 service, health care facility, professional assistance program, or any comparable person or facility
25 approved by the board.

26 (4) Practicing under the direct supervision of another licensee for a period of time
27 specified by the board.

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

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

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

5 IV. In cases involving imminent danger to life or health, a board may order suspension of a
6 license or certification pending hearing for a period of no more than 10 business days, unless the
7 licensee or certified individual agrees in writing to a longer period. In such cases, the board shall
8 comply with RSA 541-A:30.

9 V. Any person whose license has been suspended or revoked by the board may apply to the
10 board, in writing, to request a hearing for reinstatement. Upon a hearing, the board may issue a
11 new license or modify the suspension or revocation of the license.

12 VI. For any order issued in resolution of an disciplinary proceeding by the board, where the
13 board has found misconduct sufficient to support disciplinary action, the board may require the
14 licensee or certificate holder who is the subject of such finding to pay the office a sum not to exceed
15 the reasonable cost of investigation and prosecution of the proceeding. This sum shall not exceed
16 \$10,000. This sum may be imposed in addition to any otherwise authorized administrative fines
17 levied by the board as part of the penalty. The investigative and prosecution costs shall be assessed
18 by the board and any sums recovered shall be credited to the office's fund and disbursed by the office
19 for any future investigations of complaints and activities that violate this chapter or rules adopted
20 under this chapter.

21 VII. When an investigation of a complaint is determined to be unfounded, the board shall
22 dismiss the complaint and explain in writing to the complainant and the licensee or certificate
23 holder its reason for dismissing the complaint. After six years, the board may destroy all
24 information concerning the investigation, retaining only a record noting that an investigation was
25 conducted and that the board determined the complaint to be unfounded. For the purpose of this
26 paragraph, a complaint shall be deemed to be unfounded if it does not fall within the jurisdiction of
27 the board, does not relate to the actions of the licensee or certificate holder, or is determined by the
28 board to be frivolous.

29 VIII. Whoever, not being licensed or otherwise authorized to practice according to the laws
30 of this state, shall advertise oneself as engaging in a profession licensed or certified by the office of
31 professional licensure and certification, shall engage in activity requiring professional licensure, or
32 in any way hold oneself out as qualified to do so, or call oneself a licensed professional, or whoever
33 does such acts after receiving notice that such person's license to practice has been suspended or
34 revoked, is engaged in unlawful practice. After hearing and upon making an affirmative finding of
35 unlawful practice, the board, council, or commission may take action in any one of the following
36 ways:

1 (a) Issue a cease and desist order against any person or entity engaged in unlawful,
2 which shall be enforceable in superior court.

3 (b) Impose a fine not to exceed the amount of any gain or economic benefit that the
4 person derived from the violation or \$10,000 for each offense, whichever amount is greater. Each
5 violation of unlicensed or unlawful practice shall be deemed a separate offense.

6 (c) The attorney general, board, council, or commission, or prosecuting attorney of any
7 county or municipality where the act to unlawful practice takes place may maintain an action to
8 enjoin any person or entity from continuing to do acts of unlawful practice. The action to enjoin shall
9 not replace any other civil, criminal, or regulatory remedy. An injunction without bond is available
10 to any board, council, or commission.

11 310-A:1-1 Rehearing; Appeals.

12 I. Any person who has been refused a license or certification by the board, which shall
13 include all boards, councils, and commissions within the office of professional licensure and
14 certification, or has been disciplined by the board shall have the right to petition for a rehearing
15 within 30 days after the original final decision.

16 II. Appeals from a decision on rehearing shall be by appeal to the supreme court pursuant to
17 RSA 541.

18 III. No sanction shall be stayed by the board during an appeal.

19 3 Effective Date. Part VII of this act shall take effect January 1, 2022.

20 PART VIII

21 Relative to skilled professional medical personnel.

22 1 Long Term Care; Eligibility and Service Coverage Authorization. Amend RSA 151-E:3, II to
23 read as follows:

24 151-E:3 Eligibility *and Service Coverage Authorization*.

25 II. Skilled professional medical personnel employed by or designated to act on behalf of the
26 department shall determine clinical eligibility in accordance with the criteria in subparagraph I(a).
27 The clinical eligibility determination shall be based upon an assessment tool, approved by the
28 department, performed by skilled professional medical personnel employed by the department[.] or
29 [~~by an individual with equivalent training~~] designated by the department. The department shall
30 train all persons performing the assessment to use the assessment tool. [~~For the purposes of this~~
31 ~~section, "skilled professional medical personnel" shall have the same meaning as in 42 C.F.R. section~~
32 ~~432.50(d)(1)(ii).~~] *Only skilled professional medical personnel who are registered nurses and*
33 *currently licensed in accordance with RSA 326-B may render an adverse clinical eligibility*
34 *determination.*

35 2 New Paragraph; Service Coverage Authorization; Skilled Professional Medical Personnel.
36 Amend RSA 151-E: 3 by inserting after paragraph III the following new paragraph:

1 III-a. Skilled professional medical personnel shall oversee service coverage prior
2 authorizations for Medicaid home and community-based care waiver services. Only skilled
3 professional medical personnel who are registered nurses and currently licensed in accordance with
4 RSA 326-B may render an adverse service coverage determination.

5 3 New Paragraph; Definition; Skilled Professional Medical Personnel. Amend RSA 151-E: 3 by
6 inserting after paragraph IV the following new paragraph:

7 V. In this section "skilled professional medical personnel" shall have the same meaning as in
8 42 C.F.R. section 432.2, except that the skilled professional medical personnel need not be in an
9 employer-employee relationship with the department. Additionally, the skilled professional medical
10 personnel shall have "professional education and training," as that term is defined in 42 C.F.R.
11 section 432.50(d)(1)(ii).

12 4 Effective Date. Part VIII of this act shall take effect 60 days after its passage.

13 PART IX

14 Relative to temporary licensure of certain licensed nursing assistants.

15 1 Statement of Purpose. The general court acknowledges the critical importance of ensuring the
16 quality, accessibility, and sustainability of Medicaid services provided in nursing homes, and
17 recognizes the critical shortage of licensed nursing assistants throughout the state. The purpose of
18 this act is to strengthen the frontline staffing in nursing homes. The general court finds that during
19 the COVID-19 pandemic federal regulatory and statutory provisions were waived to facilitate the
20 hiring of nurse aides by nursing homes. Under state emergency order, these individuals were
21 allowed to work in nursing homes as temporary health partners following no less than 8 hours of
22 training provided either by a national association or a New Hampshire educational program. As a
23 matter of public policy, the general court finds that these workers were indispensable as facilities
24 struggled with staffing issues, particularly during outbreaks of the COVID-19 virus. Accordingly,
25 this act shall provide the board of nursing with the additional authority to expand the workforce of
26 licensed nursing assistants by recognizing the service of temporary health partners during the
27 COVID-19 pandemic.

28 2 Special Licensure as a Licensed Nursing Assistant; Applicants Who Served as Temporary
29 Health Partners.

30 I. Persons who have worked no fewer than 100 hours as temporary health partners in a
31 licensed nursing home by April 1, 2021 have demonstrated, through their work experience during a
32 national and state public health emergency, the competency to transition to status as a licensed
33 nursing assistant.

34 II. Notwithstanding any provision of law to the contrary, the state-approved training
35 program for licensed nursing assistants shall take into account the training and experience acquired
36 during the COVID-19 pandemic to transition these individuals to placement on the state's licensed

1 nursing assistant registry pursuant to RSA 326-B:26. Such individuals shall be subject to all
2 continuing education requirements under RSA 326-B:31.

3 III. For purposes of this act:

4 (a) "COVID-19" means the novel coronavirus first identified in 2019, or SARS-CoV-2.

5 (b) "Temporary health partner" means anyone authorized to work in a nursing home by
6 Emergency Order 42 issued by the governor on May 11, 2020, and required to complete training of
7 no less than eight hours and work under the supervision of an RN, APRN, or LPN, as is required of
8 LNAs under RSA 326-B:14.

9 3 Effective Date. Part IX of this act shall take effect 60 days after its passage.

10 PART X

11 Relative to the revocation of licensure for licensed emergency medical service units and emergency
12 medical service vehicles.

13 1 Emergency Medical and Trauma Services; Revocation of License. Amend the introductory
14 paragraph of RSA 153-A:13, I to read as follows:

15 I. The commissioner ~~[shall]~~ *may* deny an application for issuance or renewal of a license, or
16 *issue a letter of concern*, suspend, or revoke a license, when the commissioner finds that the
17 applicant is guilty of any of the following acts or offenses:

18 2 Effective Date. Part X of this act shall take effect 60 days after its passage.

19 PART XI

20 Relative to schools for barbering, cosmetology, and esthetics.

21 1 Barbering, Cosmetology, and Esthetics; Definition; School. Amend RSA 313-A:1, XIII to read
22 as follows:

23 XIII. "School" means a school or other institution, *or a dedicated program within such*
24 *school or institution*, conducted for the purpose of teaching cosmetology, manicuring, barbering, or
25 esthetics.

26 2 Duties of the Board; Schools; Manicuring, Cosmetology, Barbering, Esthetics RSA 313-A:7, II
27 is repealed and reenacted to read as follows:

28 II. The board may license a school to operate either:

29 (a) Dedicated programs within secondary schools, the purpose of which is to teach
30 cosmetology, manicuring, barbering, or esthetics; or

31 (b) Postsecondary programs conducted for the purpose of teaching cosmetology,
32 manicuring, barbering, or esthetics, including postsecondary programs leading to a certificate in
33 manicuring, barbering, cosmetology, or esthetics.

34 3 Barbering, Cosmetology, Esthetics, Manicuring; Apprenticeship Certificates. Amend RSA
35 313-A:24 to read as follows:

36 313-A:24 Apprentice Registration and ~~[Licensure]~~ *Certificates*.

1 I. No person shall enter an apprenticeship or enroll in a school under this chapter unless
2 such person has registered with the board as an apprentice and been issued an apprentice [license]
3 **certificate**. The board shall have sole authority to regulate apprentices and apprenticeship under
4 this chapter. The board shall issue an apprentice [license] **certificate** to any student receiving
5 instruction within a licensed school or shop to learn barbering, cosmetology, esthetics, or
6 manicuring.

7 II. A person applying for [~~a license~~] **an apprentice certificate** under this section shall be
8 granted such [license] **certificate** upon:

9 (a) Submitting proof sufficient to the board to show that such person is at least 16 years
10 of age;

11 (b) Paying a fee established by the [board] **office of professional licensure and**
12 **certification**; and

13 (c) Being deemed by the board to be of good professional character.

14 III. No salon or barbershop shall at any one time have more than one apprentice per
15 licensed professional, except as follows:

16 (a) Each licensed barber may have up to 2 apprentices for barbering.

17 (b) Each licensed master barber may have up to 2 apprentices for barbering, or one
18 apprentice master barber and one apprentice barber.

19 IV. Upon completing the number of hours specified in the board's apprentice rules, an
20 apprentice shall be eligible to apply to the board for licensure.

21 V. **Notwithstanding RSA 161-B:11, VI-a, an applicant for an apprentice certificate**
22 **shall not be required to provide a social security number as a prerequisite for obtaining a**
23 **certificate.**

24 4 Effective Date. Part XI of this act shall take effect 60 days after its passage.

25 PART XII

26 Relative to telemedicine provided by out of state psychologists.

27 1 Psychologists; Electronic Practice of Psychology. RSA 329-B:16 is repealed and reenacted to
28 read as follows:

29 329-B:16 Electronic Practice of Psychology, Telehealth, Telemedicine.

30 I. Telepsychology, telehealth, and telemedicine services, as provided by psychologists,
31 include those psychology services that utilize electronic means to engage in visual or virtual presence
32 in contemporaneous time. Such provision of services shall require a New Hampshire tele-pass
33 license for provision of such care to people in New Hampshire. Contacts that are exempt from this
34 requirement are:

35 (a) Persons exempted by 329-B:28.

36 (b) Screenings for inclusion in voluntary research projects that have been properly
37 approved by a New Hampshire based institutional review board.

1 (c) Psychologists licensed by the board, who may provide tele-psychology services to a
2 person within the state of New Hampshire without acquiring a tele-pass psychology license.

3 II. A doctoral level psychologist who is not licensed in New Hampshire shall be eligible to
4 provide telepsychology services to a person in New Hampshire, providing that the psychologist:

- 5 (a) Is licensed in one of the jurisdictions in the United States or Canada;
- 6 (b) Is in good standing in all license jurisdictions in the United States and Canada;
- 7 (c) Has satisfied conditions determined in rules adopted by the board;

8 and

9 (d) Has applied for and obtained a valid New Hampshire tele-pass psychology license
10 with effective dates that cover the dates of care provided.

11 III. The tele-pass psychology licensee shall agree to conditions including, but not limited to,
12 conditions stipulated by the board that the licensee shall:

- 13 (a) Conform to all New Hampshire statutes and rules.
- 14 (b) Agree that electronic attendance for appearances shall be deemed adequate for
15 regulatory enforcement purposes and that in-person appearances by the licensee are optional and
16 such associated costs for in-person attendance are the full responsibility of the tele-pass psychology
17 licensee.

18 (c) Understand that false statements or failure to comply with official requests and
19 official orders shall constitute sufficient cause for revocation of the tele-pass psychology license.

20 (d) Understand that all conditions of tele-pass psychology license to practice and
21 enforcement shall be pursuant to New Hampshire law.

22 (e) Grant the New Hampshire board of psychologists and its investigators authority to
23 disclose to law enforcement and related regulatory authorities, at their discretion, information
24 including but not limited to status of application, actions and information pertinent to investigations
25 and enforcement of the laws and rules pertaining to the licensee's conduct.

26 IV. The board shall adopt rules pursuant to RSA 541-A for:

- 27 (a) The application procedure for a New Hampshire tele-pass psychology license;
- 28 (b) Additional requirements for a psychologist licensed in another state of Canada to
29 acquire a tele-pass psychology license, including attestations;
- 30 (c) Any fees required to apply for or to be issued a tele-pass psychology license;
- 31 (d) The standards of care for telemedicine practice of psychology and their enforcement;

32 and

33 (e) Procedures for the revocation of a tele-pass psychology license.

34 2 Effective Date. Part XII of this act shall take effect July 1, 2021.

35
36 PART XIII

37 Relative to certified food protection managers.

1 1 New Section; Food Service Licensure; Certified Food Protection Manager. Amend RSA 143-A
2 by inserting after RSA 143-A:11 the following new section:

3 143-A:11-a Certified Food Protection Manager

4 I. Each food service establishment licensed by the state under RSA 143-A:6 shall:

5 (a) Have a person in charge and present during all hours of operation trained as a
6 certified food protection manager by a program approved by the Conference for Food Protection or
7 other equivalent industry standards program.

8 (b) The requirement in RSA 143-A:11-a, I(a) shall not apply under these conditions:

9 (1) Food establishments having at least one certified food protection manager on
10 staff shall not be required to have the certified food protection manager present when no food
11 preparation is taking place;

12 (2) Food establishments having at least one certified food protection manager on
13 staff shall not be required to have the certified food protection manager present when food
14 preparation is limited to reheating commercially prepared food or ready to eat food; or

15 (3) Food establishments having 5 food employees or less on duty are required to have
16 only one certified food protection manager on staff who is available, although not required to be
17 present, during all hours of operation.

18 II. This section shall not apply to any food service establishment exempt from licensure or
19 inspection under RSA 143-A:5.

20 III. This section shall not apply to food establishments licensed under RSA 143-A:6 as food
21 processing plants, cold storage or refrigerating warehouses; retail stores with no food preparation or
22 limited to self service foods, servicing areas, bed and breakfasts, lodging facilities serving continental
23 breakfasts, home delivery services of packaged frozen food; pushcarts and other mobile food units,
24 those serving packaged food and non-potentially hazardous unwrapped foods only;
25 wholesalers/distributors; on-site vending machines, bars/lounges without a food preparation area;
26 arena/theater concessions serving non-potentially hazardous; sellers of pre-packaged frozen meat or
27 poultry that is processed in a USDA-inspected plant; homestead food operations.

28 2 Effective Date. Part XIII of this act shall take effect upon its passage.

**SB 133-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT adopting omnibus legislation relative to occupational licensure.

PART I Relative to the definition of "licensing agency" for purposes of licensing places of assembly.

This part has no fiscal impact.

PART II Establishing a limited plumbing specialist license.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$95,000	\$95,000	\$190,000
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Office of Professional Licensure and Certification Fund (RSA 310-A:1-e.I(b))			

METHODOLOGY:

This part establishes a new limited plumbing specialist license category. The Office of Professional Licensure and Certification estimates there would be 500 such licenses issued annually with a \$190.00 license fee comparable to that of a journeyman license. The license would be renewed biennially. The OPLC states there would be an indeterminable cost associated with the administrative processing for such licenses.

It is assumed this section of the bill will be effective July 1, 2021.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART III Repealing the emergency medical services personnel licensure interstate Compact.

This part has no fiscal impact.

PART IV Relative to hearings of the New Hampshire board of nursing.

This part has no fiscal impact.

PART V Relative to membership of the professional standards board.

This part has no fiscal impact.

PART VI Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.

This part has no fiscal impact.

PART VII Relative to the licensure and regulation of music therapists.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$65,460	\$68,460	\$71,460
Revenue	\$0	\$27,000	\$0	\$22,000
Expenditures	\$0	\$65,460	\$68,460	\$71,460
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Office of Professional Licensure and Certification Fund (RSA 310-A:1-e,I(b)) and Criminal Records Check Fund (RSA 106-B:7, II)			

METHODOLOGY:

This part of the bill requires the licensure of individuals engaged in music therapy beginning July 1, 2021 and establishes a 5 member governing board within the office of allied health professionals. The bill establishes a new classified position of program assistant II (labor grade 15) to assist the board in its duties. The bill appropriates funds for the salary and benefits of the position and for the per diem and mileage expenses of board members from the Office of Professional Licensure and Certification Fund (OPLC) established in RSA 310-A:1-e.

The OPLC estimates the salary and benefits for the new full-time position to cost \$60,000 in FY22, \$63,000 in FY23 and \$66,000 in FY24.

The OPLC estimates the 5 member board would meet 12 times per year, with expenses for annual per diem and mileage totaling \$5,460 per year, as shown below:

5 members x 12 meetings x \$50 per diem = \$3,000

5 members x 12 meetings x \$41 average mileage reimbursement = \$2,460

The OPLC estimates that approximately 200 licenses would be granted. Such licenses would be renewed every 2 years and all allied health initial licenses are currently set at \$110 payable biennially. This amount would generate \$22,000 in license revenue every 2 years (\$110 x 200 = \$22,000).

The bill prohibits the practice of music therapy without a license but there is no penalty. The addition of this license category also subjects licensees to the allied health criminal records check provision pursuant to RSA 328-F:18-a and performed by the Department of Safety. The \$25 fee associated with such checks is payable by the license applicant. Based on the OPLC estimate of 200 applicants, potential initial revenue of \$5,000 would be generated for the Criminal Records Check Fund pursuant to RSA 106-B:7, II, with an indeterminable amount thereafter based on an unknown number of new applicants.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART VIII Relative to the authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.

This part has no fiscal impact.

PART IX Relative to skilled professional medical personnel.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This section proposes changes to RSA 151-E:3, Long Term Care; Eligibility. Skilled professional medical personnel shall oversee clinical eligibility determinations and service coverage prior authorizations for Medicaid home and community-based care waiver services. Only skilled professional medical personnel who are registered nurses and currently licensed in accordance with RSA 326-B may render an adverse service coverage determination or adverse clinical eligibility determination.

The Department of Health and Human Services states the Department may need to replace supervisors for affected programs with registered nurses, at significantly higher wage rates. The Department may also be unable to fill positions and issue timely decisions, delaying services, and require medically trained staff for determinations that may be denied for non-clinical reasons.

AGENCIES CONTACTED:

Department of Health and Human Services

PART X Relative to temporary licensure of certain licensed nursing assistants.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$7,000	\$0	\$7,000
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Office of Professional Licensure and Certification Fund (RSA 310-A:1-e.I(b))			

METHODOLOGY:

This part of the bill allows licensure as licensed nursing assistants for individuals who served as temporary health partners for a minimum of 100 hours prior to April 1, 2021. The Office of Professional Licensure and Certification estimates 200 temporary health partners would be eligible for licensure at the current license fee of \$35, yielding an estimated biennial revenue of \$7,000. The amount of resources needed to create a new licensure category via the licensing portal and processing these applications is indeterminable.

It is assumed this section would be effective July 1, 2021.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART XI Relative to the revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.

This part has no fiscal impact.

PART XII Relative to schools for barbering, cosmetology, and esthetics.

This part has no fiscal impact.

PART XIII Relative to telemedicine provided by out of state psychologists.

This part has no fiscal impact.

PART XIV Establishing program rules within the department of health and human services for sanitary production and distribution of food.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

The Department of Health and Human Services assumes the intent of Part XIV is to codify the program rules for the sanitary production and distribution of food into state law. The language contained in Part XIV repeals the rulemaking authority of the Commissioner of the Department of Health and Human Services for the following: food licensure codified in RSA 143-A:9, homestead food operations codified in RSA 143-A:13, and the sale of uninspected poultry and rabbits codified in RSA 143-A:17.

It is the Department's interpretation that this legislation aims to revert to a previous version of the Food Protection Regulations (NH Code of Administrative Rules, Chapter He-P 2300, Rules for the Sanitary Production and Distribution of Food) that were effective in February 2019, by placing the text of the previously adopted rules into statute. The Department updated its Food Protection Regulations (Chapter He-P 2300) in August of 2019, including incorporating by reference the most recent version of the US Food and Drug Administration's (FDA) Food Code (2017 Food Code). By codifying the rules that were in place in February of 2019 into statute, the current Certified Food Protection Manager (CFPM) requirement (specified in He-P 2303.02, effective August 20, 2019) would not exist, as this was not a requirement in the previous version of the Food Protection Regulations. The Food Protection Regulations that were effective in February of 2019 referenced the 2009 version of the Food Code. The 2009 version of the Food Code did not include a requirement for a Certified Food Protection Manager.

The proposed legislation also contains a requirement for the Department to offer a training course for interested parties to become a CFPM every 30 days. The Department states it will need to hire at least one new trainer Program Specialist III (LG 23) position to conduct the Certified Food Protection Manager training every 30 days. This position is estimated to include salary and benefits totaling \$77,000 in FY 2022, \$81,000 in FY 2023 and \$85,000 in FY 2024. There is no appropriation in this section for this position.

The Department estimates a cost of \$75 per attendee for a textbook and exam. The Department cannot estimate the number of registrations for classes from approximately 8,000 food establishments, or where such training may be offered and space requirements, what software may be needed for registration and certificates of course completion, or accommodations for multiple language or interpreter services. Therefore the total fiscal impact is indeterminable.

AGENCIES CONTACTED:

Department of Health and Human Services

SB 133-FN- FISCAL NOTE
AMENDED BY THE SENATE (AMENDMENT #2021-0779s)

AN ACT adopting omnibus legislation relative to occupational licensure.

PART I Relative to the definition of "licensing agency" for purposes of licensing places of assembly.

This part has no fiscal impact.

PART II Repealing the emergency medical services personnel licensure interstate Compact.

This part has no fiscal impact.

PART III Relative to hearings of the New Hampshire board of nursing.

This part has no fiscal impact.

PART IV Relative to membership of the professional standards board.

This part has no fiscal impact.

PART V Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.

This part has no fiscal impact.

PART VI Relative to the licensure and regulation of music therapists.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$65,460	\$68,460	\$71,460
Revenue	\$0	\$27,000	\$0	\$22,000
Expenditures	\$0	\$65,460	\$68,460	\$71,460
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Office of Professional Licensure and Certification Fund (RSA 310-A:1-e, I(b)) and Criminal Records Check Fund (RSA 106-B:7, II)			

METHODOLOGY:

This part of the bill requires the licensure of individuals engaged in music therapy beginning July 1, 2021 and establishes a 5 member governing board within the office of allied health professionals. The bill establishes a new classified position of program assistant II (labor grade 15) to assist the board in its duties. The bill appropriates funds for the salary and benefits of the position and for the per diem and mileage expenses of board members from the Office of Professional Licensure and Certification Fund (OPLC) established in RSA 310-A:1-e.

The OPLC estimates the salary and benefits for the new full-time position to cost \$60,000 in FY22, \$63,000 in FY23 and \$66,000 in FY24.

The OPLC estimates the 5 member board would meet 12 times per year, with expenses for annual per diem and mileage totaling \$5,460 per year, as shown below:

5 members x 12 meetings x \$50 per diem = \$3,000

5 members x 12 meetings x \$41 average mileage reimbursement = \$2,460

The OPLC estimates that approximately 200 licenses would be granted. Such licenses would be renewed every 2 years and all allied health initial licenses are currently set at \$110 payable biennially. This amount would generate \$22,000 in license revenue every 2 years ($\$110 \times 200 = \$22,000$).

The bill prohibits the practice of music therapy without a license but there is no penalty. The addition of this license category also subjects licensees to the allied health criminal records check provision pursuant to RSA 328-F:18-a and performed by the Department of Safety. The \$25 fee associated with such checks is payable by the license applicant. Based on the OPLC estimate of 200 applicants, potential initial revenue of \$5,000 would be generated for the Criminal Records Check Fund pursuant to RSA 106-B:7, II, with an indeterminable amount thereafter based on an unknown number of new applicants.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART VII Relative to the authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.

This part has no fiscal impact.

PART VIII Relative to skilled professional medical personnel.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This section proposes changes to RSA 151-E:3, Long Term Care; Eligibility. Skilled professional medical personnel shall oversee clinical eligibility determinations and service coverage prior authorizations for Medicaid home and community-based care waiver services. Only skilled professional medical personnel who are registered nurses and currently licensed in accordance with RSA 326-B may render an adverse service coverage determination or adverse clinical eligibility determination.

The Department of Health and Human Services states the Department may need to replace supervisors for affected programs with registered nurses, at significantly higher wage rates. The Department may also be unable to fill positions and issue timely decisions, delaying services, and require medically trained staff for determinations that may be denied for non-clinical reasons.

AGENCIES CONTACTED:

Department of Health and Human Services

PART IX Relative to temporary licensure of certain licensed nursing assistants.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$7,000	\$0	\$7,000
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other Office of Professional Licensure and Certification Fund (RSA 310-A:1-e.1(b))			

METHODOLOGY:

This part of the bill allows licensure as licensed nursing assistants for individuals who served as temporary health partners for a minimum of 100 hours prior to April 1, 2021. The Office of Professional Licensure and Certification estimates 200 temporary health partners would be eligible for licensure at the current license fee of \$35, yielding an estimated biennial revenue of \$7,000. The amount of resources needed to create a new licensure category via the licensing portal and processing these applications is indeterminable.

It is assumed this section would be effective July 1, 2021.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART X Relative to the revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.

This part has no fiscal impact.

PART XI Relative to schools for barbering, cosmetology, and esthetics.

This part has no fiscal impact.

PART XII Relative to telemedicine provided by out of state psychologists.

This part has no fiscal impact.

PART XIII Relative to certified food protection managers.

This part has no fiscal impact.

SB 133-FN - AS AMENDED BY THE HOUSE

03/18/2021 0779s
3Jun2021... 1579h

2021 SESSION

21-0964
05/04

SENATE BILL **133-FN**

AN ACT adopting omnibus legislation relative to occupational licensure.

SPONSORS: Sen. Carson, Dist 14

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Licensing places of assembly.
- II. Repealing the emergency medical services personnel licensure interstate compact.
- III. Hearings at the board of nursing.
- IV. Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.
- V. The authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.
- VI. Temporary licensure of certain licensed nursing assistants.
- VII. The revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.
- VIII. Schools for barbering, cosmetology, and esthetics.
- IX. Telemedicine provided by out-of-state psychologists.
- X. Sanitary production and distribution of food.
- XI. Minimum qualifications for certification as a child care associate teacher.

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.

SB 133-FN - AS AMENDED BY THE HOUSE

03/18/2021 0779s
3Jun2021... 1579h

21-0964
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to occupational licensure.

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

- 1 1 Sponsorship. This act consists of the following proposed legislation:
- 2 Part I: LSR 21-0964, relative to the definition of "licensing agency" for purposes of licensing
3 places of assembly, sponsored by Sen. Carson, Prime/Dist 14.
- 4 Part II: LSR 21-0506, repealing the emergency medical services personnel licensure
5 interstate compact, sponsored by Sen. Rosenwald, Prime/Dist 13, Sen. Cavanaugh, Dist 16; Sen.
6 Carson, Dist 14; Rep. Goley, Hills. 8; Rep. Milz, Rock. 6; Rep. O'Brien, Hills. 36; Rep. S. Pearson,
7 Rock. 6.
- 8 Part III: LSR 21-0207, relative to hearings of the New Hampshire board of nursing,
9 sponsored by Sen. Ward, Prime/Dist 8.
- 10 Part IV: LSR 21-0846, adopting the Audiology and Speech-Language Pathology Compact
11 and the Occupational Therapy Licensure Compact, sponsored by Sen. Sherman, Prime/Dist 24; Sen.
12 Soucy, Dist 18; Sen. Carson, Dist 14; Rep. March, Carr. 8.
- 13 Part V: LSR 21-0899, relative to the authority of the office of professional licensure and
14 certification for administration, rulemaking, and enforcement of investigations, hearings, and
15 appeals, sponsored by Sen. Reagan, Prime/ Dist 17, Sen. Carson, Dist 14; Sen. French, Dist 7; Sen.
16 Kahn, Dist 10; Sen. Prentiss, Dist 5; Sen. Rosenwald, Dist 13; Sen. Bradley, Dist 3; Sen.
17 D'Allesandro, Dist 20; Sen. Ward, Dist 8; Sen. Soucy, Dist 18; Sen. Giuda, Dist 2; Rep. Spillane,
18 Rock. 2; Rep. McGuire, Merr. 29; Rep. Seaworth, Merr. 20.
- 19 Part VI: LSR 21-0973, relative to temporary licensure of certain licensed nursing assistants,
20 sponsored by Sen. Hennessey, Dist 1; Sen. Rosenwald, Dist 13; Rep. Dostie, Coos 1; Rep. Thompson,
21 Coos 1.
- 22 Part VII: LSR 21-1011, relative to the revocation of licensure for licensed emergency medical
23 service units and emergency medical service vehicles, sponsored by Sen. Prentiss, Prime/Dist 5; Rep.
24 Merchant, Sull. 4; Rep. Goley, Hills. 8; Rep. McGuire, Merr. 29.
- 25 Part VIII: LSR 21-1050, relative to schools for barbering, cosmetology, and esthetics,
26 sponsored by Sen. Reagan, Prime/Dist 17; Sen. Rosenwald, Dist 13; Sen. Prentiss, Dist 5; Sen.
27 Carson, Dist 14; Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Sen. Gannon, Dist 23; Rep.
28 McGuire, Merr. 29; Rep. Roy, Rock. 32; Rep. Harrington, Straf. 3.
- 29 Part IX: LSR 21-0277, relative to telemedicine provided by out-of-state psychologists,
30 sponsored by Sen. Reagan, Prime/Dist 17; Sen. Carson, Dist 14; Sen. Bradley, Dist 3; Sen. Prentiss,

SB 133-FN - AS AMENDED BY THE HOUSE

- Page 2 -

1 Dist 5; Sen. French, Dist 7; Sen. Giuda, Dist 2; Sen. Hennessey, Dist 1; Sen. D'Allesandro, Dist 20;
2 Rep. Spillane, Rock. 2; Rep. Tudor, Rock. 1.

3 Part X: LSR 21-1049, establishing program rules within the department of health and
4 human services for sanitary production and distribution of food, sponsored by Sen. Giuda,
5 Prime/Dist 2; Sen. Gannon, Dist 23.

6 Part XI: relative to minimum qualifications for certification as a child care associate teacher.
7 2 Legislation Enacted. The general court hereby enacts the following legislation:

8
9 PART I

10 Relative to the definition of "licensing agency" for purposes of licensing places of assembly.

11 1 Places of Assembly; Definition of Licensing Agency. Amend RSA 155:17, II to read as follows:

12 II. "Licensing agency" shall mean the chief of the fire department, the firewards or
13 engineers, if any, otherwise the selectmen of the town or the commissioners of village district as the
14 case may be, *or the state fire marshal, as he or she deems necessary, in consultation with the*
15 *local licensing agency, if any.*

16 2 Places of Assembly; License Required. Amend RSA 155:18 to read as follows:

17 155:18 License Required. No person shall own or operate a place of assembly within this state
18 unless licensed so to do by the licensing agency of the *state*, city, town, or village district where said
19 place of assembly is located, including assemblies occurring on state waters or ice formed on state
20 waters, in accordance with the regulations herein promulgated. In the application of this act to
21 existing places of assembly the licensing agency may modify such of its provisions as would require
22 structural changes if in his or her opinion adequate safety may be obtained otherwise and provided
23 that a permanent record is kept of such modifications and the reasons therefor.

24 3 Effective Date. Part I of this act shall take effect 60 days after its passage.

25
26 PART II

27 Repealing the emergency medical services personnel licensure interstate compact.

28 1 Repeal. The following are repealed:

29 I. RSA 153-A:36 and the subdivision heading preceding RSA 153-A:36, relative to the
30 emergency medical services personnel licensure interstate compact.

31 II. RSA 153-A:20, XXIV, relative to rulemaking by the department of safety regarding
32 implementation of the compact.

33 2 Effective Date. Part II of this act shall take effect 60 days after its passage.

34
35 PART III

36 Relative to hearings of the New Hampshire board of nursing.

37 1 Board of Nursing; Adjudicative Hearings. Amend 326-B:38, VIII to read as follows:

1 VIII. The board may hold adjudicative hearings concerning allegations of misconduct or
2 other matters within the scope of this chapter. Such hearings shall be public proceedings. Any
3 member of the board [~~other than the public members~~], or any other qualified person appointed by the
4 board, shall have authority to preside at such a hearing and to issue oaths or affirmations to
5 witnesses.

6 2 Effective Date. Part III of this act shall take effect upon its passage.

7
8 PART IV

9 Adopting the Audiology and Speech-Language Pathology Compact

10 and the Occupational Therapy Licensure Compact.

11 1 New Paragraph; Office of Professional Licensure and Certification; Fees; Financing of
12 Interstate Compacts. Amend RSA 310-A:1-e by inserting after paragraph II the following new
13 paragraph:

14 III. The office of professional licensure and certification shall be responsible for the
15 financing of any interstate compact joined by the state that affects a profession governed by a board
16 listed in 310-A:1-a. Such financing shall be from money deposited in the office of professional
17 licensure and certification fund.

18 2 New Section; Speech-Language Pathology Practice; Audiology and Speech-Language
19 Pathology Compact. Amend RSA 326-F by inserting after section 8 the following new section:

20 326-F:9 Interstate Compact Adopted. The state of New Hampshire hereby adopts the provisions
21 of the Audiology and Speech-Language Pathology Compact as follows:

22 SECTION 1: PURPOSE

23 The purpose of this Compact is to facilitate interstate practice of audiology and speech-language
24 pathology with the goal of improving public access to audiology and speech-language pathology
25 services. The practice of audiology and speech-language pathology occurs in the state where the
26 patient/client/student is located at the time of the patient/client/student encounter. The Compact
27 preserves the regulatory authority of states to protect public health and safety through the current
28 system of state licensure.

29 This Compact is designed to achieve the following objectives:

- 30 1. Increase public access to audiology and speech-language pathology services by providing for
31 the mutual recognition of other member state licenses;
- 32 2. Enhance the states' ability to protect the public's health and safety;
- 33 3. Encourage the cooperation of member states in regulating multistate audiology and speech-
34 language pathology practice;
- 35 4. Support spouses of relocating active duty military personnel;
- 36 5. Enhance the exchange of licensure, investigative and disciplinary information between
37 member states;

1 6. Allow a remote state to hold a provider of services with a compact privilege in that state
2 accountable to that state's practice standards; and

3 7. Allow for the use of telehealth technology to facilitate increased access to audiology and
4 speech-language pathology services.

5 SECTION 2. DEFINITIONS

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

7 A. "Active duty military" means full-time duty status in the active uniformed service of the
8 United States, including members of the National Guard and Reserve on active duty orders
9 pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C Chapter 1211.

10 B. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a
11 state's laws which is imposed by a licensing board or other authority against an audiologist or
12 speech-language pathologist, including actions against an individual's license or privilege to practice
13 such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's
14 practice.

15 C. "Alternative program" means a non-disciplinary monitoring process approved by an audiology
16 or speech-language pathology licensing board to address impaired practitioners.

17 D. "Audiologist" means an individual who is licensed by a state to practice audiology.

18 E. "Audiology" means the care and services provided by a licensed audiologist as set forth in the
19 member state's statutes and rules.

20 F. "Audiology and Speech-Language Pathology Compact Commission" or "Commission" means
21 the national administrative body whose membership consists of all states that have enacted the
22 Compact.

23 G. "Audiology and speech-language pathology licensing board," "audiology licensing board,"
24 "speech-language pathology licensing board," or "licensing board" means the agency of a state that is
25 responsible for the licensing and regulation of audiologists and/or speech-language pathologists.

26 H. "Compact privilege" means the authorization granted by a remote state to allow a licensee
27 from another member state to practice as an audiologist or speech-language pathologist in the
28 remote state under its laws and rules. The practice of audiology or speech-language pathology
29 occurs in the member state where the patient/client/student is located at the time of the
30 patient/client/student encounter.

31 I. "Current significant investigative information" means investigative information that a
32 licensing board, after an inquiry or investigation that includes notification and an opportunity for
33 the audiologist or speech-language pathologist to respond, if required by state law, has reason to
34 believe is not groundless and, if proved true, would indicate more than a minor infraction.

35 J. "Data system" means a repository of information about licensees, including, but not limited
36 to, continuing education, examination, licensure, investigative, compact privilege and adverse action.

1 K. "Encumbered license" means a license in which an adverse action restricts the practice of
2 audiology or speech-language pathology by the licensee and said adverse action has been reported to
3 the National Practitioners Data Bank (NPDB).

4 L. "Executive committee" means a group of directors elected or appointed to act on behalf of, and
5 within the powers granted to them by, the Commission.

6 M. "Home state" means the member state that is the licensee's primary state of residence.

7 N. "Impaired practitioner" means individuals whose professional practice is adversely affected
8 by substance abuse, addiction, or other health-related conditions.

9 O. "Licensee" means an individual who currently holds an authorization from the state licensing
10 board to practice as an audiologist or speech-language pathologist.

11 P. "Member state" means a state that has enacted the Compact.

12 Q. "Privilege to practice" means a legal authorization permitting the practice of audiology or
13 speech-language pathology in a remote state.

14 R. "Remote state" means a member state other than the home state where a licensee is
15 exercising or seeking to exercise the compact privilege.

16 S. "Rule" means a regulation, principle or directive promulgated by the Commission that has the
17 force of law.

18 T. "Single-state license" means an audiology or speech-language pathology license issued by a
19 member state that authorizes practice only within the issuing state and does not include a privilege
20 to practice in any other member state.

21 U. "Speech-language pathologist" means an individual who is licensed by a state to practice
22 speech-language pathology.

23 V. "Speech-language pathology" means the care and services provided by a licensed speech-
24 language pathologist as set forth in the member state's statutes and rules.

25 W. "State" means any state, commonwealth, district or territory of the United States of America
26 that regulates the practice of audiology and speech-language pathology.

27 X. "State practice laws" means a member state's laws, rules and regulations that govern the
28 practice of audiology or speech-language pathology, define the scope of audiology or speech-language
29 pathology practice, and create the methods and grounds for imposing discipline.

30 Y. "Telehealth" means the application of telecommunication technology to deliver audiology or
31 speech-language pathology services at a distance for assessment, intervention and/or consultation.

32 SECTION 3. STATE PARTICIPATION IN THE COMPACT

33 A. A license issued to an audiologist or speech-language pathologist by a home state to a
34 resident in that state shall be recognized by each member state as authorizing an audiologist or
35 speech-language pathologist to practice audiology or speech-language pathology, under a privilege to
36 practice, in each member state.

1 B. A state must implement or utilize procedures for considering the criminal history records of
2 applicants for initial privilege to practice. These procedures shall include the submission of
3 fingerprints or other biometric-based information by applicants for the purpose of obtaining an
4 applicant's criminal history record information from the Federal Bureau of Investigation and the
5 agency responsible for retaining that state's criminal records

6 1. A member state must fully implement a criminal background check requirement, within a
7 time frame established by rule, by receiving the results of the Federal Bureau of Investigation record
8 search on criminal background checks and use the results in making licensure decisions.

9 2. Communication between a member state, the Commission and among member states
10 regarding the verification of eligibility for licensure through the Compact shall not include any
11 information received from the Federal Bureau of Investigation relating to a federal criminal records
12 check performed by a member state under Public Law 92-544.

13 C. Upon application for a privilege to practice, the licensing board in the issuing remote state
14 shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a
15 license issued by any other state, whether there are any encumbrances on any license or privilege to
16 practice held by the applicant, whether any adverse action has been taken against any license or
17 privilege to practice held by the applicant.

18 D. Each member state shall require an applicant to obtain or retain a license in the home state
19 and meet the home state's qualifications for licensure or renewal of licensure, as well as, all other
20 applicable state laws.

21 E. For an audiologist:

22 1. Must meet one of the following educational requirements:

23 a. On or before, Dec. 31, 2007, has graduated with a master's degree or doctorate in audiology,
24 or equivalent degree regardless of degree name, from a program that is accredited by an accrediting
25 agency recognized by the Council for Higher Education Accreditation, or its successor, or by the
26 United States Department of Education and operated by a college or university accredited by a
27 regional or national accrediting organization recognized by the board; or

28 b. On or after, Jan. 1, 2008, has graduated with a Doctoral degree in audiology, or equivalent
29 degree, regardless of degree name, from a program that is accredited by an accrediting agency
30 recognized by the Council for Higher Education Accreditation, or its successor, or by the United
31 States Department of Education and operated by a college or university accredited by a regional or
32 national accrediting organization recognized by the board; or

33 c. Has graduated from an audiology program that is housed in an institution of higher education
34 outside of the United States (a) for which the program and institution have been approved by the
35 authorized accrediting body in the applicable country and (b) the degree program has been verified
36 by an independent credentials review agency to be comparable to a state licensing board-approved
37 program.

1 2. Has completed a supervised clinical practicum experience from an accredited educational
2 institution or its cooperating programs as required by the commission;

3 3. Has successfully passed a national examination approved by the Commission;

4 4. Holds an active, unencumbered license;

5 5. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a
6 felony related to the practice of audiology, under applicable state or federal criminal law;

7 6. Has a valid United States Social Security or National Practitioner Identification number.

8 F. For a speech-language pathologist:

9 1. Must meet one of the following educational requirements:

10 a. Has graduated with a master's degree from a speech-language pathology program that is
11 accredited by an organization recognized by the United States Department of Education and
12 operated by a college or university accredited by a regional or national accrediting organization
13 recognized by the board; or

14 b. Has graduated from a speech-language pathology program that is housed in an institution of
15 higher education outside of the United States (a) for which the program and institution have been
16 approved by the authorized accrediting body in the applicable country and (b) the degree program
17 has been verified by an independent credentials review agency to be comparable to a state licensing
18 board-approved program.

19 2. Has completed a supervised clinical practicum experience from an educational institution or
20 its cooperating programs as required by the Commission;

21 3. Has completed a supervised postgraduate professional experience as required by the
22 Commission

23 4. Has successfully passed a national examination approved by the Commission;

24 5. Holds an active, unencumbered license;

25 6. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a
26 felony related to the practice of speech-language pathology, under applicable state or federal
27 criminal law;

28 7. Has a valid United States Social Security or National Practitioner Identification number.

29 G. The privilege to practice is derived from the home state license.

30 H. An audiologist or speech-language pathologist practicing in a member state must comply
31 with the state practice laws of the state in which the client is located at the time service is provided.
32 The practice of audiology and speech-language pathology shall include all audiology and speech-
33 language pathology practice as defined by the state practice laws of the member state in which the
34 client is located. The practice of audiology and speech-language pathology in a member state under
35 a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction
36 of the licensing board, the courts and the laws of the member state in which the client is located at
37 the time service is provided.

1 I. Individuals not residing in a member state shall continue to be able to apply for a member
2 state's single-state license as provided under the laws of each member state. However, the single-
3 state license granted to these individuals shall not be recognized as granting the privilege to practice
4 audiology or speech-language pathology in any other member state. Nothing in this Compact shall
5 affect the requirements established by a member state for the issuance of a single-state license.

6 J. Member states may charge a fee for granting a compact privilege.

7 K. Member states must comply with the bylaws and rules and regulations of the Commission.

8 SECTION 4. COMPACT PRIVILEGE

9 A. To exercise the compact privilege under the terms and provisions of the Compact, the
10 audiologist or speech-language pathologist shall:

11 1. Hold an active license in the home state;

12 2. Have no encumbrance on any state license;

13 3. Be eligible for a compact privilege in any member state in accordance with Section 3;

14 4. Have not had any adverse action against any license or compact privilege within the previous
15 2 years from date of application;

16 5. Notify the Commission that the licensee is seeking the compact privilege within a remote
17 state(s);

18 6. Pay any applicable fees, including any state fee, for the compact privilege;

19 7. Report to the Commission adverse action taken by any non-member state within 30 days from
20 the date the adverse action is taken.

21 B. For the purposes of the compact privilege, an audiologist or speech-language pathologist shall
22 only hold one home state license at a time.

23 C. Except as provided in Section 6, if an audiologist or speech-language pathologist changes
24 primary state of residence by moving between two-member states, the audiologist or speech-
25 language pathologist must apply for licensure in the new home state, and the license issued by the
26 prior home state shall be deactivated in accordance with applicable rules adopted by the
27 Commission.

28 D. The audiologist or speech-language pathologist may apply for licensure in advance of a
29 change in primary state of residence.

30 E. A license shall not be issued by the new home state until the audiologist or speech-language
31 pathologist provides satisfactory evidence of a change in primary state of residence to the new home
32 state and satisfies all applicable requirements to obtain a license from the new home state.

33 F. If an audiologist or speech-language pathologist changes primary state of residence by
34 moving from a member state to a non-member state, the license issued by the prior home state shall
35 convert to a single-state license, valid only in the former home state.

1 G. The compact privilege is valid until the expiration date of the home state license. The
2 licensee must comply with the requirements of Section 4A to maintain the compact privilege in the
3 remote state.

4 H. A licensee providing audiology or speech-language pathology services in a remote state under
5 the compact privilege shall function within the laws and regulations of the remote state.

6 I. A licensee providing audiology or speech-language pathology services in a remote state is
7 subject to that state's regulatory authority. A remote state may, in accordance with due process and
8 that state's laws, remove a licensee's compact privilege in the remote state for a specific period of
9 time, impose fines, and/or take any other necessary actions to protect the health and safety of its
10 citizens.

11 J. If a home state license is encumbered, the licensee shall lose the compact privilege in any
12 remote state until the following occur:

- 13 1. The home state license is no longer encumbered; and
- 14 2. Two years have elapsed from the date of the adverse action.

15 K. Once an encumbered license in the home state is restored to good standing, the licensee must
16 meet the requirements of Section 4A to obtain a compact privilege in any remote state.

17 L. Once the requirements of Section 4J have been met, the licensee must meet the requirements
18 in Section 4A to obtain a compact privilege in a remote state.

19 SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH

20 Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by
21 a home state in accordance with Section 3 and under rules promulgated by the Commission, to
22 practice audiology or speech-language pathology in any member state via telehealth under a
23 privilege to practice as provided in the Compact and rules promulgated by the Commission.

24 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

25 Active duty military personnel, or their spouse, shall designate a home state where the individual
26 has a current license in good standing. The individual may retain the home state designation during
27 the period the service member is on active duty. Subsequent to designating a home state, the
28 individual shall only change their home state through application for licensure in the new state.

29 SECTION 7. ADVERSE ACTIONS

30 A. In addition to the other powers conferred by state law, a remote state shall have the
31 authority, in accordance with existing state due process law, to:

32 1. Take adverse action against an audiologist's or speech-language pathologist's privilege to
33 practice within that member state.

34 2. Issue subpoenas for both hearings and investigations that require the attendance and
35 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board
36 in a member state for the attendance and testimony of witnesses or the production of evidence from
37 another member state shall be enforced in the latter state by any court of competent jurisdiction,

1 according to the practice and procedure of that court applicable to subpoenas issued in proceedings
2 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and
3 other fees required by the service statutes of the state in which the witnesses or evidence are
4 located.

5 3. Only the home state shall have the power to take adverse action against a audiologist's or
6 speech-language pathologist's license issued by the home state.

7 B. For purposes of taking adverse action, the home state shall give the same priority and effect
8 to reported conduct received from a member state as it would if the conduct had occurred within the
9 home state. In so doing, the home state shall apply its own state laws to determine appropriate
10 action.

11 C. The home state shall complete any pending investigations of an audiologist or speech-
12 language pathologist who changes primary state of residence during the course of the investigations.
13 The home state shall also have the authority to take appropriate action(s) and shall promptly report
14 the conclusions of the investigations to the administrator of the data system. The administrator of
15 the coordinated licensure information system shall promptly notify the new home state of any
16 adverse actions.

17 D. If otherwise permitted by state law, the member state may recover from the affected
18 audiologist or speech-language pathologist the costs of investigations and disposition of cases
19 resulting from any adverse action taken against that audiologist or speech-language pathologist.

20 E. The member state may take adverse action based on the factual findings of the remote state,
21 provided that the member state follows the member state's own procedures for taking the adverse
22 action.

23 F. Joint Investigations

24 1. In addition to the authority granted to a member state by its respective audiology or speech-
25 language pathology practice act or other applicable state law, any member state may participate
26 with other member states in joint investigations of licensees.

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

29 G. If adverse action is taken by the home state against an audiologist's or speech language
30 pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all
31 other member states shall be deactivated until all encumbrances have been removed from the state
32 license. All home state disciplinary orders that impose adverse action against an audiologist's or
33 speech language pathologist's license shall include a statement that the audiologist's or speech-
34 language pathologist's privilege to practice is deactivated in all member states during the pendency
35 of the order.

1 H. If a member state takes adverse action, it shall promptly notify the administrator of the data
2 system. The administrator of the data system shall promptly notify the home state of any adverse
3 actions by remote states.

4 I. Nothing in this Compact shall override a member state's decision that participation in an
5 alternative program may be used in lieu of adverse action.

6 SECTION 8. ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE
7 PATHOLOGY COMPACT COMMISSION

8 A. The Compact member states hereby create and establish a joint public agency known as the
9 Audiology and Speech-Language Pathology Compact Commission:

10 1. The Commission is an instrumentality of the Compact states.

11 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely
12 and exclusively in a court of competent jurisdiction where the principal office of the Commission is
13 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or
14 consents to participate in alternative dispute resolution proceedings.

15 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

16 B. Membership, Voting and Meetings

17 1. Each member state shall have two (2) delegates selected by that member state's licensing
18 board. The delegates shall be current members of the licensing board. One shall be an audiologist
19 and one shall be a speech-language pathologist.

20 2. An additional five (5) delegates, who are either a public member or board administrator from
21 a state licensing board, shall be chosen by the Executive Committee from a pool of nominees
22 provided by the Commission at Large.

23 3. Any delegate may be removed or suspended from office as provided by the law of the state
24 from which the delegate is appointed.

25 4. The member state board shall fill any vacancy occurring on the Commission, within 90 days.

26 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and
27 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs
28 of the Commission.

29 6. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may
30 provide for delegates' participation in meetings by telephone or other means of communication.

31 7. The Commission shall meet at least once during each calendar year. Additional meetings
32 shall be held as set forth in the bylaws.

33 C. The Commission shall have the following powers and duties:

34 1. Establish the fiscal year of the Commission;

35 2. Establish bylaws;

36 3. Establish a Code of Ethics;

37 4. Maintain its financial records in accordance with the bylaws;

- 1 5. Meet and take actions as are consistent with the provisions of this Compact and the bylaws;
 - 2 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of
3 this Compact. The rules shall have the force and effect of law and shall be binding in all member
4 states;
 - 5 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided
6 that the standing of any state audiology or speech-language pathology licensing board to sue or be
7 sued under applicable law shall not be affected;
 - 8 8. Purchase and maintain insurance and bonds;
 - 9 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees
10 of a member state;
 - 11 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals
12 appropriate authority to carry out the purposes of the Compact, and to establish the Commission's
13 personnel policies and programs relating to conflicts of interest, qualifications of personnel, and
14 other related personnel matters;
 - 15 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
16 materials and services, and to receive, utilize and dispose of the same; provided that at all times the
17 Commission shall avoid any appearance of impropriety and/or conflict of interest;
 - 18 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve
19 or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid
20 any appearance of impropriety;
 - 21 13. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
22 property real, personal, or mixed;
 - 23 14. Establish a budget and make expenditures;
 - 24 15. Borrow money;
 - 25 16. Appoint committees, including standing committees composed of members, and other
26 interested persons as may be designated in this Compact and the bylaws;
 - 27 17. Provide and receive information from, and cooperate with, law enforcement agencies;
 - 28 18. Establish and elect an Executive Committee; and
 - 29 19. Perform other functions as may be necessary or appropriate to achieve the purposes of this
30 Compact consistent with the state regulation of audiology and speech-language pathology licensure
31 and practice.
- 32 D. The Executive Committee
- 33 The Executive Committee shall have the power to act on behalf of the Commission according to the
34 terms of this Compact:
- 35 1. The Executive Committee shall be composed of ten (10) members:
 - 36 a. Seven (7) voting members who are elected by the Commission from the current membership
37 of the Commission;

1 b. Two (2) ex-officios, consisting of one nonvoting member from a recognized national audiology
2 professional association and one nonvoting member from a recognized national speech-language
3 pathology association; and

4 c. One (1) ex-officio, nonvoting member from the recognized membership organization of the
5 audiology and speech-language pathology licensing boards.

6 E. The ex-officio members shall be selected by their respective organizations.

7 1. The Commission may remove any member of the Executive Committee as provided in bylaws.

8 2. The Executive Committee shall meet at least annually.

9 3. The Executive Committee shall have the following duties and responsibilities:

10 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this
11 Compact legislation, fees paid by Compact member states such as annual dues, and any commission
12 Compact fee charged to licensees for the compact privilege;

13 b. Ensure Compact administration services are appropriately provided, contractual or
14 otherwise;

15 c. Prepare and recommend the budget;

16 d. Maintain financial records on behalf of the Commission;

17 e. Monitor Compact compliance of member states and provide compliance reports to the
18 Commission;

19 f. Establish additional committees as necessary; and

20 g. Other duties as provided in rules or bylaws.

21 4. Meetings of the Commission

22 All meetings shall be open to the public, and public notice of meetings shall be given in the same
23 manner as required under the rulemaking provisions in Section 10.

24 5. The Commission or the Executive Committee or other committees of the Commission may
25 convene in a closed, non-public meeting if the Commission or Executive Committee or other
26 committees of the Commission must discuss:

27 a. Non-compliance of a member state with its obligations under the
28 Compact;

29 b. The employment, compensation, discipline or other matters, practices or procedures related to
30 specific employees or other matters related to the Commission's internal personnel practices and
31 procedures;

32 c. Current, threatened, or reasonably anticipated litigation;

33 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

34 e. Accusing any person of a crime or formally censuring any person;

35 f. Disclosure of trade secrets or commercial or financial information that is privileged or
36 confidential;

1 g. Disclosure of information of a personal nature where disclosure would constitute a clearly
2 unwarranted invasion of personal privacy;

3 h. Disclosure of investigative records compiled for law enforcement purposes;

4 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
5 use of the Commission or other committee charged with responsibility of investigation or
6 determination of compliance issues pursuant to the Compact; or

7 j. Matters specifically exempted from disclosure by federal or member state statute.

8 6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's
9 legal counsel or designee shall certify that the meeting may be closed and shall reference each
10 relevant exempting provision.

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

17 8. Financing of the Commission

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

20 b. The Commission may accept any and all appropriate revenue sources, donations, and grants
21 of money, equipment, supplies, materials, and services.

22 c. The Commission may levy on and collect an annual assessment from each member state or
23 impose fees on other parties to cover the cost of the operations and activities of the Commission and
24 its staff, which must be in a total amount sufficient to cover its annual budget as approved each year
25 for which revenue is not provided by other sources. The aggregate annual assessment amount shall
26 be allocated based upon a formula to be determined by the Commission, which shall promulgate a
27 rule binding upon all member states.

28 9. The Commission shall not incur obligations of any kind prior to securing the funds adequate
29 to meet the same; nor shall the Commission pledge the credit of any of the member states, except by
30 and with the authority of the member state.

31 10. The Commission shall keep accurate accounts of all receipts and disbursements. The
32 receipts and disbursements of the Commission shall be subject to the audit and accounting
33 procedures established under its bylaws. However, all receipts and disbursements of funds handled
34 by the Commission shall be audited yearly by a certified or licensed public accountant, and the
35 report of the audit shall be included in and become part of the annual report of the Commission.

36 F. Qualified Immunity, Defense, and Indemnification

1 1. The members, officers, executive director, employees and representatives of the Commission
2 shall be immune from suit and liability, either personally or in their official capacity, for any claim
3 for damage to or loss of property or personal injury or other civil liability caused by or arising out of
4 any actual or alleged act, error or omission that occurred, or that the person against whom the claim
5 is made had a reasonable basis for believing occurred within the scope of Commission employment,
6 duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any
7 person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or
8 willful or wanton misconduct of that person.

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

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

24 SECTION 9. DATA SYSTEM

25 A. The Commission shall provide for the development, maintenance, and utilization of a
26 coordinated database and reporting system containing licensure, adverse action, and investigative
27 information on all licensed individuals in member states.

28 B. Notwithstanding any other provision of state law to the contrary, a member state shall
29 submit a uniform data set to the data system on all individuals to whom this Compact is applicable
30 as required by the rules of the Commission, including:

- 31 1. Identifying information;
- 32 2. Licensure data;
- 33 3. Adverse actions against a license or compact privilege;
- 34 4. Non-confidential information related to alternative program participation;
- 35 5. Any denial of application for licensure, and the reason(s) for denial; and
- 36 6. Other information that may facilitate the administration of this Compact, as determined by
37 the rules of the Commission.

1 C. Investigative information pertaining to a licensee in any member state shall only be available
2 to other member states.

3 D. The Commission shall promptly notify all member states of any adverse action taken against
4 a licensee or an individual applying for a license. Adverse action information pertaining to a licensee
5 in any member state shall be available to any other member state.

6 E. Member states contributing information to the data system may designate information that
7 may not be shared with the public without the express permission of the contributing state.

8 F. Any information submitted to the data system that is subsequently required to be expunged
9 by the laws of the member state contributing the information shall be removed from the data
10 system.

11 SECTION 10. RULEMAKING

12 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in
13 this Section and the rules adopted thereunder. Rules and amendments shall become binding as of
14 the date specified in each rule or amendment.

15 B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute
16 or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of
17 the rule, the rule shall have no further force and effect in any member state.

18 C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
19 Commission.

20 D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least
21 thirty (30) days in advance of the meeting at which the rule shall be considered and voted upon, the
22 Commission shall file a Notice of Proposed Rulemaking:

- 23 1. On the website of the Commission or other publicly accessible platform; and
24 2. On the website of each member state audiology or speech-language pathology licensing board
25 or other publicly accessible platform or the publication in which each state would otherwise publish
26 proposed rules.

27 E. The Notice of Proposed Rulemaking shall include:

- 28 1. The proposed time, date, and location of the meeting in which the rule shall be considered and
29 voted upon;
30 2. The text of the proposed rule or amendment and the reason for the proposed rule;
31 3. A request for comments on the proposed rule from any interested person; and
32 4. The manner in which interested persons may submit notice to the Commission of their
33 intention to attend the public hearing and any written comments.

34 F. Prior to the adoption of a proposed rule, the Commission shall allow persons to submit
35 written data, facts, opinions and arguments, which shall be made available to the public.

36 G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or
37 amendment if a hearing is requested by:

- 1 1. At least twenty-five (25) persons;
- 2 2. A state or federal governmental subdivision or agency; or
- 3 3. An association having at least twenty-five (25) members.

4 H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the
5 place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
6 Commission shall publish the mechanism for access to the electronic hearing.

7 1. All persons wishing to be heard at the hearing shall notify the executive director of the
8 Commission or other designated member in writing of their desire to appear and testify at the
9 hearing not less than five (5) business days before the scheduled date of the hearing.

10 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair
11 and reasonable opportunity to comment orally or in writing.

12 3. All hearings shall be recorded. A copy of the recording shall be made available on request.

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

15 I. Following the scheduled hearing date, or by the close of business on the scheduled hearing
16 date if the hearing was not held, the Commission shall consider all written and oral comments
17 received.

18 J. If no written notice of intent to attend the public hearing by interested parties is received, the
19 Commission may proceed with promulgation of the proposed rule without a public hearing.

20 K. The Commission shall, by majority vote of all members, take final action on the proposed rule
21 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full
22 text of the rule.

23 L. Upon determination that an emergency exists, the Commission may consider and adopt an
24 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual
25 rulemaking procedures provided in the Compact and in this section shall be retroactively applied to
26 the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective
27 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
28 immediately in order to:

- 29 1. Meet an imminent threat to public health, safety, or welfare;
- 30 2. Prevent a loss of Commission or member state funds; or
- 31 3. Meet a deadline for the promulgation of an administrative rule that is established by federal
32 law or rule.

33 M. The Commission or an authorized committee of the Commission may direct revisions to a
34 previously adopted rule or amendment for purposes of correcting typographical errors, errors in
35 format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted
36 on the website of the Commission. The revision shall be subject to challenge by any person for a
37 period of thirty (30) days after posting. The revision may be challenged only on grounds that the

1 revision results in a material change to a rule. A challenge shall be made in writing and delivered to
2 the chair of the Commission prior to the end of the notice period. If no challenge is made, the
3 revision shall take effect without further action. If the revision is challenged, the revision may not
4 take effect without the approval of the Commission.

5 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

6 A. Dispute Resolution

7 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to
8 the Compact that arise among member states and between member and non-member states.

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

11 B. Enforcement

12 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and
13 rules of this Compact.

14 2. By majority vote, the Commission may initiate legal action in the United States District
15 Court for the District of Columbia or the federal district where the Commission has its principal
16 offices against a member state in default to enforce compliance with the provisions of the Compact
17 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and
18 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all
19 costs of litigation, including reasonable attorney's fees.

20 3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission
21 may pursue any other remedies available under federal or state law.

22 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR
23 AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES,
24 WITHDRAWAL, AND AMENDMENT

25 A. The Compact shall come into effect on the date on which the Compact statute is enacted into
26 law in the 10th member state. The provisions, which become effective at that time, shall be limited
27 to the powers granted to the Commission relating to assembly and the promulgation of rules.
28 Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the
29 implementation and administration of the Compact.

30 B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
31 shall be subject to the rules as they exist on the date on which the Compact becomes law in that
32 state. Any rule that has been previously adopted by the Commission shall have the full force and
33 effect of law on the day the Compact becomes law in that state.

34 C. Any member state may withdraw from this Compact by enacting a statute repealing the
35 same.

36 1. A member state's withdrawal shall not take effect until six (6) months after enactment of the
37 repealing statute.

1 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology
2 or speech-language pathology licensing board to comply with the investigative and adverse action
3 reporting requirements of this act prior to the effective date of withdrawal.

4 D. Nothing contained in this Compact shall be construed to invalidate or prevent any audiology
5 or speech-language pathology licensure agreement or other cooperative arrangement between a
6 member state and a non-member state that does not conflict with the provisions of this Compact.

7 E. This Compact may be amended by the member states. No amendment to this Compact shall
8 become effective and binding upon any member state until it is enacted into the laws of all member
9 states.

10 SECTION 13. CONSTRUCTION AND SEVERABILITY

11 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of
12 this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is
13 declared to be contrary to the constitution of any member state or of the United States or the
14 applicability thereof to any government, agency, person or circumstance is held invalid, the validity
15 of the remainder of this Compact and the applicability thereof to any government, agency, person or
16 circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution
17 of any member state, the Compact shall remain in full force and effect as to the remaining member
18 states and in full force and effect as to the member state affected as to all severable matters.

19 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

20 A. Nothing herein prevents the enforcement of any other law of a member state that is not
21 inconsistent with the Compact.

22 B. All laws in a member state in conflict with the Compact are superseded to the extent of the
23 conflict.

24 C. All lawful actions of the Commission, including all rules and bylaws promulgated by the
25 Commission, are binding upon the member states.

26 D. All agreements between the Commission and the member states are binding in accordance
27 with their terms.

28 E. In the event any provision of the Compact exceeds the constitutional limits imposed on the
29 legislature of any member state, the provision shall be ineffective to the extent of the conflict with
30 the constitutional provision in question in that member state.

31 3 New Section; Occupational Therapists; Occupational Therapy Licensure Compact. Amend
32 RSA 326-C by inserting after section 8 the following new section:

33 326-C:9 Occupational Therapy Licensure Compact. The state of New Hampshire hereby adopts
34 the provisions of the Occupational Therapy Licensure Compact as follows:

35 SECTION 1. PURPOSE

36 The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal
37 of improving public access to occupational therapy services. The Practice of occupational therapy

1 occurs in the state where the patient/client is located at the time of the patient/client encounter. The
2 Compact preserves the regulatory authority of states to protect public health and safety through the
3 current system of state licensure.

4 This Compact is designed to achieve the following objectives:

5 A. Increase public access to occupational therapy services by providing for the mutual
6 recognition of other member state licenses;

7 B. Enhance the states' ability to protect the public's health and safety;

8 C. Encourage the cooperation of member states in regulating multi-state occupational therapy
9 practice;

10 D. Support spouses of relocating military members;

11 E. Enhance the exchange of licensure, investigative, and disciplinary information between
12 Member states;

13 F. Allow a remote state to hold a provider of services with a Compact privilege in that state
14 accountable to that state's practice standards; and

15 G. Facilitate the use of telehealth technology in order to increase access to occupational therapy
16 services.

17 SECTION 2. DEFINITIONS

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

19 A. "Active Duty Military" means full-time duty status in the active uniformed service of the
20 United States, including members of the National Guard and Reserve on active duty orders
21 pursuant to 10 U.S.C. Chapter 1209 and Section 1211.

22 B. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a
23 state's laws which is imposed by a licensing board or other authority against an occupational
24 therapist or occupational therapy assistant, including actions against an individual's license or
25 Compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee, or
26 restriction on the licensee's practice.

27 C. "Alternative Program" means a non-disciplinary monitoring process approved by an
28 occupational therapy licensing board.

29 D. "Compact privilege" means the authorization, which is equivalent to a license, granted by a
30 remote state to allow a licensee from another member state to practice as an occupational therapist
31 or practice as an occupational therapy assistant in the remote state under its laws and rules. The
32 practice of occupational therapy occurs in the member state where the patient/client is located at the
33 time of the patient/client encounter.

34 E. "Continuing Competence/Education" means a requirement, as a condition of license renewal,
35 to provide evidence of participation in, and/or completion of, educational and professional activities
36 relevant to practice or area of work.

1 F. "Current significant investigative information" means investigative information that a
2 licensing board, after an inquiry or investigation that includes notification and an opportunity for
3 the occupational therapist or occupational therapy assistant to respond, if required by state law, has
4 reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

5 G. "Data system" means a repository of information about licensees, including but not limited to
6 license status, investigative information, Compact privileges, and adverse actions.

7 H. "Encumbered license" means a license in which an adverse action restricts the practice of
8 occupational therapy by the licensee or said adverse action has been reported to the National
9 Practitioners Data Bank (NPDB).

10 I. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and
11 within the powers granted to them by, the Commission.

12 J. "Home state" means the member state that is the licensee's Primary state of residence.

13 K. "Impaired practitioner" means individuals whose professional practice is adversely affected
14 by substance abuse, addiction, or other health-related conditions.

15 L. "Investigative Information" means information, records, and/or documents received or
16 generated by an occupational therapy licensing board pursuant to an investigation.

17 M. "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws
18 and rules governing the practice of occupational therapy in a state.

19 N. "Licensee" means an individual who currently holds an authorization from the state to
20 practice as an occupational therapist or as an occupational therapy assistant.

21 O. "Member state" means a state that has enacted the Compact.

22 P. "Occupational therapist" means an individual who is licensed by a state to practice
23 occupational therapy.

24 Q. "Occupational therapy assistant" means an individual who is licensed by a state to assist in
25 the practice of occupational therapy.

26 R. "Occupational therapy," "occupational therapy practice," and the "practice of occupational
27 therapy" mean the care and services provided by an occupational therapist or an occupational
28 therapy assistant as set forth in the member state's statutes and regulations.

29 S. "Occupational therapy Compact Commission" or "Commission" means the national
30 administrative body whose membership consists of all states that have enacted the Compact.

31 T. "Occupational therapy licensing board" or "licensing board" means the agency of a state that
32 is authorized to license and regulate occupational therapists and occupational therapy assistants.

33 U. "Primary state of residence" means the state (also known as the home state) in which an
34 occupational therapist or occupational therapy assistant who is not Active Duty Military declares a
35 primary residence for legal purposes as verified by: driver's license, federal income tax return, lease,
36 deed, mortgage or voter registration or other verifying documentation as further defined by
37 Commission rules.

1 V. "Remote state" means a member state other than the home state, where a licensee is
2 exercising or seeking to exercise the Compact privilege.

3 W. "Rule" means a regulation promulgated by the Commission that has the force of law.

4 X. "State" means any state, commonwealth, district, or territory of the United States of America
5 that regulates the practice of occupational therapy.

6 Y. "Single-state license" means an occupational therapist or occupational therapy assistant
7 license issued by a member state that authorizes practice only within the issuing state and does not
8 include a Compact privilege in any other member state.

9 Z. "Telehealth" means the application of telecommunication technology to deliver occupational
10 therapy services for assessment, intervention and/or consultation.

11 SECTION 3. STATE PARTICIPATION IN THE COMPACT

12 A. To participate in the Compact, a member state shall:

13 1. License occupational therapists and occupational therapy assistants;

14 2. Participate fully in the Commission's data system, including but not limited to using the
15 Commission's unique identifier as defined in rules of the Commission;

16 3. Have a mechanism in place for receiving and investigating complaints about licensees;

17 4. Notify the Commission, in compliance with the terms of the Compact and rules, of any
18 adverse action or the availability of investigative information regarding a licensee;

19 5. Implement or utilize procedures for considering the criminal history records of applicants for
20 an initial Compact privilege. These procedures shall include the submission of fingerprints or other
21 biometric-based information by applicants for the purpose of obtaining an applicant's criminal
22 history record information from the Federal Bureau of Investigation and the agency responsible for
23 retaining that state's criminal records;

24 a. A member state shall, within a time frame established by the Commission, require a criminal
25 background check for a licensee seeking/applying for a Compact privilege whose Primary state of
26 residence is that member state, by receiving the results of the Federal Bureau of Investigation
27 criminal record search, and shall use the results in making licensure decisions.

28 b. Communication between a member state, the Commission and among member states
29 regarding the verification of eligibility for licensure through the Compact shall not include any
30 information received from the Federal Bureau of Investigation relating to a federal criminal records
31 check performed by a member state under Public Law 92-544.

32 6. Comply with the rules of the Commission;

33 7. Utilize only a recognized national examination as a requirement for licensure pursuant to the
34 rules of the Commission; and

35 8. Have Continuing Competence/Education requirements as a condition for license renewal.

36 B. A member state shall grant the Compact privilege to a licensee holding a valid unencumbered
37 license in another member state in accordance with the terms of the Compact and rules.

1 C. Member states may charge a fee for granting a Compact privilege.

2 D. A member state shall provide for the state's delegate to attend all occupational therapy
3 Compact Commission meetings.

4 E. Individuals not residing in a member state shall continue to be able to apply for a member
5 state's Single-state license as provided under the laws of each member state. However, the Single-
6 state license granted to these individuals shall not be recognized as granting the Compact privilege
7 in any other member state.

8 F. Nothing in this Compact shall affect the requirements established by a member state for the
9 issuance of a Single-state license.

10 SECTION 4. COMPACT PRIVILEGE

11 A. To exercise the Compact privilege under the terms and provisions of the Compact, the
12 licensee shall:

13 1. Hold a license in the home state;

14 2. Have a valid United States Social Security Number or National Practitioner Identification
15 number;

16 3. Have no encumbrance on any state license;

17 4. Be eligible for a Compact privilege in any member state in accordance with Section 4D, F, G,
18 and H;

19 5. Have paid all fines and completed all requirements resulting from any adverse action against
20 any license or Compact privilege, and two years have elapsed from the date of such completion;

21 6. Notify the Commission that the licensee is seeking the Compact privilege within a remote
22 state(s);

23 7. Pay any applicable fees, including any state fee, for the Compact privilege;

24 8. Complete a criminal background check in accordance with Section 3A(5);

25 a. The licensee shall be responsible for the payment of any fee associated with the completion of
26 a criminal background check.

27 9. Meet any jurisprudence requirements established by the remote state(s) in which the licensee
28 is seeking a Compact privilege; and

29 10. Report to the Commission adverse action taken by any non-member state within 30 days
30 from the date the adverse action is taken.

31 B. The Compact privilege is valid until the expiration date of the home state license. The
32 licensee must comply with the requirements of Section 4A to maintain the Compact privilege in the
33 remote state.

34 C. A licensee providing occupational therapy in a remote state under the Compact privilege
35 shall function within the laws and regulations of the remote state.

36 D. Occupational therapy assistants practicing in a remote state shall be supervised by an
37 occupational therapist licensed or holding a Compact privilege in that remote state.

1 E. A licensee providing occupational therapy in a remote state is subject to that state's
2 regulatory authority. A remote state may, in accordance with due process and that state's laws,
3 remove a licensee's Compact privilege in the remote state for a specific period of time, impose fines,
4 and/or take any other necessary actions to protect the health and safety of its citizens. The licensee
5 may be ineligible for a Compact privilege in any state until the specific time for removal has passed
6 and all fines are paid.

7 F. If a home state license is encumbered, the licensee shall lose the Compact privilege in any
8 remote state until the following occur:

9 1. The home state license is no longer encumbered; and

10 2. Two years have elapsed from the date on which the home state license is no longer
11 encumbered in accordance with Section 4(F)(1).

12 G. Once an Encumbered license in the home state is restored to good standing, the licensee must
13 meet the requirements of Section 4A to obtain a Compact privilege in any remote state.

14 H. If a licensee's Compact privilege in any remote state is removed, the individual may lose the
15 Compact privilege in any other remote state until the following occur:

16 1. The specific period of time for which the Compact privilege was removed has ended;

17 2. All fines have been paid and all conditions have been met;

18 3. Two years have elapsed from the date of completing requirements for 4(H)(1) and (2); and

19 4. The Compact privileges are reinstated by the Commission, and the compact data system is
20 updated to reflect reinstatement.

21 I. If a licensee's Compact privilege in any remote state is removed due to an erroneous charge,
22 privileges shall be restored through the compact data system.

23 J. Once the requirements of Section 4H have been met, the license must meet the requirements
24 in Section 4A to obtain a Compact privilege in a remote state.

25 SECTION 5: OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT
26 PRIVILEGE

27 A. An occupational therapist or occupational therapy assistant may hold a home state license,
28 which allows for Compact privileges in member states, in only one member state at a time.

29 B. If an occupational therapist or occupational therapy assistant changes primary state of
30 residence by moving between two member states:

31 1. The occupational therapist or occupational therapy assistant shall file an application for
32 obtaining a new home state license by virtue of a Compact privilege, pay all applicable fees, and
33 notify the current and new home state in accordance with applicable rules adopted by the
34 Commission.

35 2. Upon receipt of an application for obtaining a new home state license by virtue of compact
36 privilege, the new home state shall verify that the occupational therapist or occupational therapy

1 assistant meets the pertinent criteria outlined in Section 4 via the data system, without need for
2 primary source verification except for:

3 a. An FBI fingerprint based criminal background check if not previously performed or updated
4 pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;

5 b. Other criminal background check as required by the new home state; and

6 c. Submission of any requisite jurisprudence requirements of the new home state.

7 3. The former home state shall convert the former home state license into a Compact privilege
8 once the new home state has activated the new home state license in accordance with applicable
9 rules adopted by the Commission.

10 4. Notwithstanding any other provision of this Compact, if the occupational therapist or
11 occupational therapy assistant cannot meet the criteria in Section 4, the new home state shall apply
12 its requirements for issuing a new Single-state license.

13 5. The occupational therapist or the occupational therapy assistant shall pay all applicable fees
14 to the new home state in order to be issued a new home state license.

15 C. If an occupational therapist or occupational therapy assistant changes primary state of
16 residence by moving from a member state to a non-member state, or from a non-member state to a
17 member state, the state criteria shall apply for issuance of a Single-state license in the new state.

18 D. Nothing in this compact shall interfere with a licensee's ability to hold a Single-state license
19 in multiple states; however, for the purposes of this compact, a licensee shall have only one home
20 state license.

21 E. Nothing in this Compact shall affect the requirements established by a member state for the
22 issuance of a Single-state license.

23 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

24 A. Active Duty Military personnel, or their spouses, shall designate a home state where the
25 individual has a current license in good standing. The individual may retain the home state
26 designation during the period the service member is on active duty. Subsequent to designating a
27 home state, the individual shall only change their home state through application for licensure in the
28 new state or through the process described in Section 5.

29 SECTION 7. ADVERSE ACTIONS

30 A. A home state shall have exclusive power to impose adverse action against an occupational
31 therapist's or occupational therapy assistant's license issued by the home state.

32 B. In addition to the other powers conferred by state law, a remote state shall have the
33 authority, in accordance with existing state due process law, to:

34 1. Take adverse action against an occupational therapist's or occupational therapy assistant's
35 Compact privilege within that member state.

36 2. Issue subpoenas for both hearings and investigations that require the attendance and
37 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board

1 in a member state for the attendance and testimony of witnesses or the production of evidence from
2 another member state shall be enforced in the latter state by any court of competent jurisdiction,
3 according to the practice and procedure of that court applicable to subpoenas issued in proceedings
4 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and
5 other fees required by the service statutes of the state in which the witnesses or evidence are
6 located.

7 C. For purposes of taking adverse action, the home state shall give the same priority and effect
8 to reported conduct received from a member state as it would if the conduct had occurred within the
9 home state. In so doing, the home state shall apply its own state laws to determine appropriate
10 action.

11 D. The home state shall complete any pending investigations of an occupational therapist or
12 occupational therapy assistant who changes primary state of residence during the course of the
13 investigations. The home state, where the investigations were initiated, shall also have the
14 authority to take appropriate action(s) and shall promptly report the conclusions of the
15 investigations to the OT Compact Commission data system. The occupational therapy Compact
16 Commission data system administrator shall promptly notify the new home state of any adverse
17 actions.

18 E. A member state, if otherwise permitted by state law, may recover from the affected
19 occupational therapist or occupational therapy assistant the costs of investigations and disposition of
20 cases resulting from any adverse action taken against that occupational therapist or occupational
21 therapy assistant.

22 F. A member state may take adverse action based on the factual findings of the remote state,
23 provided that the member state follows its own procedures for taking the adverse action.

24 G. Joint Investigations

25 1. In addition to the authority granted to a member state by its respective state occupational
26 therapy laws and regulations or other applicable state law, any member state may participate with
27 other member states in joint investigations of licensees.

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

30 H. If an adverse action is taken by the home state against an occupational therapist's or
31 occupational therapy assistant's license, the occupational therapist's or occupational therapy
32 assistant's Compact privilege in all other member states shall be deactivated until all encumbrances
33 have been removed from the state license. All home state disciplinary orders that impose adverse
34 action against an occupational therapist's or occupational therapy assistant's license shall include a
35 statement that the occupational therapist's or occupational therapy assistant's Compact privilege is
36 deactivated in all member states during the pendency of the order.

1 I. If a member state takes adverse action, it shall promptly notify the administrator of the data
2 system. The administrator of the data system shall promptly notify the home state of any adverse
3 actions by remote states.

4 J. Nothing in this Compact shall override a member state's decision that participation in an
5 Alternative Program may be used in lieu of adverse action.

6 SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT
7 COMMISSION.

8 A. The Compact member states hereby create and establish a joint public agency known as the
9 occupational therapy Compact Commission:

10 1. The Commission is an instrumentality of the Compact states.

11 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely
12 and exclusively in a court of competent jurisdiction where the principal office of the Commission is
13 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or
14 consents to participate in alternative dispute resolution proceedings.

15 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

16 B. Membership, Voting, and Meetings

17 1. Each member state shall have and be limited to one (1) delegate selected by that member
18 state's licensing board.

19 2. The delegate shall be either:

20 a. A current member of the licensing board, who is an occupational therapist, occupational
21 therapy assistant, or public member; or

22 b. An administrator of the licensing board.

23 3. Any delegate may be removed or suspended from office as provided by the law of the state
24 from which the delegate is appointed.

25 4. The member state board shall fill any vacancy occurring in the Commission within 90 days.

26 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and
27 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs
28 of the Commission. A delegate shall vote in person or by such other means as provided in the
29 bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other
30 means of communication.

31 6. The Commission shall meet at least once during each calendar year. Additional meetings
32 shall be held as set forth in the bylaws.

33 7. The Commission shall establish by rule a term of office for delegates.

34 C. The Commission shall have the following powers and duties:

35 1. Establish a Code of Ethics for the Commission;

36 2. Establish the fiscal year of the Commission;

37 3. Establish bylaws;

1 4. Maintain its financial records in accordance with the bylaws;

2 5. Meet and take such actions as are consistent with the provisions of this Compact and the
3 bylaws;

4 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of
5 this Compact. The rules shall have the force and effect of law and shall be binding in all member
6 states;

7 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided
8 that the standing of any state occupational therapy licensing board to sue or be sued under
9 applicable law shall not be affected;

10 8. Purchase and maintain insurance and bonds;

11 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees
12 of a member state;

13 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such
14 individuals appropriate authority to carry out the purposes of the Compact, and establish the
15 Commission's personnel policies and programs relating to conflicts of interest, qualifications of
16 personnel, and other related personnel matters;

17 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
18 materials and services, and receive, utilize and dispose of the same; provided that at all times the
19 Commission shall avoid any appearance of impropriety and/or conflict of interest;

20 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or
21 use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any
22 appearance of impropriety;

23 13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
24 property real, personal, or mixed;

25 14. Establish a budget and make expenditures;

26 15. Borrow money;

27 16. Appoint committees, including standing committees composed of members, state regulators,
28 state legislators or their representatives, and consumer representatives, and such other interested
29 persons as may be designated in this Compact and the bylaws;

30 17. Provide and receive information from, and cooperate with, law enforcement agencies;

31 18. Establish and elect an Executive Committee; and

32 19. Perform such other functions as may be necessary or appropriate to achieve the purposes of
33 this Compact consistent with the state regulation of occupational therapy licensure and practice.

34 D. The Executive Committee. The Executive Committee shall have the power to act on behalf of
35 the Commission according to the terms of this Compact.

36 1. The Executive Committee shall be composed of nine members:

1 a. Seven voting members who are elected by the Commission from the current membership of
2 the Commission;

3 b. One ex-officio, nonvoting member from a recognized national occupational therapy
4 professional association; and

5 c. One ex-officio, nonvoting member from a recognized national occupational therapy
6 certification organization.

7 2. The ex-officio members will be selected by their respective organizations.

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

9 4. The Executive Committee shall meet at least annually.

10 5. The Executive Committee shall have the following duties and responsibilities:

11 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this
12 Compact legislation, fees paid by Compact member states such as annual dues, and any Commission
13 Compact fee charged to licensees for the Compact privilege;

14 b. Ensure Compact administration services are appropriately provided, contractual or
15 otherwise;

16 c. Prepare and recommend the budget;

17 d. Maintain financial records on behalf of the Commission;

18 e. Monitor Compact compliance of member states and provide compliance reports to the
19 Commission;

20 f. Establish additional committees as necessary; and

21 g. Perform other duties as provided in rules or bylaws.

22 E. Meetings of the Commission

23 1. All meetings shall be open to the public, and public notice of meetings shall be given in the
24 same manner as required under the rulemaking provisions in Section 10.

25 2. The Commission or the Executive Committee or other committees of the Commission may
26 convene in a closed, non-public meeting if the Commission or Executive Committee or other
27 committees of the Commission must discuss:

28 a. Non-compliance of a member state with its obligations under the Compact;

29 b. The employment, compensation, discipline or other matters, practices or procedures related to
30 specific employees or other matters related to the Commission's internal personnel practices and
31 procedures;

32 c. Current, threatened, or reasonably anticipated litigation;

33 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

34 e. Accusing any person of a crime or formally censuring any person;

35 f. Disclosure of trade secrets or commercial or financial information that is privileged or
36 confidential;

1 g. Disclosure of information of a personal nature where disclosure would constitute a clearly
2 unwarranted invasion of personal privacy;

3 h. Disclosure of investigative records compiled for law enforcement purposes;

4 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
5 use of the Commission or other committee charged with responsibility of investigation or
6 determination of compliance issues pursuant to the Compact; or

7 j. Matters specifically exempted from disclosure by federal or member state statute.

8 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's
9 legal counsel or designee shall certify that the meeting may be closed and shall reference each
10 relevant exempting provision.

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

17 F. Financing of the Commission

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

20 2. The Commission may accept any and all appropriate revenue sources, donations, and grants
21 of money, equipment, supplies, materials, and services.

22 3. The Commission may levy on and collect an annual assessment from each member state or
23 impose fees on other parties to cover the cost of the operations and activities of the Commission and
24 its staff, which must be in a total amount sufficient to cover its annual budget as approved by the
25 Commission each year for which revenue is not provided by other sources. The aggregate annual
26 assessment amount shall be allocated based upon a formula to be determined by the Commission,
27 which shall promulgate a rule binding upon all member states.

28 4. The Commission shall not incur obligations of any kind prior to securing the funds adequate
29 to meet the same; nor shall the Commission pledge the credit of any of the member states, except by
30 and with the authority of the member state.

31 5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts
32 and disbursements of the Commission shall be subject to the audit and accounting procedures
33 established under its bylaws. However, all receipts and disbursements of funds handled by the
34 Commission shall be audited yearly by a certified or licensed public accountant, and the report of the
35 audit shall be included in and become part of the annual report of the Commission.

36 G. Qualified Immunity, Defense, and Indemnification

1 1. The members, officers, executive director, employees and representatives of the Commission
2 shall be immune from suit and liability, either personally or in their official capacity, for any claim
3 for damage to or loss of property or personal injury or other civil liability caused by or arising out of
4 any actual or alleged act, error or omission that occurred, or that the person against whom the claim
5 is made had a reasonable basis for believing occurred within the scope of Commission employment,
6 duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any
7 such person from suit and/or liability for any damage, loss, injury, or liability caused by the
8 intentional or willful or wanton misconduct of that person.

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

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

24 SECTION 9. DATA SYSTEM

25 A. The Commission shall provide for the development, maintenance, and utilization of a
26 coordinated database and reporting system containing licensure, adverse action, and investigative
27 information on all licensed individuals in member states.

28 B. A member state shall submit a uniform data set to the data system on all individuals to
29 whom this Compact is applicable (utilizing a unique identifier) as required by the rules of the
30 Commission, including:

- 31 1. Identifying information;
- 32 2. Licensure data;
- 33 3. Adverse actions against a license or Compact privilege;
- 34 4. Non-confidential information related to Alternative Program participation;
- 35 5. Any denial of application for licensure, and the reason(s) for such denial;
- 36 6. Other information that may facilitate the administration of this Compact, as determined by
37 the rules of the Commission; and

1 7. Current significant investigative information.

2 C. Current significant investigative information and other investigative information pertaining
3 to a licensee in any member state will only be available to other member states.

4 D. The Commission shall promptly notify all member states of any adverse action taken against
5 a licensee or an individual applying for a license. Adverse action information pertaining to a licensee
6 in any member state will be available to any other member state.

7 E. Member states contributing information to the data system may designate information that
8 may not be shared with the public without the express permission of the contributing state.

9 F. Any information submitted to the data system that is subsequently required to be expunged
10 by the laws of the member state contributing the information shall be removed from the data
11 system.

12 SECTION 10. RULEMAKING

13 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in
14 this Section and the rules adopted thereunder. Rules and amendments shall become binding as of
15 the date specified in each rule or amendment.

16 B. The Commission shall promulgate reasonable rules in order to effectively and efficiently
17 achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission
18 exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the
19 Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid
20 and have no force and effect.

21 C. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute
22 or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of
23 the rule, then such rule shall have no further force and effect in any member state.

24 D. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
25 Commission.

26 E. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least
27 thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the
28 Commission shall file a notice of proposed rulemaking:

- 29 1. On the website of the Commission or other publicly accessible platform; and
30 2. On the website of each member state occupational therapy licensing board or other publicly
31 accessible platform or the publication in which each state would otherwise publish proposed rules.

32 F. The notice of proposed rulemaking shall include:

- 33 1. The proposed time, date, and location of the meeting in which the rule will be considered and
34 voted upon;
35 2. The text of the proposed rule or amendment and the reason for the proposed rule;
36 3. A request for comments on the proposed rule from any interested person; and

1 4. The manner in which interested persons may submit notice to the Commission of their
2 intention to attend the public hearing and any written comments.

3 G. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written
4 data, facts, opinions, and arguments, which shall be made available to the public.

5 H. The Commission shall grant an opportunity for a public hearing before it adopts a rule or
6 amendment if a hearing is requested by:

7 1. At least twenty five (25) persons;

8 2. A state or federal governmental subdivision or agency; or

9 3. An association or organization having at least twenty five (25) members.

10 I. If a hearing is held on the proposed rule or amendment, the Commission shall publish the
11 place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
12 Commission shall publish the mechanism for access to the electronic hearing.

13 1. All persons wishing to be heard at the hearing shall notify the executive director of the
14 Commission or other designated member in writing of their desire to appear and testify at the
15 hearing not less than five (5) business days before the scheduled date of the hearing.

16 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair
17 and reasonable opportunity to comment orally or in writing.

18 3. All hearings will be recorded. A copy of the recording will be made available on request.

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

21 J. Following the scheduled hearing date, or by the close of business on the scheduled hearing
22 date if the hearing was not held, the Commission shall consider all written and oral comments
23 received.

24 K. If no written notice of intent to attend the public hearing by interested parties is received, the
25 Commission may proceed with promulgation of the proposed rule without a public hearing.

26 L. The Commission shall, by majority vote of all members, take final action on the proposed rule
27 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full
28 text of the rule.

29 M. Upon determination that an emergency exists, the Commission may consider and adopt an
30 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual
31 rulemaking procedures provided in the Compact and in this section shall be retroactively applied to
32 the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective
33 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
34 immediately in order to:

35 1. Meet an imminent threat to public health, safety, or welfare;

36 2. Prevent a loss of Commission or member state funds;

1 3. Meet a deadline for the promulgation of an administrative rule that is established by federal
2 law or rule; or

3 4. Protect public health and safety.

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

13 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

14 A. Oversight

15 1. The executive, legislative, and judicial branches of state government in each member state
16 shall enforce this Compact and take all actions necessary and appropriate to effectuate the
17 Compact's purposes and intent. The provisions of this Compact and the rules promulgated
18 hereunder shall have standing as statutory law.

19 2. All courts shall take judicial notice of the Compact and the rules in any judicial or
20 administrative proceeding in a member state pertaining to the subject matter of this Compact which
21 may affect the powers, responsibilities, or actions of the Commission.

22 3. The Commission shall be entitled to receive service of process in any such proceeding, and
23 shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of
24 process to the Commission shall render a judgment or order void as to the Commission, this
25 Compact, or promulgated rules.

26 B. Default, Technical Assistance, and Termination

27 1. If the Commission determines that a member state has defaulted in the performance of its
28 obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

29 a. Provide written notice to the defaulting state and other member states of the nature of the
30 default, the proposed means of curing the default and/or any other action to be taken by the
31 Commission; and

32 b. Provide remedial training and specific technical assistance regarding the default.

33 2. If a state in default fails to cure the default, the defaulting state may be terminated from the
34 Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and
35 benefits conferred by this Compact may be terminated on the effective date of termination. A cure of
36 the default does not relieve the offending state of obligations or liabilities incurred during the period
37 of default.

1 3. Termination of membership in the Compact shall be imposed only after all other means of
2 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by
3 the Commission to the governor, the majority and minority leaders of the defaulting state's
4 legislature, and each of the member states.

5 4. A state that has been terminated is responsible for all assessments, obligations, and liabilities
6 incurred through the effective date of termination, including obligations that extend beyond the
7 effective date of termination.

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

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

15 C. Dispute Resolution

16 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to
17 the Compact that arise among member states and between member and non-member states.

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

20 D. Enforcement

21 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and
22 rules of this Compact.

23 2. By majority vote, the Commission may initiate legal action in the United States District
24 Court for the District of Columbia or the federal district where the Commission has its principal
25 offices against a member state in default to enforce compliance with the provisions of the Compact
26 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and
27 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all
28 costs of such litigation, including reasonable attorney's fees.

29 3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission
30 may pursue any other remedies available under federal or state law.

31 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR
32 OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND
33 AMENDMENT

34 A. The Compact shall come into effect on the date on which the Compact statute is enacted into
35 law in the tenth member state. The provisions, which become effective at that time, shall be limited
36 to the powers granted to the Commission relating to assembly and the promulgation of rules.

1 Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the
2 implementation and administration of the Compact.

3 B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
4 shall be subject to the rules as they exist on the date on which the Compact becomes law in that
5 state. Any rule that has been previously adopted by the Commission shall have the full force and
6 effect of law on the day the Compact becomes law in that state.

7 C. Any member state may withdraw from this Compact by enacting a statute repealing the
8 same.

9 1. A member state's withdrawal shall not take effect until six (6) months after enactment of the
10 repealing statute.

11 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's
12 occupational therapy licensing board to comply with the investigative and adverse action reporting
13 requirements of this act prior to the effective date of withdrawal.

14 D. Nothing contained in this Compact shall be construed to invalidate or prevent any
15 occupational therapy licensure agreement or other cooperative arrangement between a member state
16 and a non-member state that does not conflict with the provisions of this Compact.

17 E. This Compact may be amended by the member states. No amendment to this Compact shall
18 become effective and binding upon any member state until it is enacted into the laws of all member
19 states.

20 SECTION 13. CONSTRUCTION AND SEVERABILITY

21 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of
22 this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is
23 declared to be contrary to the constitution of any member state or of the United States or the
24 applicability thereof to any government, agency, person, or circumstance is held invalid, the validity
25 of the remainder of this Compact and the applicability thereof to any government, agency, person, or
26 circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution
27 of any member state, the Compact shall remain in full force and effect as to the remaining member
28 states and in full force and effect as to the member state affected as to all severable matters.

29 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

30 A. A licensee providing occupational therapy in a remote state under the Compact privilege
31 shall function within the laws and regulations of the remote state.

32 B. Nothing herein prevents the enforcement of any other law of a member state that is not
33 inconsistent with the Compact.

34 C. Any laws in a member state in conflict with the Compact are superseded to the extent of the
35 conflict.

36 D. Any lawful actions of the Commission, including all rules and bylaws promulgated by the
37 Commission, are binding upon the member states.

1 E. All agreements between the Commission and the member states are binding in accordance
2 with their terms.

3 F. In the event any provision of the Compact exceeds the constitutional limits imposed on the
4 legislature of any member state, the provision shall be ineffective to the extent of the conflict with
5 the constitutional provision in question in that member state.

6 4 Effective Date. Part IV of this act shall take effect July 1, 2021.
7

8 PART V

9 Relative to the authority of the office of professional licensure and certification for administration,
10 rulemaking, and enforcement of investigations, hearings, and appeals.

11 1 Office of Professional Licensure and Certification; Administration; Rulemaking. Amend RSA
12 310-A:1-d, II(h)(2) to read as follows:

13 (2) Such organizational and procedural rules necessary to administer the boards,
14 commissions, and councils in the office of professional licensure and certification, including rules
15 governing the administration of complaints and investigations, *hearings, disciplinary*
16 *proceedings*, payment processing procedures, and application procedures; and

17 2 New Paragraph; Office of Professional Licensure and Certification; Administration; Standing
18 Orders. Amend RSA 310-A:1-d by inserting after paragraph III the following new paragraph:

19 IV. All boards, councils, and commissions may issue standing orders delegating non-
20 discretionary tasks to staff of the office of professional licensure and certification.

21 3 New Sections; Office of Professional Licensure and Certification; Investigations; Hearings;
22 Penalties; Appeals. Amend RSA 310-A by inserting after section 1-g the following new sections:

23 310-A:1-h Investigations.

24 I. Boards, which shall include all boards, councils, and commissions within the office of
25 professional licensure and certification, may authorize an investigation of allegations of misconduct
26 by licensees (a) upon their own initiative or (b) upon written complaint of any person that charges
27 that a person licensed by the board has committed misconduct. When requested by the board, the
28 office shall assign an investigator, who may assist in the investigation.

29 II. The procedures set forth in RSA 310-A:1-h through RSA 310-A:1-l are supplementary and
30 shall not supplant or supersede any procedures expressly set forth in any board's individual practice
31 act.

32 III. The following information obtained during investigations shall be held confidential and
33 shall be exempt from the disclosure requirements of RSA 91-A:

34 (a) Complaints received by the office.

35 (b) Information and records acquired by the office during the investigation.

36 (c) Reports and records made by the office as a result of its investigation.

37 IV. For the purpose of carrying out investigations, the executive director is authorized to:

1 (a) Retain qualified experts.

2 (b) Conduct inspections of places of business of licensees or certificate holders.

3 (c) Retain legal counsel when authorized to do so by the attorney general.

4 (d) Issue subpoenas for persons, relevant documents and relevant things in accordance
5 with the following conditions:

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

8 (2) Subpoenas for documents and things shall not require compliance in fewer than
9 15 days after receipt of service.

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

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

16 V. The office or the boards, councils, and commissions within the office may disclose
17 information acquired in an investigation to law enforcement, if it involves suspected criminal
18 activity, to health licensing agencies in this state or any other jurisdiction, or in response to specific
19 statutory requirements or court orders.

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

29 VII. Each board, council, or commission may dismiss a complaint if the allegations do not
30 state a claim of professional misconduct.

31 310-A:1-i Disciplinary Proceedings; Remedial Proceedings.

32 I. Boards, which shall include all boards, councils, and commissions within the office of
33 professional licensure and certification, are authorized to conduct disciplinary proceedings in
34 accordance with procedural rules adopted by the executive director.

35 II. For the purpose of carrying out disciplinary proceedings, each board, council, or
36 commission is authorized to issue subpoenas for persons, relevant documents and relevant things in
37 accordance with the following conditions:

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

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

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

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

11 III. At any time before or during disciplinary proceedings, complaints may be dismissed or
12 disposed of, in whole or in part, by written settlement agreement approved by the board and the
13 licensees or certified individuals involved, provided that any complainant shall have the opportunity,
14 before the settlement agreement has been executed, to comment on the terms of the proposed
15 settlement. The board, council, or commission may hold a settlement agreement hearing prior to its
16 approval of the settlement agreement.

17 IV. Final board actions having the effect of terminating disciplinary proceedings, whether
18 taken before, during or after the completion of the proceedings, shall be set forth in a written record
19 that shall be available to the public after service upon the licensees or certified individuals involved.

20 V. In carrying out disciplinary or licensing proceedings, each board shall have the authority
21 to:

22 (a) Hold pre-hearing conferences exempt from the provisions of RSA 91-A.

23 (b) Appoint a board member or other qualified person as presiding officer.

24 (c) Administer, and authorize an appointed presiding officer to administer, oaths and
25 affirmations.

26 VI. Neither the office nor the boards, councils, and commissions shall have an obligation or
27 authority to appoint or pay the fees of attorneys representing licensees, certified individuals, or
28 witnesses during investigations or adjudicatory proceedings.

29 VII. Boards, councils, and commissions may take non-disciplinary remedial action against
30 any person licensed by it upon finding that the person is afflicted with physical or mental disability,
31 disease, disorder, or condition deemed dangerous to the public health. Upon making an affirmative
32 finding after notice and an opportunity for a hearing, the board, council, or commission may take
33 non-disciplinary remedial action:

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

36 (b) By revocation of license.

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

4 VIII. All proceedings for non-disciplinary remedial action shall be exempt from the
5 provisions of RSA 91-A, except that the board may disclose any final remedial action that affects the
6 status of a license, including any non-disciplinary restrictions imposed.

7 310-A:1-j Hearings, Decisions and Appeals.

8 I. Disciplinary proceedings shall be open to the public, except upon order by the board,
9 council, or commission upon good cause shown. The public docket file for each such proceeding shall
10 be retained in accordance with the retention policy established by the office of professional licensure
11 and certification.

12 II. Notwithstanding any other provision of law, allegations of misconduct or lack of
13 professional qualifications that are not settled shall be heard by the board, council, or commission, or
14 a panel of the board, council, or commission with a minimum of 3 members appointed by the chair of
15 the board or other designee. Any member of the board, or other person qualified to act as presiding
16 officer and duly designated by the board, shall have the authority to preside at such hearing and to
17 issue oaths or affirmations to witnesses, rule on evidentiary and other procedural matters, and
18 prepare a recommended decision. In the case of a hearing before a panel, the presiding officer shall
19 prepare a recommended decision for the board, council, or commission, which shall determine
20 sanctions.

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

27 IV. In disciplinary and licensing proceedings, the presiding officer may hold prehearing
28 conferences that are closed to the public and exempt from the provisions of RSA 91-A until such time
29 as a public evidentiary hearing is convened. In all instances, settlement discussions engaged in by
30 the parties at prehearing conferences may be conducted off the record.

31 V. The board, council, or commission may dispose of issues or allegations at any time during
32 an investigation or disciplinary proceeding by approving a settlement agreement or issuing a consent
33 order or an order of dismissal for default or failure to state a proper basis for disciplinary action.
34 Disciplinary action taken by the board at any stage of a proceeding, and any dispositive action taken
35 after the issuance of a public hearing notice, shall be reduced to writing and made available to the
36 public. Such decisions shall not be public until they are served upon the parties.

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

5 310-A:1-k Penalties.

6 I. Upon making an affirmative finding that a licensee or certificate holder has committed
7 professional misconduct, boards, which shall include all boards, councils, and commissions within
8 the office of professional licensure and certification, may take disciplinary action in any one or more
9 of the following ways:

10 (a) By reprimand.

11 (b) By suspension of a license or certificate for a period of time as determined reasonable
12 by the board.

13 (c) By revocation of license.

14 (d) By placing the licensee or certificate holder on probationary status. The board may
15 require the person to submit to any of the following:

16 (1) Regular reporting to the board concerning the matters which are the basis of the
17 probation.

18 (2) Continuing professional education until a satisfactory degree of skill has been
19 achieved in those areas which are the basis of probation.

20 (3) Submitting to the care, counseling, or treatment of a physician, counseling
21 service, health care facility, professional assistance program, or any comparable person or facility
22 approved by the board.

23 (4) Practicing under the direct supervision of another licensee for a period of time
24 specified by the board.

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

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

35 III. In the case of sanctions for discipline in another jurisdiction, the decision of the other
36 jurisdiction's disciplinary authority may not be collaterally attacked and the board may impose any

1 of the sanctions set forth in this chapter, but shall provide notice and an opportunity to be heard
2 prior to imposing any sanctions.

3 IV. In cases involving imminent danger to life or health, a board may order suspension of a
4 license or certification pending hearing for a period of no more than 10 business days, unless the
5 licensee or certified individual agrees in writing to a longer period. In such cases, the board shall
6 comply with RSA 541-A:30.

7 V. Any person whose license has been suspended or revoked by the board may apply to the
8 board, in writing, to request a hearing for reinstatement. Upon a hearing, the board may issue a
9 new license or modify the suspension or revocation of the license.

10 VI. For any order issued in resolution of an disciplinary proceeding by the board, where the
11 board has found misconduct sufficient to support disciplinary action, the board may require the
12 licensee or certificate holder who is the subject of such finding to pay the office a sum not to exceed
13 the reasonable cost of investigation and prosecution of the proceeding. This sum shall not exceed
14 \$10,000. This sum may be imposed in addition to any otherwise authorized administrative fines
15 levied by the board as part of the penalty. The investigative and prosecution costs shall be assessed
16 by the board and any sums recovered shall be credited to the office's fund and disbursed by the office
17 for any future investigations of complaints and activities that violate this chapter or rules adopted
18 under this chapter.

19 VII. When an investigation of a complaint is determined to be unfounded, the board shall
20 dismiss the complaint and explain in writing to the complainant and the licensee or certificate
21 holder its reason for dismissing the complaint. After six years, the board may destroy all
22 information concerning the investigation, retaining only a record noting that an investigation was
23 conducted and that the board determined the complaint to be unfounded. For the purpose of this
24 paragraph, a complaint shall be deemed to be unfounded if it does not fall within the jurisdiction of
25 the board, does not relate to the actions of the licensee or certificate holder, or is determined by the
26 board to be frivolous.

27 VIII. Whoever, not being licensed or otherwise authorized to practice according to the laws
28 of this state, shall advertise oneself as engaging in a profession licensed or certified by the office of
29 professional licensure and certification, shall engage in activity requiring professional licensure, or
30 in any way hold oneself out as qualified to do so, or call oneself a licensed professional, or whoever
31 does such acts after receiving notice that such person's license to practice has been suspended or
32 revoked, is engaged in unlawful practice. After hearing and upon making an affirmative finding of
33 unlawful practice, the board, council, or commission may take action in any one of the following
34 ways:

35 (a) Issue a cease and desist order against any person or entity engaged in unlawful,
36 which shall be enforceable in superior court.

1 (b) Impose a fine not to exceed the amount of any gain or economic benefit that the
2 person derived from the violation or \$10,000 for each offense, whichever amount is greater. Each
3 violation of unlicensed or unlawful practice shall be deemed a separate offense.

4 (c) The attorney general, board, council, or commission, or prosecuting attorney of any
5 county or municipality where the act to unlawful practice takes place may maintain an action to
6 enjoin any person or entity from continuing to do acts of unlawful practice. The action to enjoin shall
7 not replace any other civil, criminal, or regulatory remedy. An injunction without bond is available
8 to any board, council, or commission.

9 310-A:1-1 Rehearing; Appeals.

10 I. Any person who has been refused a license or certification by the board, which shall
11 include all boards, councils, and commissions within the office of professional licensure and
12 certification, or has been disciplined by the board shall have the right to petition for a rehearing
13 within 30 days after the original final decision.

14 II. Appeals from a decision on rehearing shall be by appeal to the supreme court pursuant to
15 RSA 541.

16 III. No sanction shall be stayed by the board during an appeal.

17 3 Effective Date. Part V of this act shall take effect January 1, 2022.

18
19 PART VI

20 Relative to temporary licensure of certain licensed nursing assistants.

21 1 Statement of Purpose. The general court acknowledges the critical importance of ensuring the
22 quality, accessibility, and sustainability of Medicaid services provided in nursing homes, and
23 recognizes the critical shortage of licensed nursing assistants throughout the state. The purpose of
24 this act is to strengthen the frontline staffing in nursing homes. The general court finds that during
25 the COVID-19 pandemic federal regulatory and statutory provisions were waived to facilitate the
26 hiring of nurse aides by nursing homes. Under state emergency order, these individuals were
27 allowed to work in nursing homes as temporary health partners following no less than 8 hours of
28 training provided either by a national association or a New Hampshire educational program. As a
29 matter of public policy, the general court finds that these workers were indispensable as facilities
30 struggled with staffing issues, particularly during outbreaks of the COVID-19 virus. Accordingly,
31 this act shall provide the board of nursing with the additional authority to expand the workforce of
32 licensed nursing assistants by recognizing the service of temporary health partners during the
33 COVID-19 pandemic.

34 2 Special Licensure as a Licensed Nursing Assistant; Applicants Who Served as Temporary
35 Health Partners.

36 I. Persons who have worked no fewer than 100 hours as temporary health partners in a
37 licensed nursing home and have demonstrated, through their work experience during a national and

1 state public health emergency, the competency to transition to status as a licensed nursing assistant,
2 shall be deemed to have taken a board-approved nursing assistant course and may apply for a
3 license as a licensed nursing assistant in New Hampshire.

4 II. Notwithstanding any provision of law to the contrary, the state-approved training
5 program for licensed nursing assistants shall take into account the training and experience acquired
6 during the COVID-19 pandemic to transition these individuals to placement on the state's licensed
7 nursing assistant registry pursuant to RSA 326-B:26. Such individuals shall be subject to all
8 continuing education requirements under RSA 326-B:31.

9 III. For purposes of this act:

10 (a) "COVID-19" means the novel coronavirus first identified in 2019, or SARS-CoV-2.

11 (b) "Temporary health partner" means anyone authorized to work in a nursing home by
12 Emergency Order 42 issued by the governor on May 11, 2020, and required to complete training of
13 no less than eight hours and work under the supervision of an RN, APRN, or LPN, as is required of
14 LNAs under RSA 326-B:14.

15 3 Effective Date. Part VI of this act shall take effect upon its passage.

16
17 PART VII

18 Relative to the revocation of licensure for licensed emergency medical service units
19 and emergency medical service vehicles.

20 1 Emergency Medical and Trauma Services; Revocation of License. Amend the introductory
21 paragraph of RSA 153-A:13, I to read as follows:

22 I. The commissioner ~~shall~~ *may* deny an application for issuance or renewal of a license, or
23 *issue a letter of concern*, suspend, or revoke a license, when the commissioner finds that the
24 applicant is guilty of any of the following acts or offenses:

25 2 Effective Date. Part VII of this act shall take effect 60 days after its passage.

26
27 PART VIII

28 Relative to schools for barbering, cosmetology, and esthetics.

29 1 Barbering, Cosmetology, and Esthetics; Definition; School. Amend RSA 313-A:1, XIII to read
30 as follows:

31 XIII. "School" means a school or other institution, *or a dedicated program within such*
32 *school or institution*, conducted for the purpose of teaching cosmetology, manicuring, barbering, or
33 esthetics.

34 2 Duties of the Board; Schools; Manicuring, Cosmetology, Barbering, Esthetics. RSA 313-A:7, II
35 is repealed and reenacted to read as follows:

36 II. The board may license a school to operate either:

1 (a) Dedicated programs within secondary schools, the purpose of which is to teach
2 cosmetology, manicuring, barbering, or esthetics; or

3 (b) Postsecondary programs conducted for the purpose of teaching cosmetology,
4 manicuring, barbering, or esthetics, including postsecondary programs leading to a certificate in
5 manicuring, barbering, cosmetology, or esthetics.

6 3 Barbering, Cosmetology, Esthetics, Manicuring; Apprenticeship Certificates. Amend RSA
7 313-A:24 to read as follows:

8 313-A:24 Apprentice Registration and [~~Licensure~~] *Certificates*.

9 I. No person shall enter an apprenticeship or enroll in a school under this chapter unless
10 such person has registered with the board as an apprentice and been issued an apprentice [~~license~~]
11 *certificate*. The board shall have sole authority to regulate apprentices and apprenticeship under
12 this chapter. The board shall issue an apprentice [~~license~~] *certificate* to any student receiving
13 instruction within a licensed school [~~or~~] *and/or* shop to learn barbering, cosmetology, esthetics, or
14 manicuring.

15 II. A person applying for [~~a license~~] *an apprentice certificate* under this section shall be
16 granted such [~~license~~] *certificate* upon:

17 (a) Submitting proof sufficient to the board to show that such person is at least 16 years
18 of age;

19 (b) Paying a fee established by the [~~board~~] *office of professional licensure and*
20 *certification*; and

21 (c) Being deemed by the board to be of good professional character.

22 III. No salon or barbershop shall at any one time have more than one apprentice per
23 licensed professional, except as follows:

24 (a) Each licensed barber may have up to 2 apprentices for barbering.

25 (b) Each licensed master barber may have up to 2 apprentices for barbering, or one
26 apprentice master barber and one apprentice barber.

27 IV. Upon completing the number of hours specified in the board's apprentice rules, an
28 apprentice shall be eligible to apply to the board for [~~licensure~~] *certification*.

29 V. *Notwithstanding RSA 161-B:11, VI-a, an applicant for an apprentice certificate*
30 *shall not be required to provide a social security number as a prerequisite for obtaining a*
31 *certificate*.

32 4 Expiration and Renewal of Licenses and Certificates. Amend RSA 313-A:20 to read as follows:

33 313-A:20 Expiration and Renewal of Licenses *and Certificates*. Each barber, master barber,
34 barber instructor, [~~apprentice,~~] barbershop, barber school, esthetician, esthetics instructor, esthetics
35 school, esthetics salon, manicurist, [~~apprentice,~~] beauty salon, or manicuring salon license issued
36 under this chapter, *and any apprentice certificate issued under RSA 313-A:24*, shall expire on
37 the last day of the birth month of the licensee *or certificate holder* in the odd year next succeeding

1 its date of issuance. Each cosmetologist, cosmetology instructor, or cosmetology school license issued
2 under this chapter shall expire on the last day of the birth month of the licensee in the even year
3 next succeeding its date of issuance. Any personal license *or apprentice certificate* which has
4 expired may be renewed within 6 months by payment of the renewal fee and a late fee established by
5 the board. After 6 months and within 5 years, a personal license *or apprentice certificate* may be
6 renewed by paying the renewal fee and a late fee established by the board. Any school or shop
7 license which has expired may be renewed upon payment of the renewal fee plus a late fee
8 established by the board.

9 5 Effective Date. Part VIII of this act shall take effect 60 days after its passage.

10
11 PART IX

12 Relative to telemedicine provided by out-of-state psychologists.

13 1 Psychologists; Electronic Practice of Psychology. RSA 329-B:16 is repealed and reenacted to
14 read as follows:

15 329-B:16 Electronic Practice of Psychology, Telehealth, Telemedicine.

16 I. Telepsychology, telehealth, and telemedicine services, as provided by psychologists,
17 include those psychology services that utilize electronic means, including audio, video, or other
18 electronic media, to engage in visual or virtual presence in contemporaneous time. A New
19 Hampshire tele-pass license shall be required for provision of such care to people in New Hampshire.
20 Contacts that are exempt from this requirement are:

21 (a) Persons exempted by 329-B:28.

22 (b) Screenings for inclusion in voluntary research projects that have been properly
23 approved by a New Hampshire based institutional review board.

24 (c) Psychologists licensed by the board, who may provide tele-psychology services to a
25 person within the state of New Hampshire without acquiring a tele-pass psychology license.

26 (d) Persons exempted by RSA 329-D.

27 II. A doctoral level psychologist who is not licensed in New Hampshire shall be eligible to
28 provide telepsychology services to a person in New Hampshire pursuant to RSA 329-D, or providing
29 that the psychologist:

30 (a) Is licensed in one of the jurisdictions in the United States or Canada;

31 (b) Is in good standing in all license jurisdictions in the United States and Canada;

32 (c) Has satisfied conditions determined in rules adopted by the board;

33 and

34 (d) Has applied for and obtained a valid New Hampshire tele-pass psychology license in
35 accordance with board rules and payment of license fees with effective dates that cover the dates of
36 services provided.

1 III. The tele-pass psychology licensee shall agree to conditions including, but not limited to,
2 conditions stipulated by the board that the licensee shall:

3 (a) Conform to all New Hampshire statutes and rules.

4 (b) Agree that electronic attendance for appearances shall be deemed adequate for
5 regulatory enforcement purposes and that in-person appearances by the licensee are optional and
6 such associated costs for in-person attendance are the full responsibility of the tele-pass psychology
7 licensee.

8 (c) Understand that false statements or failure to comply with official requests and
9 official orders shall constitute sufficient cause for revocation of the tele-pass psychology license.

10 (d) Understand that all conditions of tele-pass psychology license to practice and
11 enforcement shall be pursuant to New Hampshire law.

12 (e) Grant the New Hampshire board of psychologists and its investigators authority to
13 disclose to law enforcement and related regulatory authorities, at their discretion, information
14 including but not limited to status of application, actions and information pertinent to investigations
15 and enforcement of the laws and rules pertaining to the licensee's conduct.

16 (f) Not conduct face-to-face in-person psychological services in New Hampshire.

17 IV. The board shall adopt rules pursuant to RSA 541-A for:

18 (a) The application procedure for a New Hampshire tele-pass psychology license;

19 (b) Additional requirements for a psychologist licensed in another state of Canada to
20 acquire a tele-pass psychology license, including attestations;

21 (c) The standards of care for telemedicine practice of psychology and their enforcement;
22 and

23 (d) Procedures for investigation and discipline pursuant to all means authorized in this
24 chapter, including but not limited to suspension or revocation of a tele-pass psychology license.

25 V. Persons who have been granted emergency licenses to practice psychology under the
26 Covid 19 emergency pursuant to the Governor's Emergency Order #29 shall be granted a tele-pass
27 license upon application to the board.

28 2 Effective Date. Part IX of this act shall take effect upon its passage.

29
30 PART X

31 Relative to certified food protection managers.

32 1 New Section; Food Service Licensure; Certified Food Protection Manager. Amend RSA 143-A
33 by inserting after RSA 143-A:11 the following new section:

34 143-A:11-a Certified Food Protection Manager.

35 I.(a) Each food service establishment licensed by the state under RSA 143-A:6 shall have a
36 person in charge and present during all hours of operation trained as a certified food protection

1 manager by a program approved by the Conference for Food Protection or other equivalent industry
2 standards program.

3 (b) The requirement in subparagraph (a) shall not apply under these conditions:

4 (1) Food establishments having at least one certified food protection manager on
5 staff shall not be required to have the certified food protection manager present when no food
6 preparation is taking place;

7 (2) Food establishments having at least one certified food protection manager on
8 staff shall not be required to have the certified food protection manager present when food
9 preparation is limited to reheating commercially prepared food or ready to eat food; or

10 (3) Food establishments having 5 food employees or less on duty are required to have
11 only one certified food protection manager on staff who is available, although not required to be
12 present, during all hours of operation.

13 II. This section shall not apply to any food service establishment exempt from licensure or
14 inspection under RSA 143-A:5.

15 III. This section shall not apply to food establishments licensed under RSA 143-A:6 as food
16 processing plants, cold storage or refrigerating warehouses; retail stores with no food preparation or
17 limited to self service foods, servicing areas, bed and breakfasts, lodging facilities serving continental
18 breakfasts, home delivery services of packaged frozen food; pushcarts and other mobile food units,
19 those serving packaged food and non-potentially hazardous unwrapped foods only;
20 wholesalers/distributors; on-site vending machines, bars/lounges without a food preparation area;
21 arena/theater concessions serving non-potentially hazardous; sellers of pre-packaged frozen meat or
22 poultry that is processed in a USDA-inspected plant; homestead food operations.

23 2 Effective Date. Part X of this act shall take effect upon its passage.

24
25 PART XI

26 Establishing minimum qualifications for certification as a child care associate teacher.

27 1 New Subparagraph; Child Day Care Licensing; Rulemaking; Continuing Education
28 Requirements and Associate Teacher Qualifications. Amend RSA 170-E:11, I by inserting after
29 subparagraph (m) the following new subparagraph:

30 (n) The following qualification for certification as an associate teacher: a minimum of
31 1,000 hours of supervised child care experience in a licensed child care program and 30 hours of
32 training in child growth and development, the latter of which may be documented life experience.
33 Documented life experience in lieu of training in child growth and development shall include
34 experience with the same age children the associate teacher supervises, such as a family child care
35 provider; service as a foster parent; work as a school teacher; work as a camp counselor; and
36 experience as a group leader for children in sports or other activities, such as scouts or little league,
37 or closely related experience.

SB 133-FN - AS AMENDED BY THE HOUSE

- Page 49 -

1 2 Effective Date. Part XI of this act shall take effect 60 days after its passage.

SB 133-FN- FISCAL NOTE
AMENDED BY THE SENATE (AMENDMENT #2021-0779s)

AN ACT adopting omnibus legislation relative to occupational licensure.

PART I Relative to the definition of "licensing agency" for purposes of licensing places of assembly.

This part has no fiscal impact.

PART II Repealing the emergency medical services personnel licensure interstate Compact.

This part has no fiscal impact.

PART III Relative to hearings of the New Hampshire board of nursing.

This part has no fiscal impact.

PART IV Relative to membership of the professional standards board.

This part has no fiscal impact.

PART V Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.

This part has no fiscal impact.

PART VI Relative to the licensure and regulation of music therapists.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$65,460	\$68,460	\$71,460
Revenue	\$0	\$27,000	\$0	\$22,000
Expenditures	\$0	\$65,460	\$68,460	\$71,460
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Office of Professional Licensure and Certification Fund (RSA 310-A:1-e,I(b)) and Criminal Records Check Fund (RSA 106-B:7, II)			

METHODOLOGY:

This part of the bill requires the licensure of individuals engaged in music therapy beginning July 1, 2021 and establishes a 5 member governing board within the office of allied health professionals. The bill establishes a new classified position of program assistant II (labor grade 15) to assist the board in its duties. The bill appropriates funds for the salary and benefits of the position and for the per diem and mileage expenses of board members from the Office of Professional Licensure and Certification Fund (OPLC) established in RSA 310-A:1-e.

The OPLC estimates the salary and benefits for the new full-time position to cost \$60,000 in FY22, \$63,000 in FY23 and \$66,000 in FY24.

The OPLC estimates the 5 member board would meet 12 times per year, with expenses for annual per diem and mileage totaling \$5,460 per year, as shown below:

5 members x 12 meetings x \$50 per diem = \$3,000

5 members x 12 meetings x \$41 average mileage reimbursement = \$2,460

The OPLC estimates that approximately 200 licenses would be granted. Such licenses would be renewed every 2 years and all allied health initial licenses are currently set at \$110 payable biennially. This amount would generate \$22,000 in license revenue every 2 years ($\$110 \times 200 = \$22,000$).

The bill prohibits the practice of music therapy without a license but there is no penalty. The addition of this license category also subjects licensees to the allied health criminal records check provision pursuant to RSA 328-F:18-a and performed by the Department of Safety. The \$25 fee associated with such checks is payable by the license applicant. Based on the OPLC estimate of 200 applicants, potential initial revenue of \$5,000 would be generated for the Criminal Records Check Fund pursuant to RSA 106-B:7, II, with an indeterminable amount thereafter based on an unknown number of new applicants.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART VII Relative to the authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.

This part has no fiscal impact.

PART VIII Relative to skilled professional medical personnel.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input type="checkbox"/> Other			

METHODOLOGY:

This section proposes changes to RSA 151-E:3, Long Term Care; Eligibility. Skilled professional medical personnel shall oversee clinical eligibility determinations and service coverage prior authorizations for Medicaid home and community-based care waiver services. Only skilled professional medical personnel who are registered nurses and currently licensed in accordance with RSA 326-B may render an adverse service coverage determination or adverse clinical eligibility determination.

The Department of Health and Human Services states the Department may need to replace supervisors for affected programs with registered nurses, at significantly higher wage rates. The Department may also be unable to fill positions and issue timely decisions, delaying services, and require medically trained staff for determinations that may be denied for non-clinical reasons.

AGENCIES CONTACTED:

Department of Health and Human Services

PART IX Relative to temporary licensure of certain licensed nursing assistants.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$7,000	\$0	\$7,000
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other- Office of Professional Licensure and Certification Fund (RSA 310-A:1-eJ(b))			

METHODOLOGY:

This part of the bill allows licensure as licensed nursing assistants for individuals who served as temporary health partners for a minimum of 100 hours prior to April 1, 2021. The Office of Professional Licensure and Certification estimates 200 temporary health partners would be eligible for licensure at the current license fee of \$35, yielding an estimated biennial revenue of \$7,000. The amount of resources needed to create a new licensure category via the licensing portal and processing these applications is indeterminable.

It is assumed this section would be effective July 1, 2021.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification

PART X Relative to the revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.

This part has no fiscal impact.

PART XI Relative to schools for barbering, cosmetology, and esthetics.

This part has no fiscal impact.

PART XII Relative to telemedicine provided by out of state psychologists.

This part has no fiscal impact.

PART XIII Relative to certified food protection managers.

This part has no fiscal impact.

CHAPTER 205
SB 133-FN - FINAL VERSION

03/18/2021 0779s
3Jun2021... 1579h
06/24/2021 1943CofC
06/24/2021 2074EBA

2021 SESSION

21-0964
05/04

SENATE BILL ***133-FN***

AN ACT: adopting omnibus legislation relative to occupational licensure
SPONSORS: Sen. Carson, Dist 14

COMMITTEE: Executive Departments and Administration

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Licensing places of assembly.
- II. Repealing the emergency medical services personnel licensure interstate compact.
- III. Hearings at the board of nursing.
- IV. Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.
- V. The authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.
- VI. Temporary licensure of certain licensed nursing assistants.
- VII. The revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.
- VIII. Schools for barbering, cosmetology, and esthetics.
- IX. Telemedicine provided by out-of-state psychologists.
- X. Sanitary production and distribution of food.
- XI. Minimum qualifications for certification as a child care associate teacher.

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

CHAPTER 205
SB 133-FN - FINAL VERSION

03/18/2021 0779s
3Jun2021... 1579h
06/24/2021 1943CofC
06/24/2021 2074EBA

21-0964
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT adopting omnibus legislation relative to occupational licensure.

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

1 205:1 Sponsorship. This act consists of the following proposed legislation:

2 Part I: LSR 21-0964, relative to the definition of "licensing agency" for purposes of licensing
3 places of assembly, sponsored by Sen. Carson, Prime/Dist 14.

4 Part II: LSR 21-0506, repealing the emergency medical services personnel licensure
5 interstate compact, sponsored by Sen. Rosenwald, Prime/Dist 13, Sen. Cavanaugh, Dist 16; Sen.
6 Carson, Dist 14; Rep. Goley, Hills. 8; Rep. Milz, Rock. 6; Rep. O'Brien, Hills. 36; Rep. S. Pearson,
7 Rock. 6.

8 Part III: LSR 21-0207, relative to hearings of the New Hampshire board of nursing,
9 sponsored by Sen. Ward, Prime/Dist 8.

10 Part IV: LSR 21-0846, adopting the Audiology and Speech-Language Pathology Compact
11 and the Occupational Therapy Licensure Compact, sponsored by Sen. Sherman, Prime/Dist 24; Sen.
12 Soucy, Dist 18; Sen. Carson, Dist 14; Rep. March, Carr. 8.

13 Part V: LSR 21-0899, relative to the authority of the office of professional licensure and
14 certification for administration, rulemaking, and enforcement of investigations, hearings, and
15 appeals, sponsored by Sen. Reagan, Prime/ Dist 17, Sen. Carson, Dist 14; Sen. French, Dist 7; Sen.
16 Kahn, Dist 10; Sen. Prentiss, Dist 5; Sen. Rosenwald, Dist 13; Sen. Bradley, Dist 3; Sen.
17 D'Allesandro, Dist 20; Sen. Ward, Dist 8; Sen. Soucy, Dist 18; Sen. Giuda, Dist 2; Rep. Spillane,
18 Rock. 2; Rep. McGuire, Merr. 29; Rep. Seaworth, Merr. 20.

19 Part VI: LSR 21-0973, relative to temporary licensure of certain licensed nursing assistants,
20 sponsored by Sen. Hennessey, Dist 1; Sen. Rosenwald, Dist 13; Rep. Dostie, Coos 1; Rep. Thompson,
21 Coos 1.

22 Part VII: LSR 21-1011, relative to the revocation of licensure for licensed emergency medical
23 service units and emergency medical service vehicles, sponsored by Sen. Prentiss, Prime/Dist 5; Rep.
24 Merchant, Sull. 4; Rep. Goley, Hills. 8; Rep. McGuire, Merr. 29.

25 Part VIII: LSR 21-1050, relative to schools for barbering, cosmetology, and esthetics,
26 sponsored by Sen. Reagan, Prime/Dist 17; Sen. Rosenwald, Dist 13; Sen. Prentiss, Dist 5; Sen.

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1 Carson, Dist 14; Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Sen. Gannon, Dist 23; Rep.
2 McGuire, Merr. 29; Rep. Roy, Rock. 32; Rep. Harrington, Straf. 3.

3 Part IX: LSR 21-0277, relative to telemedicine provided by out-of-state psychologists,
4 sponsored by Sen. Reagan, Prime/Dist 17; Sen. Carson, Dist 14; Sen. Bradley, Dist 3; Sen. Prentiss,
5 Dist 5; Sen. French, Dist 7; Sen. Giuda, Dist 2; Sen. Hennessey, Dist 1; Sen. D'Allesandro, Dist 20;
6 Rep. Spillane, Rock. 2; Rep. Tudor, Rock. 1.

7 Part X: LSR 21-1049, establishing program rules within the department of health and
8 human services for sanitary production and distribution of food, sponsored by Sen. Giuda,
9 Prime/Dist 2; Sen. Gannon, Dist 23.

10 Part XI: relative to minimum qualifications for certification as a child care associate teacher.

11 205:2 Legislation Enacted. The general court hereby enacts the following legislation:

12
13 PART I

14 Relative to the definition of "licensing agency" for purposes of licensing places of assembly.

15 205:1. Places of Assembly; Definition of Licensing Agency. Amend RSA 155:17, II to read as
16 follows:

17 II. "Licensing agency" shall mean the chief of the fire department, the firewards or
18 engineers, if any, otherwise the selectmen of the town or the commissioners of village district as the
19 case may be, *or the state fire marshal, as he or she deems necessary, in consultation with the*
20 *local licensing agency, if any.*

21 205:2 Places of Assembly; License Required. Amend RSA 155:18 to read as follows:

22 155:18 License Required. No person shall own or operate a place of assembly within this state
23 unless licensed so to do by the licensing agency of the *state*, city, town, or village district where said
24 place of assembly is located, including assemblies occurring on state waters or ice formed on state
25 waters, in accordance with the regulations herein promulgated. In the application of this act to
26 existing places of assembly the licensing agency may modify such of its provisions as would require
27 structural changes if in his or her opinion adequate safety may be obtained otherwise and provided
28 that a permanent record is kept of such modifications and the reasons therefor.

29 205:3 Effective Date. Part I of this act shall take effect 60 days after its passage.

30
31 PART II

32 Repealing the emergency medical services personnel licensure interstate compact.

33 205:1 Repeal. The following are repealed:

34 I. RSA 153-A:36 and the subdivision heading preceding RSA 153-A:36, relative to the
35 emergency medical services personnel licensure interstate compact.

36 II. RSA 153-A:20, XXIV, relative to rulemaking by the department of safety regarding
37 implementation of the compact.

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1 205:2 Effective Date. Part II of this act shall take effect 60 days after its passage.

3 PART III

4 Relative to hearings of the New Hampshire board of nursing.

5 205:1 Board of Nursing; Adjudicative Hearings. Amend 326-B:38, VIII to read as follows:

6 VIII. The board may hold adjudicative hearings concerning allegations of misconduct or
7 other matters within the scope of this chapter. Such hearings shall be public proceedings. Any
8 member of the board [~~other than the public members~~], or any other qualified person appointed by the
9 board, shall have authority to preside at such a hearing and to issue oaths or affirmations to
10 witnesses.

11 205:2 Effective Date. Part III of this act shall take effect upon its passage.

13 PART IV

14 Adopting the Audiology and Speech-Language Pathology Compact
15 and the Occupational Therapy Licensure Compact.

16 205:1 New Paragraph; Office of Professional Licensure and Certification; Fees; Financing of
17 Interstate Compacts. Amend RSA 310-A:1-e by inserting after paragraph II the following new
18 paragraph:

19 III. The office of professional licensure and certification shall be responsible for the
20 financing of any interstate compact joined by the state that affects a profession governed by a board
21 listed in 310-A:1-a. Such financing shall be from money deposited in the office of professional
22 licensure and certification fund.

23 205:2 New Section; Speech-Language Pathology Practice; Audiology and Speech-Language
24 Pathology Compact. Amend RSA 326-F by inserting after section 16 the following new section:

25 326-F:17 Interstate Compact Adopted. The state of New Hampshire hereby adopts the
26 provisions of the Audiology and Speech-Language Pathology Compact as follows:

27 SECTION 1: PURPOSE

28 The purpose of this Compact is to facilitate interstate practice of audiology and speech-language
29 pathology with the goal of improving public access to audiology and speech-language pathology
30 services. The practice of audiology and speech-language pathology occurs in the state where the
31 patient/client/student is located at the time of the patient/client/student encounter. The Compact
32 preserves the regulatory authority of states to protect public health and safety through the current
33 system of state licensure.

34 This Compact is designed to achieve the following objectives:

35 1. Increase public access to audiology and speech-language pathology services by providing for
36 the mutual recognition of other member state licenses;

37 2. Enhance the states' ability to protect the public's health and safety;

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1 3. Encourage the cooperation of member states in regulating multistate audiology and speech-
2 language pathology practice;

3 4. Support spouses of relocating active duty military personnel;

4 5. Enhance the exchange of licensure, investigative and disciplinary information between
5 member states;

6 6. Allow a remote state to hold a provider of services with a compact privilege in that state
7 accountable to that state's practice standards; and

8 7. Allow for the use of telehealth technology to facilitate increased access to audiology and
9 speech-language pathology services.

10 **SECTION 2. DEFINITIONS**

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

12 A. "Active duty military" means full-time duty status in the active uniformed service of the
13 United States, including members of the National Guard and Reserve on active duty orders
14 pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C Chapter 1211.

15 B. "Adverse action" means any administrative, civil, equitable or criminal action permitted by a
16 state's laws which is imposed by a licensing board or other authority against an audiologist or
17 speech-language pathologist, including actions against an individual's license or privilege to practice
18 such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee's
19 practice.

20 C. "Alternative program" means a non-disciplinary monitoring process approved by an audiology
21 or speech-language pathology licensing board to address impaired practitioners.

22 D. "Audiologist" means an individual who is licensed by a state to practice audiology.

23 E. "Audiology" means the care and services provided by a licensed audiologist as set forth in the
24 member state's statutes and rules.

25 F. "Audiology and Speech-Language Pathology Compact Commission" or "Commission" means
26 the national administrative body whose membership consists of all states that have enacted the
27 Compact.

28 G. "Audiology and speech-language pathology licensing board," "audiology licensing board,"
29 "speech-language pathology licensing board," or "licensing board" means the agency of a state that is
30 responsible for the licensing and regulation of audiologists and/or speech-language pathologists.

31 H. "Compact privilege" means the authorization granted by a remote state to allow a licensee
32 from another member state to practice as an audiologist or speech-language pathologist in the
33 remote state under its laws and rules. The practice of audiology or speech-language pathology
34 occurs in the member state where the patient/client/student is located at the time of the
35 patient/client/student encounter.

36 I. "Current significant investigative information" means investigative information that a
37 licensing board, after an inquiry or investigation that includes notification and an opportunity for

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1 the audiologist or speech-language pathologist to respond, if required by state law, has reason to
2 believe is not groundless and, if proved true, would indicate more than a minor infraction.

3 J. "Data system" means a repository of information about licensees, including, but not limited
4 to, continuing education, examination, licensure, investigative, compact privilege and adverse action.

5 K. "Encumbered license" means a license in which an adverse action restricts the practice of
6 audiology or speech-language pathology by the licensee and said adverse action has been reported to
7 the National Practitioners Data Bank (NPDB).

8 L. "Executive committee" means a group of directors elected or appointed to act on behalf of, and
9 within the powers granted to them by, the Commission.

10 M. "Home state" means the member state that is the licensee's primary state of residence.

11 N. "Impaired practitioner" means individuals whose professional practice is adversely affected
12 by substance abuse, addiction, or other health-related conditions.

13 O. "Licensee" means an individual who currently holds an authorization from the state licensing
14 board to practice as an audiologist or speech-language pathologist.

15 P. "Member state" means a state that has enacted the Compact.

16 Q. "Privilege to practice" means a legal authorization permitting the practice of audiology or
17 speech-language pathology in a remote state.

18 R. "Remote state" means a member state other than the home state where a licensee is
19 exercising or seeking to exercise the compact privilege.

20 S. "Rule" means a regulation, principle or directive promulgated by the Commission that has the
21 force of law.

22 T. "Single-state license" means an audiology or speech-language pathology license issued by a
23 member state that authorizes practice only within the issuing state and does not include a privilege
24 to practice in any other member state.

25 U. "Speech-language pathologist" means an individual who is licensed by a state to practice
26 speech-language pathology".

27 V. "Speech-language pathology means the care and services provided by a licensed speech-
28 language pathologist as set forth in the member state's statutes and rules after .

29 W. "State" means any state, commonwealth, district or territory of the United States of America
30 that regulates the practice of audiology and speech-language pathology.

31 X. "State practice laws" means a member state's laws, rules and regulations that govern the
32 practice of audiology or speech-language pathology, define the scope of audiology or speech-language
33 pathology practice, and create the methods and grounds for imposing discipline.

34 Y. "Telehealth" means the application of telecommunication technology to deliver audiology or
35 speech-language pathology services at a distance for assessment, intervention and/or consultation.

36 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

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1 A. A license issued to an audiologist or speech-language pathologist by a home state to a
2 resident in that state shall be recognized by each member state as authorizing an audiologist or
3 speech-language pathologist to practice audiology or speech-language pathology, under a privilege to
4 practice, in each member state.

5 B. A state must implement or utilize procedures for considering the criminal history records of
6 applicants for initial privilege to practice. These procedures shall include the submission of
7 fingerprints or other biometric-based information by applicants for the purpose of obtaining an
8 applicant's criminal history record information from the Federal Bureau of Investigation and the
9 agency responsible for retaining that state's criminal records

10 1. A member state must fully implement a criminal background check requirement, within a
11 time frame established by rule, by receiving the results of the Federal Bureau of Investigation record
12 search on criminal background checks and use the results in making licensure decisions.

13 2. Communication between a member state, the Commission and among member states
14 regarding the verification of eligibility for licensure through the Compact shall not include any
15 information received from the Federal Bureau of Investigation relating to a federal criminal records
16 check performed by a member state under Public Law 92-544.

17 C. Upon application for a privilege to practice, the licensing board in the issuing remote state
18 shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a
19 license issued by any other state, whether there are any encumbrances on any license or privilege to
20 practice held by the applicant, whether any adverse action has been taken against any license or
21 privilege to practice held by the applicant.

22 D. Each member state shall require an applicant to obtain or retain a license in the home state
23 and meet the home state's qualifications for licensure or renewal of licensure, as well as, all other
24 applicable state laws.

25 E. For an audiologist:

26 1. Must meet one of the following educational requirements:

27 a. On or before, Dec. 31, 2007, has graduated with a master's degree or doctorate in audiology,
28 or equivalent degree regardless of degree name, from a program that is accredited by an accrediting
29 agency recognized by the Council for Higher Education Accreditation, or its successor, or by the
30 United States Department of Education and operated by a college or university accredited by a
31 regional or national accrediting organization recognized by the board; or

32 b. On or after, Jan. 1, 2008, has graduated with a Doctoral degree in audiology, or equivalent
33 degree, regardless of degree name, from a program that is accredited by an accrediting agency
34 recognized by the Council for Higher Education Accreditation, or its successor, or by the United
35 States Department of Education and operated by a college or university accredited by a regional or
36 national accrediting organization recognized by the board; or

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1 c. Has graduated from an audiology program that is housed in an institution of higher education
2 outside of the United States (a) for which the program and institution have been approved by the
3 authorized accrediting body in the applicable country and (b) the degree program has been verified
4 by an independent credentials review agency to be comparable to a state licensing board-approved
5 program.

6 2. Has completed a supervised clinical practicum experience from an accredited educational
7 institution or its cooperating programs as required by the commission;

8 3. Has successfully passed a national examination approved by the Commission;

9 4. Holds an active, unencumbered license;

10 5. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a
11 felony related to the practice of audiology, under applicable state or federal criminal law;

12 6. Has a valid United States Social Security or National Practitioner Identification number.

13 F. For a speech-language pathologist:

14 1. Must meet one of the following educational requirements:

15 a. Has graduated with a master's degree from a speech-language pathology program that is
16 accredited by an organization recognized by the United States Department of Education and
17 operated by a college or university accredited by a regional or national accrediting organization
18 recognized by the board; or

19 b. Has graduated from a speech-language pathology program that is housed in an institution of
20 higher education outside of the United States (a) for which the program and institution have been
21 approved by the authorized accrediting body in the applicable country and (b) the degree program
22 has been verified by an independent credentials review agency to be comparable to a state licensing
23 board-approved program.

24 2. Has completed a supervised clinical practicum experience from an educational institution or
25 its cooperating programs as required by the Commission;

26 3. Has completed a supervised postgraduate professional experience as required by the
27 Commission;

28 4. Has successfully passed a national examination approved by the Commission;

29 5. Holds an active, unencumbered license;

30 6. Has not been convicted or found guilty, and has not entered into an agreed disposition, of a
31 felony related to the practice of speech-language pathology, under applicable state or federal
32 criminal law;

33 7. Has a valid United States Social Security or National Practitioner Identification number.

34 G. The privilege to practice is derived from the home state license.

35 H. An audiologist or speech-language pathologist practicing in a member state must comply
36 with the state practice laws of the state in which the client is located at the time service is provided.

37 The practice of audiology and speech-language pathology shall include all audiology and speech-

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1 language pathology practice as defined by the state practice laws of the member state in which the
2 client is located. The practice of audiology and speech-language pathology in a member state under
3 a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction
4 of the licensing board, the courts and the laws of the member state in which the client is located at
5 the time service is provided.

6 I. Individuals not residing in a member state shall continue to be able to apply for a member
7 state's single-state license as provided under the laws of each member state. However, the single-
8 state license granted to these individuals shall not be recognized as granting the privilege to practice
9 audiology or speech-language pathology in any other member state. Nothing in this Compact shall
10 affect the requirements established by a member state for the issuance of a single-state license.

11 J. Member states may charge a fee for granting a compact privilege.

12 K. Member states must comply with the bylaws and rules and regulations of the Commission.

13 **SECTION 4. COMPACT PRIVILEGE**

14 A. To exercise the compact privilege under the terms and provisions of the Compact, the
15 audiologist or speech-language pathologist shall:

- 16 1. Hold an active license in the home state;
- 17 2. Have no encumbrance on any state license;
- 18 3. Be eligible for a compact privilege in any member state in accordance with Section 3;
- 19 4. Have not had any adverse action against any license or compact privilege within the previous
20 2 years from date of application;
- 21 5. Notify the Commission that the licensee is seeking the compact privilege within a remote
22 state(s);
- 23 6. Pay any applicable fees, including any state fee, for the compact privilege;
- 24 7. Report to the Commission adverse action taken by any non-member state within 30 days from
25 the date the adverse action is taken.

26 B. For the purposes of the compact privilege, an audiologist or speech-language pathologist shall
27 only hold one home state license at a time.

28 C. Except as provided in Section 6, if an audiologist or speech-language pathologist changes
29 primary state of residence by moving between two-member states, the audiologist or speech-
30 language pathologist must apply for licensure in the new home state, and the license issued by the
31 prior home state shall be deactivated in accordance with applicable rules adopted by the
32 Commission.

33 D. The audiologist or speech-language pathologist may apply for licensure in advance of a
34 change in primary state of residence.

35 E. A license shall not be issued by the new home state until the audiologist or speech-language
36 pathologist provides satisfactory evidence of a change in primary state of residence to the new home
37 state and satisfies all applicable requirements to obtain a license from the new home state.

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1 F. If an audiologist or speech-language pathologist changes primary state of residence by
2 moving from a member state to a non-member state, the license issued by the prior home state shall
3 convert to a single-state license, valid only in the former home state.

4 G. The compact privilege is valid until the expiration date of the home state license. The
5 licensee must comply with the requirements of Section 4A to maintain the compact privilege in the
6 remote state.

7 H. A licensee providing audiology or speech-language pathology services in a remote state under
8 the compact privilege shall function within the laws and regulations of the remote state.

9 I. A licensee providing audiology or speech-language pathology services in a remote state is
10 subject to that state's regulatory authority. A remote state may, in accordance with due process and
11 that state's laws, remove a licensee's compact privilege in the remote state for a specific period of
12 time, impose fines, and/or take any other necessary actions to protect the health and safety of its
13 citizens.

14 J. If a home state license is encumbered, the licensee shall lose the compact privilege in any
15 remote state until the following occur:

- 16 1. The home state license is no longer encumbered; and
- 17 2. Two years have elapsed from the date of the adverse action.

18 K. Once an encumbered license in the home state is restored to good standing, the licensee must
19 meet the requirements of Section 4A to obtain a compact privilege in any remote state.

20 L. Once the requirements of Section 4J have been met, the licensee must meet the requirements
21 in Section 4A to obtain a compact privilege in a remote state.

22 **SECTION 5. COMPACT PRIVILEGE TO PRACTICE TELEHEALTH**

23 Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by
24 a home state in accordance with Section 3 and under rules promulgated by the Commission, to
25 practice audiology or speech-language pathology in any member state via telehealth under a
26 privilege to practice as provided in the Compact and rules promulgated by the Commission.

27 **SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

28 Active duty military personnel, or their spouse, shall designate a home state where the individual
29 has a current license in good standing. The individual may retain the home state designation during
30 the period the service member is on active duty. Subsequent to designating a home state, the
31 individual shall only change their home state through application for licensure in the new state.

32 **SECTION 7. ADVERSE ACTIONS**

33 A. In addition to the other powers conferred by state law, a remote state shall have the
34 authority, in accordance with existing state due process law, to:

- 35 1. Take adverse action against an audiologist's or speech-language pathologist's privilege to
36 practice within that member state.

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1 2. Issue subpoenas for both hearings and investigations that require the attendance and
2 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board
3 in a member state for the attendance and testimony of witnesses or the production of evidence from
4 another member state shall be enforced in the latter state by any court of competent jurisdiction,
5 according to the practice and procedure of that court applicable to subpoenas issued in proceedings
6 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and
7 other fees required by the service statutes of the state in which the witnesses or evidence are
8 located.

9 3. Only the home state shall have the power to take adverse action against an audiologist's or
10 speech-language pathologist's license issued by the home state.

11 B. For purposes of taking adverse action, the home state shall give the same priority and effect
12 to reported conduct received from a member state as it would if the conduct had occurred within the
13 home state. In so doing, the home state shall apply its own state laws to determine appropriate
14 action.

15 C. The home state shall complete any pending investigations of an audiologist or speech-
16 language pathologist who changes primary state of residence during the course of the investigations.
17 The home state shall also have the authority to take appropriate action(s) and shall promptly report
18 the conclusions of the investigations to the administrator of the data system. The administrator of
19 the coordinated licensure information system shall promptly notify the new home state of any
20 adverse actions.

21 D. If otherwise permitted by state law, the member state may recover from the affected
22 audiologist or speech-language pathologist the costs of investigations and disposition of cases
23 resulting from any adverse action taken against that audiologist or speech-language pathologist.

24 E. The member state may take adverse action based on the factual findings of the remote state,
25 provided that the member state follows the member state's own procedures for taking the adverse
26 action.

27 F. Joint Investigations

28 1. In addition to the authority granted to a member state by its respective audiology or speech-
29 language pathology practice act or other applicable state law, any member state may participate
30 with other member states in joint investigations of licensees.

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

33 G. If adverse action is taken by the home state against an audiologist's or speech language
34 pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all
35 other member states shall be deactivated until all encumbrances have been removed from the state
36 license. All home state disciplinary orders that impose adverse action against an audiologist's or
37 speech language pathologist's license shall include a statement that the audiologist's or speech-

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1 language pathologist's privilege to practice is deactivated in all member states during the pendency
2 of the order.

3 H. If a member state takes adverse action, it shall promptly notify the administrator of the data
4 system. The administrator of the data system shall promptly notify the home state of any adverse
5 actions by remote states.

6 I. Nothing in this Compact shall override a member state's decision that participation in an
7 alternative program may be used in lieu of adverse action.

8 **SECTION 8. ESTABLISHMENT OF THE AUDIOLOGY AND SPEECH-LANGUAGE**
9 **PATHOLOGY COMPACT COMMISSION**

10 A. The Compact member states hereby create and establish a joint public agency known as the
11 Audiology and Speech-Language Pathology Compact Commission:

12 1. The Commission is an instrumentality of the Compact states.

13 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely
14 and exclusively in a court of competent jurisdiction where the principal office of the Commission is
15 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or
16 consents to participate in alternative dispute resolution proceedings.

17 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

18 B. Membership, Voting and Meetings

19 1. Each member state shall have two (2) delegates selected by that member state's licensing
20 board. The delegates shall be current members of the licensing board. One shall be an audiologist
21 and one shall be a speech-language pathologist.

22 2. An additional five (5) delegates, who are either a public member or board administrator from
23 a state licensing board, shall be chosen by the Executive Committee from a pool of nominees
24 provided by the Commission at Large.

25 3. Any delegate may be removed or suspended from office as provided by the law of the state
26 from which the delegate is appointed.

27 4. The member state board shall fill any vacancy occurring on the Commission, within 90 days.

28 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and
29 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs
30 of the Commission.

31 6. A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may
32 provide for delegates' participation in meetings by telephone or other means of communication.

33 7. The Commission shall meet at least once during each calendar year. Additional meetings
34 shall be held as set forth in the bylaws.

35 C. The Commission shall have the following powers and duties:

36 1. Establish the fiscal year of the Commission;

37 2. Establish bylaws;

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1 3. Establish a Code of Ethics;

2 4. Maintain its financial records in accordance with the bylaws;

3 5. Meet and take actions as are consistent with the provisions of this Compact and the bylaws;

4 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of
5 this Compact. The rules shall have the force and effect of law and shall be binding in all member
6 states;

7 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided
8 that the standing of any state audiology or speech-language pathology licensing board to sue or be
9 sued under applicable law shall not be affected;

10 8. Purchase and maintain insurance and bonds;

11 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees
12 of a member state;

13 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals
14 appropriate authority to carry out the purposes of the Compact, and to establish the Commission's
15 personnel policies and programs relating to conflicts of interest, qualifications of personnel, and
16 other related personnel matters;

17 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
18 materials and services, and to receive, utilize and dispose of the same; provided that at all times the
19 Commission shall avoid any appearance of impropriety and/or conflict of interest;

20 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve
21 or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid
22 any appearance of impropriety;

23 13. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
24 property real, personal, or mixed;

25 14. Establish a budget and make expenditures;

26 15. Borrow money;

27 16. Appoint committees, including standing committees composed of members, and other
28 interested persons as may be designated in this Compact and the bylaws;

29 17. Provide and receive information from, and cooperate with, law enforcement agencies;

30 18. Establish and elect an Executive Committee; and

31 19. Perform other functions as may be necessary or appropriate to achieve the purposes of this
32 Compact consistent with the state regulation of audiology and speech-language pathology licensure
33 and practice.

34 D. The Executive Committee

35 The Executive Committee shall have the power to act on behalf of the Commission according to the
36 terms of this Compact:

37 1. The Executive Committee shall be composed of ten (10) members:

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- 1 a. Seven (7) voting members who are elected by the Commission from the current membership
2 of the Commission;
- 3 b. Two (2) ex-officios, consisting of one nonvoting member from a recognized national audiology
4 professional association and one nonvoting member from a recognized national speech-language
5 pathology association; and
- 6 c. One (1) ex-officio, nonvoting member from the recognized membership organization of the
7 audiology and speech-language pathology licensing boards.
- 8 E. The ex-officio members shall be selected by their respective organizations.
- 9 1. The Commission may remove any member of the Executive Committee as provided in bylaws.
10 2. The Executive Committee shall meet at least annually.
11 3. The Executive Committee shall have the following duties and responsibilities:
- 12 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this
13 Compact legislation, fees paid by Compact member states such as annual dues, and any commission
14 Compact fee charged to licensees for the compact privilege;
- 15 b. Ensure Compact administration services are appropriately provided, contractual or
16 otherwise;
- 17 c. Prepare and recommend the budget;
- 18 d. Maintain financial records on behalf of the Commission;
- 19 e. Monitor Compact compliance of member states and provide compliance reports to the
20 Commission;
- 21 f. Establish additional committees as necessary; and
- 22 g. Other duties as provided in rules or bylaws.
- 23 4. Meetings of the Commission
- 24 All meetings shall be open to the public, and public notice of meetings shall be given in the same
25 manner as required under the rulemaking provisions in Section 10.
- 26 5. The Commission or the Executive Committee or other committees of the Commission may
27 convene in a closed, non-public meeting if the Commission or Executive Committee or other
28 committees of the Commission must discuss:
- 29 a. Non-compliance of a member state with its obligations under the Compact;
- 30 b. The employment, compensation, discipline or other matters, practices or procedures related to
31 specific employees or other matters related to the Commission's internal personnel practices and
32 procedures;
- 33 c. Current, threatened, or reasonably anticipated litigation;
- 34 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- 35 e. Accusing any person of a crime or formally censuring any person;
- 36 f. Disclosure of trade secrets or commercial or financial information that is privileged or
37 confidential;

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1 g. Disclosure of information of a personal nature where disclosure would constitute a clearly
2 unwarranted invasion of personal privacy;

3 h. Disclosure of investigative records compiled for law enforcement purposes;

4 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
5 use of the Commission or other committee charged with responsibility of investigation or
6 determination of compliance issues pursuant to the Compact; or

7 j. Matters specifically exempted from disclosure by federal or member state statute.

8 6. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's
9 legal counsel or designee shall certify that the meeting may be closed and shall reference each
10 relevant exempting provision.

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

17 8. Financing of the Commission

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

20 b. The Commission may accept any and all appropriate revenue sources, donations, and grants
21 of money, equipment, supplies, materials, and services.

22 c. The Commission may levy on and collect an annual assessment from each member state or
23 impose fees on other parties to cover the cost of the operations and activities of the Commission and
24 its staff, which must be in a total amount sufficient to cover its annual budget as approved each year
25 for which revenue is not provided by other sources. The aggregate annual assessment amount shall
26 be allocated based upon a formula to be determined by the Commission, which shall promulgate a
27 rule binding upon all member states.

28 9. The Commission shall not incur obligations of any kind prior to securing the funds adequate
29 to meet the same; nor shall the Commission pledge the credit of any of the member states, except by
30 and with the authority of the member state.

31 10. The Commission shall keep accurate accounts of all receipts and disbursements. The
32 receipts and disbursements of the Commission shall be subject to the audit and accounting
33 procedures established under its bylaws. However, all receipts and disbursements of funds handled
34 by the Commission shall be audited yearly by a certified or licensed public accountant, and the
35 report of the audit shall be included in and become part of the annual report of the Commission.

36 F. Qualified Immunity, Defense, and Indemnification

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1 1. The members, officers, executive director, employees and representatives of the Commission
2 shall be immune from suit and liability, either personally or in their official capacity, for any claim
3 for damage to or loss of property or personal injury or other civil liability caused by or arising out of
4 any actual or alleged act, error or omission that occurred, or that the person against whom the claim
5 is made had a reasonable basis for believing occurred within the scope of Commission employment,
6 duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any
7 person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or
8 willful or wanton misconduct of that person.

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

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

24 **SECTION 9. DATA SYSTEM**

25 A. The Commission shall provide for the development, maintenance, and utilization of a
26 coordinated database and reporting system containing licensure, adverse action, and investigative
27 information on all licensed individuals in member states.

28 B. Notwithstanding any other provision of state law to the contrary, a member state shall
29 submit a uniform data set to the data system on all individuals to whom this Compact is applicable
30 as required by the rules of the Commission, including:

- 31 1. Identifying information;
- 32 2. Licensure data;
- 33 3. Adverse actions against a license or compact privilege;
- 34 4. Non-confidential information related to alternative program participation;
- 35 5. Any denial of application for licensure, and the reason(s) for denial; and
- 36 6. Other information that may facilitate the administration of this Compact, as determined by
37 the rules of the Commission.

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1 C. Investigative information pertaining to a licensee in any member state shall only be available
2 to other member states.

3 D. The Commission shall promptly notify all member states of any adverse action taken against
4 a licensee or an individual applying for a license. Adverse action information pertaining to a licensee
5 in any member state shall be available to any other member state.

6 E. Member states contributing information to the data system may designate information that
7 may not be shared with the public without the express permission of the contributing state.

8 F. Any information submitted to the data system that is subsequently required to be expunged
9 by the laws of the member state contributing the information shall be removed from the data
10 system.

11 **SECTION 10. RULEMAKING**

12 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in
13 this Section and the rules adopted thereunder. Rules and amendments shall become binding as of
14 the date specified in each rule or amendment.

15 B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute
16 or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of
17 the rule, the rule shall have no further force and effect in any member state.

18 C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
19 Commission.

20 D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least
21 thirty (30) days in advance of the meeting at which the rule shall be considered and voted upon, the
22 Commission shall file a Notice of Proposed Rulemaking:

- 23 1. On the website of the Commission or other publicly accessible platform; and
24 2. On the website of each member state audiology or speech-language pathology licensing board
25 or other publicly accessible platform or the publication in which each state would otherwise publish
26 proposed rules.

27 E. The Notice of Proposed Rulemaking shall include:

- 28 1. The proposed time, date, and location of the meeting in which the rule shall be considered and
29 voted upon;
30 2. The text of the proposed rule or amendment and the reason for the proposed rule;
31 3. A request for comments on the proposed rule from any interested person; and
32 4. The manner in which interested persons may submit notice to the Commission of their
33 intention to attend the public hearing and any written comments.

34 F. Prior to the adoption of a proposed rule, the Commission shall allow persons to submit
35 written data, facts, opinions and arguments, which shall be made available to the public.

36 G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or
37 amendment if a hearing is requested by:

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- 1 1. At least twenty-five (25) persons;
- 2 2. A state or federal governmental subdivision or agency; or
- 3 3. An association having at least twenty-five (25) members.

4 H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the
5 place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
6 Commission shall publish the mechanism for access to the electronic hearing.

7 1. All persons wishing to be heard at the hearing shall notify the executive director of the
8 Commission or other designated member in writing of their desire to appear and testify at the
9 hearing not less than five (5) business days before the scheduled date of the hearing.

10 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair
11 and reasonable opportunity to comment orally or in writing.

12 3. All hearings shall be recorded. A copy of the recording shall be made available on request.

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

15 I. Following the scheduled hearing date, or by the close of business on the scheduled hearing
16 date if the hearing was not held, the Commission shall consider all written and oral comments
17 received.

18 J. If no written notice of intent to attend the public hearing by interested parties is received, the
19 Commission may proceed with promulgation of the proposed rule without a public hearing.

20 K. The Commission shall, by majority vote of all members, take final action on the proposed rule
21 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full
22 text of the rule.

23 L. Upon determination that an emergency exists, the Commission may consider and adopt an
24 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual
25 rulemaking procedures provided in the Compact and in this section shall be retroactively applied to
26 the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective
27 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
28 immediately in order to:

- 29 1. Meet an imminent threat to public health, safety, or welfare;
- 30 2. Prevent a loss of Commission or member state funds; or
- 31 3. Meet a deadline for the promulgation of an administrative rule that is established by federal
32 law or rule.

33 M. The Commission or an authorized committee of the Commission may direct revisions to a
34 previously adopted rule or amendment for purposes of correcting typographical errors, errors in
35 format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted
36 on the website of the Commission. The revision shall be subject to challenge by any person for a
37 period of thirty (30) days after posting. The revision may be challenged only on grounds that the

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1 revision results in a material change to a rule. A challenge shall be made in writing and delivered to
2 the chair of the Commission prior to the end of the notice period. If no challenge is made, the
3 revision shall take effect without further action. If the revision is challenged, the revision may not
4 take effect without the approval of the Commission.

5 **SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

6 A. Dispute Resolution

7 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to
8 the Compact that arise among member states and between member and non-member states.

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

11 B. Enforcement

12 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and
13 rules of this Compact.

14 2. By majority vote, the Commission may initiate legal action in the United States District
15 Court for the District of Columbia or the federal district where the Commission has its principal
16 offices against a member state in default to enforce compliance with the provisions of the Compact
17 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and
18 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all
19 costs of litigation, including reasonable attorney's fees.

20 3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission
21 may pursue any other remedies available under federal or state law.

22 **SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR**
23 **AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY PRACTICE AND ASSOCIATED RULES,**
24 **WITHDRAWAL, AND AMENDMENT**

25 A. The Compact shall come into effect on the date on which the Compact statute is enacted into
26 law in the 10th member state. The provisions, which become effective at that time, shall be limited
27 to the powers granted to the Commission relating to assembly and the promulgation of rules.
28 Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the
29 implementation and administration of the Compact.

30 B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
31 shall be subject to the rules as they exist on the date on which the Compact becomes law in that
32 state. Any rule that has been previously adopted by the Commission shall have the full force and
33 effect of law on the day the Compact becomes law in that state.

34 C. Any member state may withdraw from this Compact by enacting a statute repealing the
35 same.

36 1. A member state's withdrawal shall not take effect until six (6) months after enactment of the
37 repealing statute.

1 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology
2 or speech-language pathology licensing board to comply with the investigative and adverse action
3 reporting requirements of this act prior to the effective date of withdrawal.

4 D. Nothing contained in this Compact shall be construed to invalidate or prevent any audiology
5 or speech-language pathology licensure agreement or other cooperative arrangement between a
6 member state and a non-member state that does not conflict with the provisions of this Compact.

7 E. This Compact may be amended by the member states. No amendment to this Compact shall
8 become effective and binding upon any member state until it is enacted into the laws of all member
9 states.

10 **SECTION 13. CONSTRUCTION AND SEVERABILITY**

11 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of
12 this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is
13 declared to be contrary to the constitution of any member state or of the United States or the
14 applicability thereof to any government, agency, person or circumstance is held invalid, the validity
15 of the remainder of this Compact and the applicability thereof to any government, agency, person or
16 circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution
17 of any member state, the Compact shall remain in full force and effect as to the remaining member
18 states and in full force and effect as to the member state affected as to all severable matters.

19 **SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS**

20 A. Nothing herein prevents the enforcement of any other law of a member state that is not
21 inconsistent with the Compact.

22 B. All laws in a member state in conflict with the Compact are superseded to the extent of the
23 conflict.

24 C. All lawful actions of the Commission, including all rules and bylaws promulgated by the
25 Commission, are binding upon the member states.

26 D. All agreements between the Commission and the member states are binding in accordance
27 with their terms.

28 E. In the event any provision of the Compact exceeds the constitutional limits imposed on the
29 legislature of any member state, the provision shall be ineffective to the extent of the conflict with
30 the constitutional provision in question in that member state.

31 205:3 New Section; Occupational Therapists; Occupational Therapy Licensure Compact. Amend
32 RSA 326-C by inserting after section 8 the following new section:

33 326-C:9 Occupational Therapy Licensure Compact. The state of New Hampshire hereby adopts
34 the provisions of the Occupational Therapy Licensure Compact as follows:

35 **SECTION 1. PURPOSE**

36 The purpose of this Compact is to facilitate interstate practice of occupational therapy with the goal
37 of improving public access to occupational therapy services. The Practice of occupational therapy

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1 occurs in the state where the patient/client is located at the time of the patient/client encounter. The
2 Compact preserves the regulatory authority of states to protect public health and safety through the
3 current system of state licensure.

4 This Compact is designed to achieve the following objectives:

5 A. Increase public access to occupational therapy services by providing for the mutual
6 recognition of other member state licenses;

7 B. Enhance the states' ability to protect the public's health and safety;

8 C. Encourage the cooperation of member states in regulating multi-state occupational therapy
9 practice;

10 D. Support spouses of relocating military members;

11 E. Enhance the exchange of licensure, investigative, and disciplinary information between
12 Member states;

13 F. Allow a remote state to hold a provider of services with a Compact privilege in that state
14 accountable to that state's practice standards; and

15 G. Facilitate the use of telehealth technology in order to increase access to occupational therapy
16 services.

17 **SECTION 2. DEFINITIONS**

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

19 A. "Active Duty Military" means full-time duty status in the active uniformed service of the
20 United States, including members of the National Guard and Reserve on active duty orders
21 pursuant to 10 U.S.C. Chapter 1209 and Section 1211.

22 B. "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a
23 state's laws which is imposed by a licensing board or other authority against an occupational
24 therapist or occupational therapy assistant, including actions against an individual's license or
25 Compact privilege such as censure, revocation, suspension, probation, monitoring of the licensee, or
26 restriction on the licensee's practice.

27 C. "Alternative Program" means a non-disciplinary monitoring process approved by an
28 occupational therapy licensing board.

29 D. "Compact privilege" means the authorization, which is equivalent to a license, granted by a
30 remote state to allow a licensee from another member state to practice as an occupational therapist
31 or practice as an occupational therapy assistant in the remote state under its laws and rules. The
32 practice of occupational therapy occurs in the member state where the patient/client is located at the
33 time of the patient/client encounter.

34 E. "Continuing Competence/Education" means a requirement, as a condition of license renewal,
35 to provide evidence of participation in, and/or completion of, educational and professional activities
36 relevant to practice or area of work.

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1 F. "Current significant investigative information" means investigative information that a
2 licensing board, after an inquiry or investigation that includes notification and an opportunity for
3 the occupational therapist or occupational therapy assistant to respond, if required by state law, has
4 reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

5 G. "Data system" means a repository of information about licensees, including but not limited to
6 license status, investigative information, Compact privileges, and adverse actions.

7 H. "Encumbered license" means a license in which an adverse action restricts the practice of
8 occupational therapy by the licensee or said adverse action has been reported to the National
9 Practitioners Data Bank (NPDB).

10 I. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and
11 within the powers granted to them by, the Commission.

12 J. "Home state" means the member state that is the licensee's Primary state of residence.

13 K. "Impaired practitioner" means individuals whose professional practice is adversely affected
14 by substance abuse, addiction, or other health-related conditions.

15 L. "Investigative Information" means information, records, and/or documents received or
16 generated by an occupational therapy licensing board pursuant to an investigation.

17 M. "Jurisprudence requirement" means the assessment of an individual's knowledge of the laws
18 and rules governing the practice of occupational therapy in a state.

19 N. "Licensee" means an individual who currently holds an authorization from the state to
20 practice as an occupational therapist or as an occupational therapy assistant.

21 O. "Member state" means a state that has enacted the Compact.

22 P. "Occupational therapist" means an individual who is licensed by a state to practice
23 occupational therapy.

24 Q. "Occupational therapy assistant" means an individual who is licensed by a state to assist in
25 the practice of occupational therapy.

26 R. "Occupational therapy," "occupational therapy practice," and the "practice of occupational
27 therapy" mean the care and services provided by an occupational therapist or an occupational
28 therapy assistant as set forth in the member state's statutes and regulations.

29 S. "Occupational therapy Compact Commission" or "Commission" means the national
30 administrative body whose membership consists of all states that have enacted the Compact.

31 T. "Occupational therapy licensing board" or "licensing board" means the agency of a state that
32 is authorized to license and regulate occupational therapists and occupational therapy assistants.

33 U. "Primary state of residence" means the state (also known as the home state) in which an
34 occupational therapist or occupational therapy assistant who is not Active Duty Military declares a
35 primary residence for legal purposes as verified by: driver's license, federal income tax return, lease,
36 deed, mortgage or voter registration or other verifying documentation as further defined by
37 Commission rules.

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1 V. "Remote state" means a member state other than the home state, where a licensee is
2 exercising or seeking to exercise the Compact privilege.

3 W. "Rule" means a regulation promulgated by the Commission that has the force of law.

4 X. "State" means any state, commonwealth, district, or territory of the United States of America
5 that regulates the practice of occupational therapy.

6 Y. "Single-state license" means an occupational therapist or occupational therapy assistant
7 license issued by a member state that authorizes practice only within the issuing state and does not
8 include a Compact privilege in any other member state.

9 Z. "Telehealth" means the application of telecommunication technology to deliver occupational
10 therapy services for assessment, intervention and/or consultation.

11 **SECTION 3. STATE PARTICIPATION IN THE COMPACT**

12 A. To participate in the Compact, a member state shall:

13 1. License occupational therapists and occupational therapy assistants;

14 2. Participate fully in the Commission's data system, including but not limited to using the
15 Commission's unique identifier as defined in rules of the Commission;

16 3. Have a mechanism in place for receiving and investigating complaints about licensees;

17 4. Notify the Commission, in compliance with the terms of the Compact and rules, of any
18 adverse action or the availability of investigative information regarding a licensee;

19 5. Implement or utilize procedures for considering the criminal history records of applicants for
20 an initial Compact privilege. These procedures shall include the submission of fingerprints or other
21 biometric-based information by applicants for the purpose of obtaining an applicant's criminal
22 history record information from the Federal Bureau of Investigation and the agency responsible for
23 retaining that state's criminal records;

24 a. A member state shall, within a time frame established by the Commission, require a criminal
25 background check for a licensee seeking/applying for a Compact privilege whose Primary state of
26 residence is that member state, by receiving the results of the Federal Bureau of Investigation
27 criminal record search, and shall use the results in making licensure decisions.

28 b. Communication between a member state, the Commission and among member states
29 regarding the verification of eligibility for licensure through the Compact shall not include any
30 information received from the Federal Bureau of Investigation relating to a federal criminal records
31 check performed by a member state under Public Law 92-544.

32 6. Comply with the rules of the Commission;

33 7. Utilize only a recognized national examination as a requirement for licensure pursuant to the
34 rules of the Commission; and

35 8. Have Continuing Competence/Education requirements as a condition for license renewal.

36 B. A member state shall grant the Compact privilege to a licensee holding a valid unencumbered
37 license in another member state in accordance with the terms of the Compact and rules.

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1 C. Member states may charge a fee for granting a Compact privilege.

2 D. A member state shall provide for the state's delegate to attend all occupational therapy
3 Compact Commission meetings.

4 E. Individuals not residing in a member state shall continue to be able to apply for a member
5 state's Single-state license as provided under the laws of each member state. However, the Single-
6 state license granted to these individuals shall not be recognized as granting the Compact privilege
7 in any other member state.

8 F. Nothing in this Compact shall affect the requirements established by a member state for the
9 issuance of a Single-state license.

10 **SECTION 4. COMPACT PRIVILEGE**

11 A. To exercise the Compact privilege under the terms and provisions of the Compact, the
12 licensee shall:

13 1. Hold a license in the home state;

14 2. Have a valid United States Social Security Number or National Practitioner Identification
15 number;

16 3. Have no encumbrance on any state license;

17 4. Be eligible for a Compact privilege in any member state in accordance with Section 4D, F, G,
18 and H;

19 5. Have paid all fines and completed all requirements resulting from any adverse action against
20 any license or Compact privilege, and two years have elapsed from the date of such completion;

21 6. Notify the Commission that the licensee is seeking the Compact privilege within a remote
22 state(s);

23 7. Pay any applicable fees, including any state fee, for the Compact privilege;

24 8. Complete a criminal background check in accordance with Section 3A(5);

25 a. The licensee shall be responsible for the payment of any fee associated with the completion of
26 a criminal background check.

27 9. Meet any jurisprudence requirements established by the remote state(s) in which the licensee
28 is seeking a Compact privilege; and

29 10. Report to the Commission adverse action taken by any non-member state within 30 days
30 from the date the adverse action is taken.

31 B. The Compact privilege is valid until the expiration date of the home state license. The
32 licensee must comply with the requirements of Section 4A to maintain the Compact privilege in the
33 remote state.

34 C. A licensee providing occupational therapy in a remote state under the Compact privilege
35 shall function within the laws and regulations of the remote state.

36 D. Occupational therapy assistants practicing in a remote state shall be supervised by an
37 occupational therapist licensed or holding a Compact privilege in that remote state.

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1 E. A licensee providing occupational therapy in a remote state is subject to that state's
2 regulatory authority. A remote state may, in accordance with due process and that state's laws,
3 remove a licensee's Compact privilege in the remote state for a specific period of time, impose fines,
4 and/or take any other necessary actions to protect the health and safety of its citizens. The licensee
5 may be ineligible for a Compact privilege in any state until the specific time for removal has passed
6 and all fines are paid.

7 F. If a home state license is encumbered, the licensee shall lose the Compact privilege in any
8 remote state until the following occur:

9 1. The home state license is no longer encumbered; and

10 2. Two years have elapsed from the date on which the home state license is no longer
11 encumbered in accordance with Section 4(F)(1).

12 G. Once an Encumbered license in the home state is restored to good standing, the licensee must
13 meet the requirements of Section 4A to obtain a Compact privilege in any remote state.

14 H. If a licensee's Compact privilege in any remote state is removed, the individual may lose the
15 Compact privilege in any other remote state until the following occur:

16 1. The specific period of time for which the Compact privilege was removed has ended;

17 2. All fines have been paid and all conditions have been met;

18 3. Two years have elapsed from the date of completing requirements for 4(H)(1) and (2); and

19 4. The Compact privileges are reinstated by the Commission, and the compact data system is
20 updated to reflect reinstatement.

21 I. If a licensee's Compact privilege in any remote state is removed due to an erroneous charge,
22 privileges shall be restored through the compact data system.

23 J. Once the requirements of Section 4H have been met, the license must meet the requirements
24 in Section 4A to obtain a Compact privilege in a remote state.

25 **SECTION 5: OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT**
26 **PRIVILEGE**

27 A. An occupational therapist or occupational therapy assistant may hold a home state license,
28 which allows for Compact privileges in member states, in only one member state at a time.

29 B. If an occupational therapist or occupational therapy assistant changes primary state of
30 residence by moving between two member states:

31 1. The occupational therapist or occupational therapy assistant shall file an application for
32 obtaining a new home state license by virtue of a Compact privilege, pay all applicable fees, and
33 notify the current and new home state in accordance with applicable rules adopted by the
34 Commission.

35 2. Upon receipt of an application for obtaining a new home state license by virtue of compact
36 privilege, the new home state shall verify that the occupational therapist or occupational therapy

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1 assistant meets the pertinent criteria outlined in Section 4 via the data system, without need for
2 primary source verification except for:

3 a. An FBI fingerprint based criminal background check if not previously performed or updated
4 pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;

5 b. Other criminal background check as required by the new home state; and

6 c. Submission of any requisite jurisprudence requirements of the new home state.

7 3. The former home state shall convert the former home state license into a Compact privilege
8 once the new home state has activated the new home state license in accordance with applicable
9 rules adopted by the Commission.

10 4. Notwithstanding any other provision of this Compact, if the occupational therapist or
11 occupational therapy assistant cannot meet the criteria in Section 4, the new home state shall apply
12 its requirements for issuing a new Single-state license.

13 5. The occupational therapist or the occupational therapy assistant shall pay all applicable fees
14 to the new home state in order to be issued a new home state license.

15 C. If an occupational therapist or occupational therapy assistant changes primary state of
16 residence by moving from a member state to a non-member state, or from a non-member state to a
17 member state, the state criteria shall apply for issuance of a Single-state license in the new state.

18 D. Nothing in this compact shall interfere with a licensee's ability to hold a Single-state license
19 in multiple states; however, for the purposes of this compact, a licensee shall have only one home
20 state license.

21 E. Nothing in this Compact shall affect the requirements established by a member state for the
22 issuance of a Single-state license.

23 **SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES**

24 A. Active Duty Military personnel, or their spouses, shall designate a home state where the
25 individual has a current license in good standing. The individual may retain the home state
26 designation during the period the service member is on active duty. Subsequent to designating a
27 home state, the individual shall only change their home state through application for licensure in the
28 new state or through the process described in Section 5.

29 **SECTION 7. ADVERSE ACTIONS**

30 A. A home state shall have exclusive power to impose adverse action against an occupational
31 therapist's or occupational therapy assistant's license issued by the home state.

32 B. In addition to the other powers conferred by state law, a remote state shall have the
33 authority, in accordance with existing state due process law, to:

34 1. Take adverse action against an occupational therapist's or occupational therapy assistant's
35 Compact privilege within that member state.

36 2. Issue subpoenas for both hearings and investigations that require the attendance and
37 testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board

1 in a member state for the attendance and testimony of witnesses or the production of evidence from
2 another member state shall be enforced in the latter state by any court of competent jurisdiction,
3 according to the practice and procedure of that court applicable to subpoenas issued in proceedings
4 pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and
5 other fees required by the service statutes of the state in which the witnesses or evidence are
6 located.

7 C. For purposes of taking adverse action, the home state shall give the same priority and effect
8 to reported conduct received from a member state as it would if the conduct had occurred within the
9 home state. In so doing, the home state shall apply its own state laws to determine appropriate
10 action.

11 D. The home state shall complete any pending investigations of an occupational therapist or
12 occupational therapy assistant who changes primary state of residence during the course of the
13 investigations. The home state, where the investigations were initiated, shall also have the
14 authority to take appropriate action(s) and shall promptly report the conclusions of the
15 investigations to the OT Compact Commission data system. The occupational therapy Compact
16 Commission data system administrator shall promptly notify the new home state of any adverse
17 actions.

18 E. A member state, if otherwise permitted by state law, may recover from the affected
19 occupational therapist or occupational therapy assistant the costs of investigations and disposition of
20 cases resulting from any adverse action taken against that occupational therapist or occupational
21 therapy assistant.

22 F. A member state may take adverse action based on the factual findings of the remote state,
23 provided that the member state follows its own procedures for taking the adverse action.

24 G. Joint Investigations

25 1. In addition to the authority granted to a member state by its respective state occupational
26 therapy laws and regulations or other applicable state law, any member state may participate with
27 other member states in joint investigations of licensees.

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

30 H. If an adverse action is taken by the home state against an occupational therapist's or
31 occupational therapy assistant's license, the occupational therapist's or occupational therapy
32 assistant's Compact privilege in all other member states shall be deactivated until all encumbrances
33 have been removed from the state license. All home state disciplinary orders that impose adverse
34 action against an occupational therapist's or occupational therapy assistant's license shall include a
35 statement that the occupational therapist's or occupational therapy assistant's Compact privilege is
36 deactivated in all member states during the pendency of the order.

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1 I. If a member state takes adverse action, it shall promptly notify the administrator of the data
2 system. The administrator of the data system shall promptly notify the home state of any adverse
3 actions by remote states.

4 J. Nothing in this Compact shall override a member state's decision that participation in an
5 Alternative Program may be used in lieu of adverse action.

6 **SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY COMPACT**
7 **COMMISSION.**

8 A. The Compact member states hereby create and establish a joint public agency known as the
9 occupational therapy Compact Commission:

10 1. The Commission is an instrumentality of the Compact states.

11 2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely
12 and exclusively in a court of competent jurisdiction where the principal office of the Commission is
13 located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or
14 consents to participate in alternative dispute resolution proceedings.

15 3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

16 B. Membership, Voting, and Meetings

17 1. Each member state shall have and be limited to one (1) delegate selected by that member
18 state's licensing board.

19 2. The delegate shall be either:

20 a. A current member of the licensing board, who is an occupational therapist, occupational
21 therapy assistant, or public member; or

22 b. An administrator of the licensing board.

23 3. Any delegate may be removed or suspended from office as provided by the law of the state
24 from which the delegate is appointed.

25 4. The member state board shall fill any vacancy occurring in the Commission within 90 days.

26 5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and
27 creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs
28 of the Commission. A delegate shall vote in person or by such other means as provided in the
29 bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other
30 means of communication.

31 6. The Commission shall meet at least once during each calendar year. Additional meetings
32 shall be held as set forth in the bylaws.

33 7. The Commission shall establish by rule a term of office for delegates.

34 C. The Commission shall have the following powers and duties:

35 1. Establish a Code of Ethics for the Commission;

36 2. Establish the fiscal year of the Commission;

37 3. Establish bylaws;

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- 1 4. Maintain its financial records in accordance with the bylaws;
- 2 5. Meet and take such actions as are consistent with the provisions of this Compact and the
3 bylaws;
- 4 6. Promulgate uniform rules to facilitate and coordinate implementation and administration of
5 this Compact. The rules shall have the force and effect of law and shall be binding in all member
6 states;
- 7 7. Bring and prosecute legal proceedings or actions in the name of the Commission, provided
8 that the standing of any state occupational therapy licensing board to sue or be sued under
9 applicable law shall not be affected;
- 10 8. Purchase and maintain insurance and bonds;
- 11 9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees
12 of a member state;
- 13 10. Hire employees, elect or appoint officers, fix compensation, define duties, grant such
14 individuals appropriate authority to carry out the purposes of the Compact, and establish the
15 Commission's personnel policies and programs relating to conflicts of interest, qualifications of
16 personnel, and other related personnel matters;
- 17 11. Accept any and all appropriate donations and grants of money, equipment, supplies,
18 materials and services, and receive, utilize and dispose of the same; provided that at all times the
19 Commission shall avoid any appearance of impropriety and/or conflict of interest;
- 20 12. Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or
21 use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any
22 appearance of impropriety;
- 23 13. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
24 property real, personal, or mixed;
- 25 14. Establish a budget and make expenditures;
- 26 15. Borrow money;
- 27 16. Appoint committees, including standing committees composed of members, state regulators,
28 state legislators or their representatives, and consumer representatives, and such other interested
29 persons as may be designated in this Compact and the bylaws;
- 30 17. Provide and receive information from, and cooperate with, law enforcement agencies;
- 31 18. Establish and elect an Executive Committee; and
- 32 19. Perform such other functions as may be necessary or appropriate to achieve the purposes of
33 this Compact consistent with the state regulation of occupational therapy licensure and practice.
- 34 D. The Executive Committee. The Executive Committee shall have the power to act on behalf of
35 the Commission according to the terms of this Compact.
- 36 1. The Executive Committee shall be composed of nine members:

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1 a. Seven voting members who are elected by the Commission from the current membership of
2 the Commission;

3 b. One ex-officio, nonvoting member from a recognized national occupational therapy
4 professional association; and

5 c. One ex-officio, nonvoting member from a recognized national occupational therapy
6 certification organization.

7 2. The ex-officio members will be selected by their respective organizations.

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

9 4. The Executive Committee shall meet at least annually.

10 5. The Executive Committee shall have the following duties and responsibilities:

11 a. Recommend to the entire Commission changes to the rules or bylaws, changes to this
12 Compact legislation, fees paid by Compact member states such as annual dues, and any Commission
13 Compact fee charged to licensees for the Compact privilege;

14 b. Ensure Compact administration services are appropriately provided, contractual or
15 otherwise;

16 c. Prepare and recommend the budget;

17 d. Maintain financial records on behalf of the Commission;

18 e. Monitor Compact compliance of member states and provide compliance reports to the
19 Commission;

20 f. Establish additional committees as necessary; and

21 g. Perform other duties as provided in rules or bylaws.

22 E. Meetings of the Commission

23 1. All meetings shall be open to the public, and public notice of meetings shall be given in the
24 same manner as required under the rulemaking provisions in Section 10.

25 2. The Commission or the Executive Committee or other committees of the Commission may
26 convene in a closed, non-public meeting if the Commission or Executive Committee or other
27 committees of the Commission must discuss:

28 a. Non-compliance of a member state with its obligations under the Compact;

29 b. The employment, compensation, discipline or other matters, practices or procedures related to
30 specific employees or other matters related to the Commission's internal personnel practices and
31 procedures;

32 c. Current, threatened, or reasonably anticipated litigation;

33 d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

34 e. Accusing any person of a crime or formally censuring any person;

35 f. Disclosure of trade secrets or commercial or financial information that is privileged or
36 confidential;

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1 g. Disclosure of information of a personal nature where disclosure would constitute a clearly
2 unwarranted invasion of personal privacy;

3 h. Disclosure of investigative records compiled for law enforcement purposes;

4 i. Disclosure of information related to any investigative reports prepared by or on behalf of or for
5 use of the Commission or other committee charged with responsibility of investigation or
6 determination of compliance issues pursuant to the Compact; or

7 j. Matters specifically exempted from disclosure by federal or member state statute.

8 3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's
9 legal counsel or designee shall certify that the meeting may be closed and shall reference each
10 relevant exempting provision.

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

17 **F. Financing of the Commission**

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

20 2. The Commission may accept any and all appropriate revenue sources, donations, and grants
21 of money, equipment, supplies, materials, and services.

22 3. The Commission may levy on and collect an annual assessment from each member state or
23 impose fees on other parties to cover the cost of the operations and activities of the Commission and
24 its staff, which must be in a total amount sufficient to cover its annual budget as approved by the
25 Commission each year for which revenue is not provided by other sources. The aggregate annual
26 assessment amount shall be allocated based upon a formula to be determined by the Commission,
27 which shall promulgate a rule binding upon all member states.

28 4. The Commission shall not incur obligations of any kind prior to securing the funds adequate
29 to meet the same; nor shall the Commission pledge the credit of any of the member states, except by
30 and with the authority of the member state.

31 5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts
32 and disbursements of the Commission shall be subject to the audit and accounting procedures
33 established under its bylaws. However, all receipts and disbursements of funds handled by the
34 Commission shall be audited yearly by a certified or licensed public accountant, and the report of the
35 audit shall be included in and become part of the annual report of the Commission.

36 **G. Qualified Immunity, Defense, and Indemnification**

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1 1. The members, officers, executive director, employees and representatives of the Commission
2 shall be immune from suit and liability, either personally or in their official capacity, for any claim
3 for damage to or loss of property or personal injury or other civil liability caused by or arising out of
4 any actual or alleged act, error or omission that occurred, or that the person against whom the claim
5 is made had a reasonable basis for believing occurred within the scope of Commission employment,
6 duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any
7 such person from suit and/or liability for any damage, loss, injury, or liability caused by the
8 intentional or willful or wanton misconduct of that person.

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

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

24 **SECTION 9. DATA SYSTEM**

25 A. The Commission shall provide for the development, maintenance, and utilization of a
26 coordinated database and reporting system containing licensure, adverse action, and investigative
27 information on all licensed individuals in member states.

28 B. A member state shall submit a uniform data set to the data system on all individuals to
29 whom this Compact is applicable (utilizing a unique identifier) as required by the rules of the
30 Commission, including:

- 31 1. Identifying information;
- 32 2. Licensure data;
- 33 3. Adverse actions against a license or Compact privilege;
- 34 4. Non-confidential information related to Alternative Program participation;
- 35 5. Any denial of application for licensure, and the reason(s) for such denial;
- 36 6. Other information that may facilitate the administration of this Compact, as determined by
37 the rules of the Commission; and

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1 7. Current significant investigative information.

2 C. Current significant investigative information and other investigative information pertaining
3 to a licensee in any member state will only be available to other member states.

4 D. The Commission shall promptly notify all member states of any adverse action taken against
5 a licensee or an individual applying for a license. Adverse action information pertaining to a licensee
6 in any member state will be available to any other member state.

7 E. Member states contributing information to the data system may designate information that
8 may not be shared with the public without the express permission of the contributing state.

9 F. Any information submitted to the data system that is subsequently required to be expunged
10 by the laws of the member state contributing the information shall be removed from the data
11 system.

12 **SECTION 10. RULEMAKING**

13 A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in
14 this Section and the rules adopted thereunder. Rules and amendments shall become binding as of
15 the date specified in each rule or amendment.

16 B. The Commission shall promulgate reasonable rules in order to effectively and efficiently
17 achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission
18 exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the
19 Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid
20 and have no force and effect.

21 C. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute
22 or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of
23 the rule, then such rule shall have no further force and effect in any member state.

24 D. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
25 Commission.

26 E. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least
27 thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the
28 Commission shall file a notice of proposed rulemaking:

29 1. On the website of the Commission or other publicly accessible platform; and

30 2. On the website of each member state occupational therapy licensing board or other publicly
31 accessible platform or the publication in which each state would otherwise publish proposed rules.

32 F. The notice of proposed rulemaking shall include:

33 1. The proposed time, date, and location of the meeting in which the rule will be considered and
34 voted upon;

35 2. The text of the proposed rule or amendment and the reason for the proposed rule;

36 3. A request for comments on the proposed rule from any interested person; and

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1 4. The manner in which interested persons may submit notice to the Commission of their
2 intention to attend the public hearing and any written comments.

3 G. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written
4 data, facts, opinions, and arguments, which shall be made available to the public.

5 H. The Commission shall grant an opportunity for a public hearing before it adopts a rule or
6 amendment if a hearing is requested by:

- 7 1. At least twenty five (25) persons;
- 8 2. A state or federal governmental subdivision or agency; or
- 9 3. An association or organization having at least twenty five (25) members.

10 I. If a hearing is held on the proposed rule or amendment, the Commission shall publish the
11 place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
12 Commission shall publish the mechanism for access to the electronic hearing.

13 1. All persons wishing to be heard at the hearing shall notify the executive director of the
14 Commission or other designated member in writing of their desire to appear and testify at the
15 hearing not less than five (5) business days before the scheduled date of the hearing.

16 2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair
17 and reasonable opportunity to comment orally or in writing.

18 3. All hearings will be recorded. A copy of the recording will be made available on request.

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

21 J. Following the scheduled hearing date, or by the close of business on the scheduled hearing
22 date if the hearing was not held, the Commission shall consider all written and oral comments
23 received.

24 K. If no written notice of intent to attend the public hearing by interested parties is received, the
25 Commission may proceed with promulgation of the proposed rule without a public hearing.

26 L. The Commission shall, by majority vote of all members, take final action on the proposed rule
27 and shall determine the effective date of the rule, if any, based on the rulemaking record and the full
28 text of the rule.

29 M. Upon determination that an emergency exists, the Commission may consider and adopt an
30 emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual
31 rulemaking procedures provided in the Compact and in this section shall be retroactively applied to
32 the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective
33 date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted
34 immediately in order to:

- 35 1. Meet an imminent threat to public health, safety, or welfare;
- 36 2. Prevent a loss of Commission or member state funds;

1 3. Meet a deadline for the promulgation of an administrative rule that is established by federal
2 law or rule; or

3 4. Protect public health and safety.

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

13 **SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**

14 A. Oversight

15 1. The executive, legislative, and judicial branches of state government in each member state
16 shall enforce this Compact and take all actions necessary and appropriate to effectuate the
17 Compact's purposes and intent. The provisions of this Compact and the rules promulgated
18 hereunder shall have standing as statutory law.

19 2. All courts shall take judicial notice of the Compact and the rules in any judicial or
20 administrative proceeding in a member state pertaining to the subject matter of this Compact which
21 may affect the powers, responsibilities, or actions of the Commission.

22 3. The Commission shall be entitled to receive service of process in any such proceeding, and
23 shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of
24 process to the Commission shall render a judgment or order void as to the Commission, this
25 Compact, or promulgated rules.

26 B. Default, Technical Assistance, and Termination

27 1. If the Commission determines that a member state has defaulted in the performance of its
28 obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

29 a. Provide written notice to the defaulting state and other member states of the nature of the
30 default, the proposed means of curing the default and/or any other action to be taken by the
31 Commission; and

32 b. Provide remedial training and specific technical assistance regarding the default.

33 2. If a state in default fails to cure the default, the defaulting state may be terminated from the
34 Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and
35 benefits conferred by this Compact may be terminated on the effective date of termination. A cure of
36 the default does not relieve the offending state of obligations or liabilities incurred during the period
37 of default.

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1 3. Termination of membership in the Compact shall be imposed only after all other means of
2 securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by
3 the Commission to the governor, the majority and minority leaders of the defaulting state's
4 legislature, and each of the member states.

5 4. A state that has been terminated is responsible for all assessments, obligations, and liabilities
6 incurred through the effective date of termination, including obligations that extend beyond the
7 effective date of termination.

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

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

15 C. Dispute Resolution

16 1. Upon request by a member state, the Commission shall attempt to resolve disputes related to
17 the Compact that arise among member states and between member and non-member states.

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

20 D. Enforcement

21 1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and
22 rules of this Compact.

23 2. By majority vote, the Commission may initiate legal action in the United States District
24 Court for the District of Columbia or the federal district where the Commission has its principal
25 offices against a member state in default to enforce compliance with the provisions of the Compact
26 and its promulgated rules and bylaws. The relief sought may include both injunctive relief and
27 damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all
28 costs of such litigation, including reasonable attorney's fees.

29 3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission
30 may pursue any other remedies available under federal or state law.

31 **SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR**
32 **OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND**
33 **AMENDMENT**

34 A. The Compact shall come into effect on the date on which the Compact statute is enacted into
35 law in the tenth member state. The provisions, which become effective at that time, shall be limited
36 to the powers granted to the Commission relating to assembly and the promulgation of rules.

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1 Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the
2 implementation and administration of the Compact.

3 B. Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
4 shall be subject to the rules as they exist on the date on which the Compact becomes law in that
5 state. Any rule that has been previously adopted by the Commission shall have the full force and
6 effect of law on the day the Compact becomes law in that state.

7 C. Any member state may withdraw from this Compact by enacting a statute repealing the
8 same.

9 1. A member state's withdrawal shall not take effect until six (6) months after enactment of the
10 repealing statute.

11 2. Withdrawal shall not affect the continuing requirement of the withdrawing state's
12 occupational therapy licensing board to comply with the investigative and adverse action reporting
13 requirements of this act prior to the effective date of withdrawal.

14 D. Nothing contained in this Compact shall be construed to invalidate or prevent any
15 occupational therapy licensure agreement or other cooperative arrangement between a member state
16 and a non-member state that does not conflict with the provisions of this Compact.

17 E. This Compact may be amended by the member states. No amendment to this Compact shall
18 become effective and binding upon any member state until it is enacted into the laws of all member
19 states.

20 **SECTION 13. CONSTRUCTION AND SEVERABILITY**

21 This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of
22 this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is
23 declared to be contrary to the constitution of any member state or of the United States or the
24 applicability thereof to any government, agency, person, or circumstance is held invalid, the validity
25 of the remainder of this Compact and the applicability thereof to any government, agency, person, or
26 circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution
27 of any member state, the Compact shall remain in full force and effect as to the remaining member
28 states and in full force and effect as to the member state affected as to all severable matters.

29 **SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS**

30 A. A licensee providing occupational therapy in a remote state under the Compact privilege
31 shall function within the laws and regulations of the remote state.

32 B. Nothing herein prevents the enforcement of any other law of a member state that is not
33 inconsistent with the Compact.

34 C. Any laws in a member state in conflict with the Compact are superseded to the extent of the
35 conflict.

36 D. Any lawful actions of the Commission, including all rules and bylaws promulgated by the
37 Commission, are binding upon the member states.

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1 E. All agreements between the Commission and the member states are binding in accordance
2 with their terms.

3 F. In the event any provision of the Compact exceeds the constitutional limits imposed on the
4 legislature of any member state, the provision shall be ineffective to the extent of the conflict with
5 the constitutional provision in question in that member state.

6 205:4 Effective Date. Part IV of this act shall take effect July 1, 2021.

7
8 PART V

9 Relative to the authority of the office of professional licensure and certification for administration,
10 rulemaking, and enforcement of investigations, hearings, and appeals.

11 205:1 Office of Professional Licensure and Certification; Administration; Rulemaking. Amend
12 RSA 310-A:1-d, II(h)(2) to read as follows:

13 (2) Such organizational and procedural rules necessary to administer the boards,
14 commissions, and councils in the office of professional licensure and certification, including rules
15 governing the administration of complaints and investigations, *hearings, disciplinary*
16 *proceedings*, payment processing procedures, and application procedures; and

17 205:2 New Paragraph; Office of Professional Licensure and Certification; Administration;
18 Standing Orders. Amend RSA 310-A:1-d by inserting after paragraph III the following new
19 paragraph:

20 IV. All boards, councils, and commissions may issue standing orders delegating non-
21 discretionary tasks to staff of the office of professional licensure and certification.

22 205:3 New Sections; Office of Professional Licensure and Certification; Investigations; Hearings;
23 Penalties; Appeals. Amend RSA 310-A by inserting after section 1-g the following new sections:

24 310-A:1-h Investigations.

25 I. Boards, which shall include all boards, councils, and commissions within the office of
26 professional licensure and certification, may authorize an investigation of allegations of misconduct
27 by licensees (a) upon their own initiative or (b) upon written complaint of any person that charges
28 that a person licensed by the board has committed misconduct. When requested by the board, the
29 office shall assign an investigator, who may assist in the investigation.

30 II. The procedures set forth in RSA 310-A:1-h through RSA 310-A:1-l are supplementary and
31 shall not supplant or supersede any procedures expressly set forth in any board's individual practice
32 act.

33 III. The following information obtained during investigations shall be held confidential and
34 shall be exempt from the disclosure requirements of RSA 91-A:

35 (a) Complaints received by the office.

36 (b) Information and records acquired by the office during the investigation.

37 (c) Reports and records made by the office as a result of its investigation.

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1 IV. For the purpose of carrying out investigations, the executive director is authorized to:

2 (a) Retain qualified experts.

3 (b) Conduct inspections of places of business of licensees or certificate holders.

4 (c) Retain legal counsel when authorized to do so by the attorney general.

5 (d) Issue subpoenas for persons, relevant documents and relevant things in accordance
6 with the following conditions:

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

9 (2) Subpoenas for documents and things shall not require compliance in fewer than
10 15 days after receipt of service.

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

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

17 V. The office or the boards, councils, and commissions within the office may disclose
18 information acquired in an investigation to law enforcement, if it involves suspected criminal
19 activity, to health licensing agencies in this state or any other jurisdiction, or in response to specific
20 statutory requirements or court orders.

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

30 VII. Each board, council, or commission may dismiss a complaint if the allegations do not
31 state a claim of professional misconduct.

32 310-A:1-i Disciplinary Proceedings; Remedial Proceedings.

33 I. Boards, which shall include all boards, councils, and commissions within the office of
34 professional licensure and certification, are authorized to conduct disciplinary proceedings in
35 accordance with procedural rules adopted by the executive director.

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1 II. For the purpose of carrying out disciplinary proceedings, each board, council, or
2 commission is authorized to issue subpoenas for persons, relevant documents and relevant things in
3 accordance with the following conditions:

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

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

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

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

14 III. At any time before or during disciplinary proceedings, complaints may be dismissed or
15 disposed of, in whole or in part, by written settlement agreement approved by the board and the
16 licensees or certified individuals involved, provided that any complainant shall have the opportunity,
17 before the settlement agreement has been executed, to comment on the terms of the proposed
18 settlement. The board, council, or commission may hold a settlement agreement hearing prior to its
19 approval of the settlement agreement.

20 IV. Final board actions having the effect of terminating disciplinary proceedings, whether
21 taken before, during or after the completion of the proceedings, shall be set forth in a written record
22 that shall be available to the public after service upon the licensees or certified individuals involved.

23 V. In carrying out disciplinary or licensing proceedings, each board shall have the authority
24 to:

25 (a) Hold pre-hearing conferences exempt from the provisions of RSA 91-A.

26 (b) Appoint a board member or other qualified person as presiding officer.

27 (c) Administer, and authorize an appointed presiding officer to administer, oaths and
28 affirmations.

29 VI. Neither the office nor the boards, councils, and commissions shall have an obligation or
30 authority to appoint or pay the fees of attorneys representing licensees, certified individuals, or
31 witnesses during investigations or adjudicatory proceedings.

32 VII. Boards, councils, and commissions may take non-disciplinary remedial action against
33 any person licensed by it upon finding that the person is afflicted with physical or mental disability,
34 disease, disorder, or condition deemed dangerous to the public health. Upon making an affirmative
35 finding after notice and an opportunity for a hearing, the board, council, or commission may take
36 non-disciplinary remedial action:

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

3 (b) By revocation of license.

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

7 VIII. All proceedings for non-disciplinary remedial action shall be exempt from the
8 provisions of RSA 91-A, except that the board may disclose any final remedial action that affects the
9 status of a license, including any non-disciplinary restrictions imposed.

10 310-A:1-j Hearings, Decisions and Appeals.

11 I. Disciplinary proceedings shall be open to the public, except upon order by the board,
12 council, or commission upon good cause shown. The public docket file for each such proceeding shall
13 be retained in accordance with the retention policy established by the office of professional licensure
14 and certification.

15 II. Notwithstanding any other provision of law, allegations of misconduct or lack of
16 professional qualifications that are not settled shall be heard by the board, council, or commission, or
17 a panel of the board, council, or commission with a minimum of 3 members appointed by the chair of
18 the board or other designee. Any member of the board, or other person qualified to act as presiding
19 officer and duly designated by the board, shall have the authority to preside at such hearing and to
20 issue oaths or affirmations to witnesses, rule on evidentiary and other procedural matters, and
21 prepare a recommended decision. In the case of a hearing before a panel, the presiding officer shall
22 prepare a recommended decision for the board, council, or commission, which shall determine
23 sanctions.

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

30 IV. In disciplinary and licensing proceedings, the presiding officer may hold prehearing
31 conferences that are closed to the public and exempt from the provisions of RSA 91-A until such time
32 as a public evidentiary hearing is convened. In all instances, settlement discussions engaged in by
33 the parties at prehearing conferences may be conducted off the record.

34 V. The board, council, or commission may dispose of issues or allegations at any time during
35 an investigation or disciplinary proceeding by approving a settlement agreement or issuing a consent
36 order or an order of dismissal for default or failure to state a proper basis for disciplinary action.
37 Disciplinary action taken by the board at any stage of a proceeding, and any dispositive action taken

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1 after the issuance of a public hearing notice, shall be reduced to writing and made available to the
2 public. Such decisions shall not be public until they are served upon the parties.

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

7 310-A:1-k Penalties.

8 I. Upon making an affirmative finding that a licensee or certificate holder has committed
9 professional misconduct, boards, which shall include all boards, councils, and commissions within
10 the office of professional licensure and certification, may take disciplinary action in any one or more
11 of the following ways:

12 (a) By reprimand.

13 (b) By suspension of a license or certificate for a period of time as determined reasonable
14 by the board.

15 (c) By revocation of license.

16 (d) By placing the licensee or certificate holder on probationary status. The board may
17 require the person to submit to any of the following:

18 (1) Regular reporting to the board concerning the matters which are the basis of the
19 probation.

20 (2) Continuing professional education until a satisfactory degree of skill has been
21 achieved in those areas which are the basis of probation.

22 (3) Submitting to the care, counseling, or treatment of a physician, counseling
23 service, health care facility, professional assistance program, or any comparable person or facility
24 approved by the board.

25 (4) Practicing under the direct supervision of another licensee for a period of time
26 specified by the board.

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

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

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

5 IV. In cases involving imminent danger to life or health, a board may order suspension of a
6 license or certification pending hearing for a period of no more than 10 business days, unless the
7 licensee or certified individual agrees in writing to a longer period. In such cases, the board shall
8 comply with RSA 541-A:30.

9 V. Any person whose license has been suspended or revoked by the board may apply to the
10 board, in writing, to request a hearing for reinstatement. Upon a hearing, the board may issue a
11 new license or modify the suspension or revocation of the license.

12 VI. For any order issued in resolution of an disciplinary proceeding by the board, where the
13 board has found misconduct sufficient to support disciplinary action, the board may require the
14 licensee or certificate holder who is the subject of such finding to pay the office a sum not to exceed
15 the reasonable cost of investigation and prosecution of the proceeding. This sum shall not exceed
16 \$10,000. This sum may be imposed in addition to any otherwise authorized administrative fines
17 levied by the board as part of the penalty. The investigative and prosecution costs shall be assessed
18 by the board and any sums recovered shall be credited to the office's fund and disbursed by the office
19 for any future investigations of complaints and activities that violate this chapter or rules adopted
20 under this chapter.

21 VII. When an investigation of a complaint is determined to be unfounded, the board shall
22 dismiss the complaint and explain in writing to the complainant and the licensee or certificate
23 holder its reason for dismissing the complaint. After six years, the board may destroy all
24 information concerning the investigation, retaining only a record noting that an investigation was
25 conducted and that the board determined the complaint to be unfounded. For the purpose of this
26 paragraph, a complaint shall be deemed to be unfounded if it does not fall within the jurisdiction of
27 the board, does not relate to the actions of the licensee or certificate holder, or is determined by the
28 board to be frivolous.

29 VIII. Whoever, not being licensed or otherwise authorized to practice according to the laws
30 of this state, shall advertise oneself as engaging in a profession licensed or certified by the office of
31 professional licensure and certification, shall engage in activity requiring professional licensure, or
32 in any way hold oneself out as qualified to do so, or call oneself a licensed professional, or whoever
33 does such acts after receiving notice that such person's license to practice has been suspended or
34 revoked, is engaged in unlawful practice. After hearing and upon making an affirmative finding of
35 unlawful practice, the board, council, or commission may take action in any one of the following
36 ways:

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1 (a) Issue a cease and desist order against any person or entity engaged in unlawful,
2 which shall be enforceable in superior court.

3 (b) Impose a fine not to exceed the amount of any gain or economic benefit that the
4 person derived from the violation or \$10,000 for each offense, whichever amount is greater. Each
5 violation of unlicensed or unlawful practice shall be deemed a separate offense.

6 (c) The attorney general, board, council, or commission, or prosecuting attorney of any
7 county or municipality where the act to unlawful practice takes place may maintain an action to
8 enjoin any person or entity from continuing to do acts of unlawful practice. The action to enjoin shall
9 not replace any other civil, criminal, or regulatory remedy. An injunction without bond is available
10 to any board, council, or commission.

11 310-A:1-1 Rehearing; Appeals.

12 I. Any person who has been refused a license or certification by the board, which shall
13 include all boards, councils, and commissions within the office of professional licensure and
14 certification, or has been disciplined by the board shall have the right to petition for a rehearing
15 within 30 days after the original final decision.

16 II. Appeals from a decision on rehearing shall be by appeal to the supreme court pursuant to
17 RSA 541.

18 III. No sanction shall be stayed by the board during an appeal.

19 205: 3 Contingent Renumbering; SB155. If SB 155 of the 2021 legislative session becomes law
20 then RSA 310-A:1-h through RSA310-A:1-l, as inserted by section 2, Part V of this act, and the
21 internal references therein, shall be renumbered as RSA 310-A:1-j through RSA 310-A:1-n,
22 respectively.

23 205:4 Contingent Version; SB 58; Office of Professional Licensure and Certification;
24 Administration; Rulemaking. Amend RSA 310-A:1-d, II(h)(2) to read as follows:

25 (2) Such organizational and procedural rules necessary to administer the boards,
26 commissions, councils, and programs in the office of professional licensure and certification,
27 including rules governing the administration of complaints and investigations, *hearings*,
28 *disciplinary proceedings*, payment processing procedures, and application procedures. The
29 boards shall retain the authority to determine the criteria necessary for licensing applications;

30 205:5 Contingency. If SB 58 of the 2021 legislative session becomes law, then Part V, section 1
31 of this act shall not take effect and Part V, section 4 shall take effect January 1, 2022. If SB 58 does
32 not become law then Part V, section 1 of this act shall take effect January 1, 2022 and Part V,
33 section 4 shall not take effect.

34 205:6 Effective Date.

35 I. Part V, sections 1 and 4 of this act shall take effect as provided in Part V, section 5 of this
36 act.

37 II. The remainder of this Part shall take effect January 1, 2022.

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PART VI

Relative to temporary licensure of certain licensed nursing assistants.

205:1 Statement of Purpose. The general court acknowledges the critical importance of ensuring the quality, accessibility, and sustainability of Medicaid services provided in nursing homes, and recognizes the critical shortage of licensed nursing assistants throughout the state. The purpose of this act is to strengthen the frontline staffing in nursing homes. The general court finds that during the COVID-19 pandemic federal regulatory and statutory provisions were waived to facilitate the hiring of nurse aides by nursing homes. Under state emergency order, these individuals were allowed to work in nursing homes as temporary health partners following no less than 8 hours of training provided either by a national association or a New Hampshire educational program. As a matter of public policy, the general court finds that these workers were indispensable as facilities struggled with staffing issues, particularly during outbreaks of the COVID-19 virus. Accordingly, this act shall provide the board of nursing with the additional authority to expand the workforce of licensed nursing assistants by recognizing the service of temporary health partners during the COVID-19 pandemic.

205:2 Special Licensure as a Licensed Nursing Assistant; Applicants Who Served as Temporary Health Partners.

I. Persons who have worked no fewer than 100 hours as temporary health partners in a licensed nursing home and have demonstrated, through their work experience during a national and state public health emergency, the competency to transition to status as a licensed nursing assistant, shall be deemed to have taken a board-approved nursing assistant course and may apply for a license as a licensed nursing assistant in New Hampshire.

II. Notwithstanding any provision of law to the contrary, the state-approved training program for licensed nursing assistants shall take into account the training and experience acquired during the COVID-19 pandemic to transition these individuals to placement on the state's licensed nursing assistant registry pursuant to RSA 326-B:26. Such individuals shall be subject to all continuing education requirements under RSA 326-B:31.

III. For purposes of this act:

- (a) "COVID-19" means the novel coronavirus first identified in 2019, or SARS-CoV-2.
- (b) "Temporary health partner" means anyone authorized to work in a nursing home by Emergency Order 42 issued by the governor on May 11, 2020, and required to complete training of no less than eight hours and work under the supervision of an RN, APRN, or LPN, as is required of LNAs under RSA 326-B:14.

205:3 Effective Date. Part VI of this act shall take effect upon its passage.

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PART VII

1
2 Relative to the revocation of licensure for licensed emergency medical service units
3 and emergency medical service vehicles.

4 205:1 Emergency Medical and Trauma Services; Revocation of License. Amend the introductory
5 paragraph of RSA 153-A:13, I to read as follows:

6 I. The commissioner [~~shall~~] *may* deny an application for issuance or renewal of a license, or
7 *issue a letter of concern*, suspend, or revoke a license, when the commissioner finds that the
8 applicant is guilty of any of the following acts or offenses:

9 205:2 Effective Date. Part VII of this act shall take effect 60 days after its passage.

10
11 PART VIII

12 Relative to schools for barbering, cosmetology, and esthetics.

13 205:1 Barbering, Cosmetology, and Esthetics; Definition; School. Amend RSA 313-A:1, XIII to
14 read as follows:

15 XIII. "School" means a school or other institution, *or a dedicated program within such*
16 *school or institution*, conducted for the purpose of teaching cosmetology, manicuring, barbering, or
17 esthetics.

18 205:2 Duties of the Board; Schools; Manicuring, Cosmetology, Barbering, Esthetics. RSA 313-
19 A:7, II is repealed and reenacted to read as follows:

20 II. The board may license a school to operate either:

21 (a) Dedicated programs within secondary schools, the purpose of which is to teach
22 cosmetology, manicuring, barbering, or esthetics; or

23 (b) Postsecondary programs conducted for the purpose of teaching cosmetology,
24 manicuring, barbering, or esthetics, including postsecondary programs leading to a certificate in
25 manicuring, barbering, cosmetology, or esthetics.

26 205:3 Barbering, Cosmetology, Esthetics, Manicuring; Apprenticeship Certificates. Amend RSA
27 313-A:24 to read as follows:

28 313-A:24 Apprentice Registration and [~~Licensure~~] *Certificates*.

29 I. No person shall enter an apprenticeship or enroll in a school under this chapter unless
30 such person has registered with the board as an apprentice and been issued an apprentice [~~license~~]
31 *certificate*. The board shall have sole authority to regulate apprentices and apprenticeship under
32 this chapter. The board shall issue an apprentice [~~license~~] *certificate* to any student receiving
33 instruction within a licensed school [~~or~~] *and/or* shop to learn barbering, cosmetology, esthetics, or
34 manicuring.

35 II. A person applying for [~~a license~~] *an apprentice certificate* under this section shall be
36 granted such [~~license~~] *certificate* upon:

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1 (a) Submitting proof sufficient to the board to show that such person is at least 16 years
2 of age;

3 (b) Paying a fee established by the ~~board~~ *office of professional licensure and*
4 *certification*; and

5 (c) Being deemed by the board to be of good professional character.

6 III. No salon or barbershop shall at any one time have more than one apprentice per
7 licensed professional, except as follows:

8 (a) Each licensed barber may have up to 2 apprentices for barbering.

9 (b) Each licensed master barber may have up to 2 apprentices for barbering, or one
10 apprentice master barber and one apprentice barber.

11 IV. Upon completing the number of hours specified in the board's apprentice rules, an
12 apprentice shall be eligible to apply to the board for ~~licensure~~ *certification*.

13 V. *Notwithstanding RSA 161-B:11, VI-a, an applicant for an apprentice certificate*
14 *shall not be required to provide a social security number as a prerequisite for obtaining a*
15 *certificate.*

16 205:4 Expiration and Renewal of Licenses and Certificates. Amend RSA 313-A:20 to read as
17 follows:

18 313-A:20 Expiration and Renewal of Licenses *and Certificates*. Each barber, master barber,
19 barber instructor, ~~apprentice,~~ barbershop, barber school, esthetician, esthetics instructor, esthetics
20 school, esthetics salon, manicurist, ~~apprentice,~~ beauty salon, or manicuring salon license issued
21 under this chapter, *and any apprentice certificate issued under RSA 313-A:24*, shall expire on
22 the last day of the birth month of the licensee *or certificate holder* in the odd year next succeeding
23 its date of issuance. Each cosmetologist, cosmetology instructor, or cosmetology school license issued
24 under this chapter shall expire on the last day of the birth month of the licensee in the even year
25 next succeeding its date of issuance. Any personal license *or apprentice certificate* which has
26 expired may be renewed within 6 months by payment of the renewal fee and a late fee established by
27 the board. After 6 months and within 5 years, a personal license *or apprentice certificate* may be
28 renewed by paying the renewal fee and a late fee established by the board. Any school or shop
29 license which has expired may be renewed upon payment of the renewal fee plus a late fee
30 established by the board.

31 205:5 Effective Date. Part VIII of this act shall take effect 60 days after its passage.

32
33 PART IX

34 205:Relative to telemedicine provided by out-of-state psychologists.

35 205:1 Psychologists; Electronic Practice of Psychology. RSA 329-B:16 is repealed and reenacted
36 to read as follows:

37 329-B:16 Electronic Practice of Psychology, Telehealth, Telemedicine.

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1 I. Telepsychology, telehealth, and telemedicine services, as provided by psychologists,
2 include those psychology services that utilize electronic means, including audio, video, or other
3 electronic media, to engage in visual or virtual presence in contemporaneous time. A New
4 Hampshire tele-pass license shall be required for provision of such care to people in New Hampshire.
5 Contacts that are exempt from this requirement are:

6 (a) Persons exempted by 329-B:28.

7 (b) Screenings for inclusion in voluntary research projects that have been properly
8 approved by a New Hampshire based institutional review board.

9 (c) Psychologists licensed by the board, who may provide tele-psychology services to a
10 person within the state of New Hampshire without acquiring a tele-pass psychology license.

11 (d) Persons exempted by RSA 329-D.

12 II. A doctoral level psychologist who is not licensed in New Hampshire shall be eligible to
13 provide telepsychology services to a person in New Hampshire pursuant to RSA 329-D, or providing
14 that the psychologist:

15 (a) Is licensed in one of the jurisdictions in the United States or Canada;

16 (b) Is in good standing in all license jurisdictions in the United States and Canada;

17 (c) Has satisfied conditions determined in rules adopted by the board;

18 and

19 (d) Has applied for and obtained a valid New Hampshire tele-pass psychology license in
20 accordance with board rules and payment of license fees with effective dates that cover the dates of
21 services provided.

22 III. The tele-pass psychology licensee shall agree to conditions including, but not limited to,
23 conditions stipulated by the board that the licensee shall:

24 (a) Conform to all New Hampshire statutes and rules.

25 (b) Agree that electronic attendance for appearances shall be deemed adequate for
26 regulatory enforcement purposes and that in-person appearances by the licensee are optional and
27 such associated costs for in-person attendance are the full responsibility of the tele-pass psychology
28 licensee.

29 (c) Understand that false statements or failure to comply with official requests and
30 official orders shall constitute sufficient cause for revocation of the tele-pass psychology license.

31 (d) Understand that all conditions of tele-pass psychology license to practice and
32 enforcement shall be pursuant to New Hampshire law.

33 (e) Grant the New Hampshire board of psychologists and its investigators authority to
34 disclose to law enforcement and related regulatory authorities, at their discretion, information
35 including but not limited to status of application, actions and information pertinent to investigations
36 and enforcement of the laws and rules pertaining to the licensee's conduct.

37 (f) Not conduct face-to-face in-person psychological services in New Hampshire.

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1 IV. The board shall adopt rules pursuant to RSA 541-A for:

2 (a) The application procedure for a New Hampshire tele-pass psychology license;

3 (b) Additional requirements for a psychologist licensed in another state of Canada to
4 acquire a tele-pass psychology license, including attestations;

5 (c) The standards of care for telemedicine practice of psychology and their enforcement;

6 and

7 (d) Procedures for investigation and discipline pursuant to all means authorized in this
8 chapter, including but not limited to suspension or revocation of a tele-pass psychology license.

9 V. Persons who have been granted emergency licenses to practice psychology under the
10 Covid 19 emergency pursuant to the Governor's Emergency Order #29 shall be granted a tele-pass
11 license upon application to the board.

12 205:2 Effective Date. Part IX of this act shall take effect upon its passage.

13
14 **PART X**

15 Relative to certified food protection managers.

16 205:1 New Section; Food Service Licensure; Certified Food Protection Manager. Amend RSA
17 143-A by inserting after RSA 143-A:11 the following new section:

18 143-A:11-a Certified Food Protection Manager.

19 I.(a) Each food service establishment licensed by the state under RSA 143-A:6 shall have a
20 person in charge and present during all hours of operation trained as a certified food protection
21 manager by a program approved by the Conference for Food Protection or other equivalent industry
22 standards program.

23 (b) The requirement in subparagraph (a) shall not apply under these conditions:

24 (1) Food establishments having at least one certified food protection manager on
25 staff shall not be required to have the certified food protection manager present when no food
26 preparation is taking place;

27 (2) Food establishments having at least one certified food protection manager on
28 staff shall not be required to have the certified food protection manager present when food
29 preparation is limited to reheating commercially prepared food or ready to eat food; or

30 (3) Food establishments having 5 food employees or less on duty are required to have
31 only one certified food protection manager on staff who is available, although not required to be
32 present, during all hours of operation.

33 II. This section shall not apply to any food service establishment exempt from licensure or
34 inspection under RSA 143-A:5.

35 III. This section shall not apply to food establishments licensed under RSA 143-A:6 as food
36 processing plants, cold storage or refrigerating warehouses; retail stores with no food preparation or
37 limited to self service foods, servicing areas, bed and breakfasts, lodging facilities serving continental

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1 breakfasts, home delivery services of packaged frozen food; pushcarts and other mobile food units,
2 those serving packaged food and non-potentially hazardous unwrapped foods only;
3 wholesalers/distributors; on-site vending machines, bars/lounges without a food preparation area;
4 arena/theater concessions serving non-potentially hazardous; sellers of pre-packaged frozen meat or
5 poultry that is processed in a USDA-inspected plant; homestead food operations.

6 205:2 Effective Date. Part X of this act shall take effect upon its passage.

7
8 PART XI

9 Establishing minimum qualifications for certification as a child care associate teacher.

10 205:1 New Subparagraph; Child Day Care Licensing; Rulemaking; Continuing Education
11 Requirements and Associate Teacher Qualifications. Amend RSA 170-E:11, I by inserting after
12 subparagraph (m) the following new subparagraph:

13 (n) The following qualification for certification as an associate teacher: a minimum of
14 1,000 hours of supervised child care experience in a licensed child care program and 30 hours of
15 training in child growth and development, the latter of which may be documented life experience.
16 Documented life experience in lieu of training in child growth and development shall include
17 experience with the same age children the associate teacher supervises, such as a family child care
18 provider; service as a foster parent; work as a school teacher; work as a camp counselor; and
19 experience as a group leader for children in sports or other activities, such as scouts or little league,
20 or closely related experience.

21 205:2 Effective Date. Part XI of this act shall take effect 60 days after its passage.

Approved: August 10, 2021

Effective Date:

Pt. I eff. October 9, 2021

Pt. II eff. October 9, 2021

Pt. III eff. August 10, 2021

Pt. IV eff July 1, 2021

Pt. V eff: I. Sections 1&2 eff as provided in Pt V, sec. 5

II. Rem. eff January 1, 2022

Pt. VI eff. August 10, 2021

Pt. VII eff. October 9, 2021

Pt. VIII eff. October 9, 2021

Pt. IX eff. August 10, 2021

Pt. X eff. August 10, 2021

Pt. XI eff. October 9, 2021

Amendments

Sen. Sherman, Dist 24
February 5, 2021
2021-0232s
05/10

Amendment to SB 133-FN

- 1 Amend Part VI of section 2 of the bill by replacing section 2(A) of RSA 326-F:15 with the following:
- 2
- 3 A. "Active duty military" means full-time duty status in the active uniformed service of the United
- 4 States, including members of the National Guard and Reserve on active duty orders pursuant to 10
- 5 U.S.C. Chapter 1209 and 10 U.S.C Chapter 1211.

UNAPPROVED

Sen. Reagan, Dist 17
Sen. Prentiss, Dist 5
March 1, 2021
2021-0533s
05/04

Amendment to SB 133-FN

1 Amend the bill by replacing Part XIV with the following:

2

3

PART XIV

4

Relative to certified food protection managers.

5

1 New Section; Food Service Licensure; Certified Food Protection Manager. Amend RSA 143-A
6 by inserting after section 11 the following new section:

7

143-A:11-a Certified Food Protection Manager.

8

I.(a) Each food service establishment licensed by the state under RSA 143-A:4 shall have at
9 least one staff member trained as a certified food protection manager by a program approved by the
10 Conference for Food Protection.

11

(b) The certified food protection manager shall be present during all hours of the food
12 service establishment's operation, except:

13

(1) When no food preparation is taking place; or

14

(2) When food preparation is limited to reheating commercially prepared food or
15 ready to eat food; or

16

(3) If the food service establishment has 5 or fewer employees, provided that the
17 certified food protection manager shall be available, which may be by telephone, during all hours of
18 operation when food preparation is taking place.

19

II. This section shall not apply to any food service establishment exempt from licensure or
20 inspection under RSA 143-A:5.

21

III. This section shall not apply to food establishments licensed under RSA 143-A:6 as food
22 processing plants, cold storage or refrigerating warehouses; retail stores with no food preparation or
23 limited to self service foods, servicing areas, bed and breakfasts, lodging facilities serving continental
24 breakfasts, home delivery services of packaged frozen food; pushcarts and other mobile food units,
25 those serving packaged food and non-potentially hazardous unwrapped foods only;
26 wholesalers/distributors; on-site vending machines, bars/lounges without a food preparation area;
27 arena/theater concessions serving non-potentially hazardous; sellers of pre-packaged frozen meat or
28 poultry that is processed in a USDA-inspected plant; homestead food operations.

29

2 Effective Date. Part XIV of this act shall take effect upon its passage.

Amendment to SB 133-FN

1 Amend the bill by replacing Part XIV with the following:

2

3

PART XIV

4

Relative to certified food protection managers.

5

6

1 New Section; Food Service Licensure; Certified Food Protection Manager. Amend RSA 143-A by inserting after RSA 143-A:11 the following new section:

7

143-A:11-a Certified Food Protection Manager

8

I. Each food service establishment licensed by the state under RSA 143-A:6 shall:

9

10

11

(a) Have a person in charge and present during all hours of operation trained as a certified food protection manager by a program approved by the Conference for Food Protection or other equivalent industry standards program.

12

(b) The requirement in RSA 143-A:11-a, I(a) shall not apply under these conditions:

13

14

15

(1) Food establishments having at least one certified food protection manager on staff shall not be required to have the certified food protection manager present when no food preparation is taking place;

16

17

18

(2) Food establishments having at least one certified food protection manager on staff shall not be required to have the certified food protection manager present when food preparation is limited to reheating commercially prepared food or ready to eat food; or

19

20

21

(3) Food establishments having 5 food employees or less on duty are required to have only one certified food protection manager on staff who is available, although not required to be present, during all hours of operation.

22

23

II. This section shall not apply to any food service establishment exempt from licensure or inspection under RSA 143-A:5.

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III. This section shall not apply to food establishments licensed under RSA 143-A:6 as food processing plants, cold storage or refrigerating warehouses; retail stores with no food preparation or limited to self service foods, servicing areas, bed and breakfasts, lodging facilities serving continental breakfasts, home delivery services of packaged frozen food; pushcarts and other mobile food units, those serving packaged food and non-potentially hazardous unwrapped foods only; wholesalers/distributors; on-site vending machines, bars/lounges without a food preparation area; arena/theater concessions serving non-potentially hazardous; sellers of pre-packaged frozen meat or poultry that is processed in a USDA-inspected plant; homestead food operations.

32

2 Effective Date. Part XIV of this act shall take effect upon its passage.

Amendment to SB 133-FN

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

2

3 1 Sponsorship. This act consists of the following proposed legislation:

4 Part I: LSR 21-0964, relative to the definition of "licensing agency" for purposes of licensing
5 places of assembly, sponsored by Sen. Carson, Prime/Dist 14.

6 Part II: LSR 21-0506, repealing the emergency medical services personnel licensure
7 interstate compact, sponsored by Sen. Rosenwald, Prime/Dist 13, Sen. Cavanaugh, Dist 16; Sen.
8 Carson, Dist 14; Rep. Goley, Hills. 8; Rep. Milz, Rock. 6; Rep. O'Brien, Hills. 36; Rep. S. Pearson,
9 Rock. 6.

10 Part III: LSR 21-0207, relative to hearings of the New Hampshire board of nursing,
11 sponsored by Sen. Ward, Prime/Dist 8.

12 Part IV: LSR 21-0838, relative to membership of the professional standards board,
13 sponsored by Sen. Kahn, Prime/Dist 10; Sen. Prentiss, Dist 5.

14 Part V: LSR 21-0846, adopting the Audiology and Speech-Language Pathology Compact and
15 the Occupational Therapy Licensure Compact, sponsored by Sen. Sherman, Prime/Dist 24; Sen.
16 Soucy, Dist 18; Sen. Carson, Dist 14; Rep. March, Carr. 8.

17 Part VI: LSR 21-0859, relative to the licensure and regulation of music therapists, sponsored
18 by Sen. Avard, Prime/Dist 12; Sen. Watters, Dist 4; Sen. Carson, Dist 14; Sen. Reagan, Dist 17; Sen.
19 Kahn, Dist 10; Sen. Sherman, Dist 24; Sen. Prentiss, Dist 5; Sen. Perkins Kwoka, Dist 21; Rep.
20 McGhee, Hills. 27.

21 Part VII: LSR 21-0899, relative to the authority of the office of professional licensure and
22 certification for administration, rulemaking, and enforcement of investigations, hearings, and
23 appeals, sponsored by Sen. Reagan, Prime/ Dist 17, Sen. Carson, Dist 14; Sen. French, Dist 7; Sen.
24 Kahn, Dist 10; Sen. Prentiss, Dist 5; Sen. Rosenwald, Dist 13; Sen. Bradley, Dist 3; Sen.
25 D'Allesandro, Dist 20; Sen. Ward, Dist 8; Sen. Soucy, Dist 18; Sen. Giuda, Dist 2; Rep. Spillane,
26 Rock. 2; Rep. McGuire, Merr. 29; Rep. Seaworth, Merr. 20.

27 Part VIII: LSR 21-0928, relative to skilled professional medical personnel, sponsored by Sen.
28 Ward, Prime/Dist 8.

29 Part IX: LSR 21-0973, relative to temporary licensure of certain licensed nursing assistants,
30 sponsored by Sen. Hennessey, Dist 1; Sen. Rosenwald, Dist 13; Rep. Dostie, Coos 1; Rep. Thompson,
31 Coos 1.

1 Part X: LSR 21-1011, relative to the revocation of licensure for licensed emergency medical
2 service units and emergency medical service vehicles, sponsored by Sen. Prentiss, Prime/Dist 5; Rep.
3 Merchant, Sull. 4; Rep. Goley, Hills. 8; Rep. McGuire, Merr. 29.

4 Part XI: LSR 21-1050, relative to schools for barbering, cosmetology, and esthetics,
5 sponsored by Sen. Reagan, Prime/Dist 17; Sen. Rosenwald, Dist 13; Sen. Prentiss, Dist 5; Sen.
6 Carson, Dist 14; Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Sen. Gannon, Dist 23; Rep.
7 McGuire, Merr. 29; Rep. Roy, Rock. 32; Rep. Harrington, Straf. 3.

8 Part XII: LSR 21-0277, relative to telemedicine provided by out of state psychologists,
9 sponsored by Sen. Reagan, Prime/Dist 17; Sen. Carson, Dist 14; Sen. Bradley, Dist 3; Sen. Prentiss,
10 Dist 5; Sen. French, Dist 7; Sen. Giuda, Dist 2; Sen. Hennessey, Dist 1; Sen. D'Allesandro, Dist 20;
11 Rep. Spillane, Rock. 2; Rep. Tudor, Rock. 1.

12 Part XIII: LSR 21-1049, establishing program rules within the department of health and
13 human services for sanitary production and distribution of food, sponsored by Sen. Giuda,
14 Prime/Dist 2; Sen. Gannon, Dist 23.

15
16 Amend the bill by deleting Part II and renumbering Parts III through XIV, and the Part references
17 in each Part's effective date, to be Parts II through XIII, respectively.

18
19 Amend Part V of the bill by replacing section 2(A) of RSA 326-F:15 with the following:

20
21 A. "Active duty military" means full-time duty status in the active uniformed service of the
22 United States, including members of the National Guard and Reserve on active duty orders
23 pursuant to 10 U.S.C. Chapter 1209 and 10 U.S.C Chapter 1211.

24
25 Amend the bill by replacing Part XIII with the following:

26
27 PART XIII

28 Relative to certified food protection managers.

29 1 New Section; Food Service Licensure; Certified Food Protection Manager. Amend RSA 143-A
30 by inserting after RSA 143-A:11 the following new section:

31 143-A:11-a Certified Food Protection Manager

32 I. Each food service establishment licensed by the state under RSA 143-A:6 shall:

33 (a) Have a person in charge and present during all hours of operation trained as a
34 certified food protection manager by a program approved by the Conference for Food Protection or
35 other equivalent industry standards program.

36 (b) The requirement in RSA 143-A:11-a, I(a) shall not apply under these conditions:

Amendment to SB 133-FN

- Page 3 -

1 (1) Food establishments having at least one certified food protection manager on
2 staff shall not be required to have the certified food protection manager present when no food
3 preparation is taking place;

4 (2) Food establishments having at least one certified food protection manager on
5 staff shall not be required to have the certified food protection manager present when food
6 preparation is limited to reheating commercially prepared food or ready to eat food; or

7 (3) Food establishments having 5 food employees or less on duty are required to have
8 only one certified food protection manager on staff who is available, although not required to be
9 present, during all hours of operation.

10 II. This section shall not apply to any food service establishment exempt from licensure or
11 inspection under RSA 143-A:5.

12 III. This section shall not apply to food establishments licensed under RSA 143-A:6 as food
13 processing plants, cold storage or refrigerating warehouses; retail stores with no food preparation or
14 limited to self service foods, servicing areas, bed and breakfasts, lodging facilities serving continental
15 breakfasts, home delivery services of packaged frozen food; pushcarts and other mobile food units,
16 those serving packaged food and non-potentially hazardous unwrapped foods only;
17 wholesalers/distributors; on-site vending machines, bars/lounges without a food preparation area;
18 arena/theater concessions serving non-potentially hazardous; sellers of pre-packaged frozen meat or
19 poultry that is processed in a USDA-inspected plant; homestead food operations.

20 2 Effective Date. Part XIII of this act shall take effect upon its passage.

2021-0779s

AMENDED ANALYSIS

This bill adopts legislation relative to:

- I. Licensing places of assembly.
- II. Repealing the emergency medical services personnel licensure interstate compact.
- III. Hearings at the board of nursing.
- IV. Membership of the professional standards board.
- V. Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.
- VI. Licensure and regulation of music therapists.
- VII. The authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.
- VIII. Skilled professional medical personnel.
- IX. Temporary licensure of certain licensed nursing assistants.
- X. The revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.
- XI. Schools for barbering, cosmetology, and esthetics.
- XII. Telemedicine provided by out of state psychologists.
- XIII. Sanitary production and distribution of food.

Committee Minutes

SENATE CALENDAR NOTICE
Executive Departments and Administration

Sen Sharon Carson, Chair
Sen John Reagan, Vice Chair
Sen Denise Ricciardi, Member
Sen Kevin Cavanaugh, Member
Sen Suzanne Prentiss, Member

Date: February 4, 2021

HEARINGS

Wednesday	02/10/2021	
(Day)	(Date)	
Executive Departments and Administration	REMOTE 000	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m.	SB 133-FN	adopting omnibus legislation relative to occupational licensure.

Committee members will receive secure Zoom invitations via email.

Members of the public may attend using the following links:

1. Link to Zoom Webinar: <https://www.zoom.us/j/92054873296>
2. To listen via telephone: Dial (for higher quality, dial a number based on your current location): 1-301-715-8592, or 1-312-626-6799 or 1-929-205-6099, or 1-253-215-8782, or 1-346-248-7799, or 1-669-900-6833
3. Or iPhone one-tap: +19292056099,,92054873296# or +13017158592,,92054873296#
4. Webinar ID: 920 5487 3296
5. To view/listen to this hearing on YouTube, use this link:
<https://www.youtube.com/channel/UCjBZdtrjRnQdmg-2MPMiWrA>
6. To sign in to speak, register your position on a bill and/or submit testimony, use this link:
<http://gencourt.state.nh.us/remotecommittee/senate.aspx>

The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

EXECUTIVE SESSION MAY FOLLOW

Sponsors:
SB 133-FN
Sen. Carson

Cameron Lapine 271-2104

Sharon M Carson
Chairman

Senate Executive Departments and Administration Committee

Cameron Lapine 271-2104

SB 133-FN, adopting omnibus legislation relative to occupational licensure.

Hearing Date: February 10, 2021

Time Opened: 9:10 a.m.

Time Closed: 12:18 p.m.

Members of the Committee Present: Senators Carson, Reagan, Ricciardi, Cavanaugh and Prentiss

Members of the Committee Absent : None

Bill Analysis: This bill adopts legislation relative to:

- I. Licensing places of assembly.
- II. Establishing a limited plumbing specialist license.
- III. Repealing the emergency medical services personnel licensure interstate compact.
- IV. Hearings at the board of nursing.
- V. Membership of the professional standards board.
- VI. Adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.
- VII. Licensure and regulation of music therapists.
- VIII. The authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals.
- IX. Skilled professional medical personnel.
- X. Temporary licensure of certain licensed nursing assistants.
- XI. The revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.

XII. Schools for barbering, cosmetology, and esthetics.

XIII. Telemedicine provided by out of state psychologists.

XIV. Sanitary production and distribution of food.

Sponsors:
Sen. Carson

Who supports the bill: Please refer to the sign in sheet.

Who opposes the bill: Please refer to the sign in sheet.

Who is neutral on the bill: Please refer to the sign in sheet.

Summary of Testimony on Part I of SB 133-FN

Senator Sharon Carson

Senate District 14

- Part I of SB 133-FN is a refile of SB 432 (2020), which passed the Senate but died on the table of the House during the COVID-19 pandemic.
- Senator Carson said that Part I of SB 133-FN is a request from the State Fire Marshal's Office (FMO).

Paul Parisi

State Fire Marshal

- Mr. Parisi said that he supports Part I of SB 133-FN and that the FMO requested it.
- Mr. Parisi said that State law requires places of assembly of 100 people or more (50 or more if the place is a tent) to be licensed. Currently, those licenses are issued by cities, towns, or village districts with the authority of the area. He said that there are issues where a place of assembly is in an unincorporated area.
- Mr. Parisi said that Part I of SB 133-FN would allow the FMO to issue a license for a place of assembly in situations where there is not a local authority to do it, or when they may ask the FMO to provide a license.

Summary of Testimony on Part II of SB 133-FN

Senator Bob Giuda

Senate District 2

- Senator Giuda said that Part II of SB 133-FN came out of conversations with several small, licensed plumbing outfits. He said that current statute prevents apprentices from doing any work without direct supervision for 8,000 hours of training. He also said that he worked with the FMO, the Mechanical Safety and Licensing Board (Mechanical Board), and the Office of Professional Licensure and Certification (OPLC).
- Senator Giuda said that, as a private citizen, he can do things in his home that an apprentice plumber cannot. He said that apprentices have to wait four years before they can do anything without direct supervision.
- Senator Giuda said that Part II of SB 133-FN will create a limited license for plumbing specialists which would allow someone working with a licensed plumbing company to do certain things. He said that he intentionally left the things that can be done vague, so that the Mechanical Board can consider and develop the technical aspects of the qualification.
- Senator Giuda requested a small amendment on Page 3, Line 4, striking the phrase “in consultation with the state fire marshal”. He said that it takes the FMO out of the loop on rules and makes the rules process smoother.
- Speaking for a second time, Senator Giuda said that Part II of SB 133-FN seeks to address a problem raised by many small businesses in the industry and is supported by the Mechanical Board, OPLC, and the FMO.

Bill Trombley

Chair, Mechanical Board

- Mr. Trombley said that the Mechanical Board is in support of Part II of SB 133-FN.

Paul Parisi

State Fire Marshal

- Mr. Parisi said the FMO supports Part II of SB 133-FN, as well as supports Senator Giuda’s proposed amendment, striking the reference to the FMO in the rule making section of the statute.

David Pelletier

Former Member, Mechanical Board

- Mr. Pelletier said that he supports moving the Mechanical Board to OPLC’s statute but that he opposed the limited plumbing specialist license.
- Mr. Pelletier said that the issue of apprentices came before the Mechanical Board many times while he served. He said that the Mechanical Board had discussed a change so that, after one year of direct supervision, an apprentice could move to just supervision, which could be virtual, as a sort of check-in with their master or journeyman. Mr. Pelletier said that the industry was opposed to that change.
- Mr. Pelletier said that a revised change was developed whereby the apprentice would need two years of direct supervision before moving to two years of regular supervision. He said that that rule is still in the process of being made.

- Mr. Pelletier questioned if the standards for the limited plumbing specialist license were lower than the standards for apprentices.
- Mr. Pelletier said that the Mechanical Board already has the authority to make rules on this matter.
- Mr. Pelletier said that he could see the limited plumbing specialist license being a stumbling block for someone to get into the trades.
- Senator Cavanaugh asked, if the limited plumbing specialist license was enacted, what the insurance coverage situation would be.
 - Mr. Pelletier said that he did not know. He said he would assume it would still be carried under the master or journeyman's insurance. Mr. Pelletier said that he didn't know what the benefit of the limited specialist license would be.

Lindsey Courtney

Executive Director, OPLC

- Ms. Courtney said that OPLC supports Part II of SB 133-FN.
- Ms. Courtney said that Part II of SB 133-FN would create a limited specialist license, which would qualify as an apprentice. She said that certain services would prove a holder's competency. She said that it would be consistent with a national trend in licensure.
- Ms. Courtney said that OPLC would welcome taking the Mechanical Board under its purview.

Summary of Testimony on Part III of SB 133-FN

Senator Prentiss declared a conflict on Part III of SB 133-FN and said she would not participate in discussion.

Jennifer Gallagher

Executive Assistant to Senator Cindy Rosenwald, Senate District 13

- Senator Rosenwald was introducing a different bill in Health and Human Services at the same time and asked Ms. Gallagher to introduce Part III of SB 133-FN on her behalf.
- Ms. Gallagher said that Part III of SB 133-FN repeals the Emergency Medical Services Personnel Licensure Interstate Compact (REPLICA).
- Ms. Gallagher said that New Hampshire entered into REPLICA several years ago but has never used its provisions. She said that the closest REPLICA compact state is 500 miles away and that being in REPLICA does not enhance public safety.
- SB 540 (2020) would have repealed REPLICA; it was passed in the Senate on a voice vote but died on the table in the House during the COVID-19 pandemic.

Christopher Arnold

Northeast Regional Liaison, United States Department of Defense (DoD)

- Mr. Arnold said that DOD opposes Part III of SB 133-FN.

- Mr. Arnold said that other states, specifically Indiana, have addressed their concerns with REPLICIA through amendment, rather than repeal. Mr. Arnold said that there is work being done at the national level regarding REPLICIA rulemaking.
- Mr. Arnold pointed out that Part VI of SB 133-FN recognizes the benefits of interstate compacts. He said that New Hampshire is one of eight states to be a member of the four major interstate compacts: REPLICIA, Psychology Interjurisdictional Compact (PSYPACT), Nurse Licensure Compact (NLC), and Physical Therapy Compact (PTC).
- Mr. Arnold said that the military provisions of the various interstate compacts assist service members and their spouses as they move state-to-state, reducing the stress of a military relocation.
- Mr. Arnold said that the FY2020 Department of Defense Appropriations Act gave DoD the resources to work with the Council of State Governments (CSG) on interstate compacts.
- Mr. Arnold said that it would be a step in the wrong direction to repeal REPLICIA, as 21 states are currently in REPLICIA and three more have REPLICIA-enacting legislation pending.
- Mr. Arnold encouraged the Committee to remove Part III of SB 133-FN.

Justin Romanello

Bureau Chief, Bureau of Emergency Medical Services, Department of Safety

- Mr. Romanello said that the Bureau of Emergency Medical Services is supportive of many Parts of SB 133-FN, including Parts IV, V, VIII, and IX, but not Part III.
- Mr. Romanello said that REPLICIA has not been used and has not been proven to be harmful. He said that some first responders traveled from New Hampshire to the REPLICIA state of Colorado to assist first responders there during their recent wildfire season.
- Mr. Romanello said that Louisiana has recently become the 21st REPLICIA state. New Hampshire was the 15th when it joined in July of 2018.
- Mr. Romanello said that although New Hampshire has not had to request REPLICIA assistance to date, it is not to say that it may not be needed.
- Speaking for a second time, Mr. Romanello said that REPLICIA is truly for emergency purposes, cannot be used for day-to-day operations, and would be a benefit for border communities if a bordering state joined REPLICIA.

Brian Rhyll

Professional Fire Fighters of New Hampshire

- Mr. Rhyll said that he supports Part III of SB 133-FN.
- Mr. Rhyll said that, in New Hampshire, the Governor already has the authority to allow out of state resources during a state of emergency.
- He said allowing self-deployment of first responders from out of state will create confusion and chaos within the system, and lead to possible risk for patients.
- Mr. Rhyll said that he assumes New Hampshire physicians will know what is best for New Hampshire patients. He said that REPLICIA creates confusion within the system and has multiple providers working under multiple scopes of practice.
- Mr. Rhyll said that every city and town in New Hampshire has its own emergency response plan in place and they have mutual aid agreements based on what is best for their town.

Chris Stawasz

American Medical Response, Paramedic from Hollis

- Mr. Stawasz said that he opposes Part III of SB 133-FN. He said that REPLICA solves a problem by allowing the safe crossing of borders. He said that New Hampshire needs REPLICA to ensure communities have the first responders needed in time if there is an unplanned emergency.
- Mr. Stawasz said that REPLICA does not supersede New Hampshire laws and rules and does not give away authority of emergency medical services personnel licensure. He also said that REPLICA does not allow for self-deployment.
- Mr. Stawasz said that REPLICA extends a privilege to practice under a specific purpose with a specific scope. He said that it brings great value for his employees.
- Mr. Stawasz recommended that changes to REPLICA be made through an amendment, rather than by repealing and starting over.

Summary of Testimony on Part IV of SB 133-FN

Senator Ruth Ward

Senate District 8

- Senator Ward said that Part IV of SB 133-FN was a request of the New Hampshire Board of Nursing. She said that Part IV of SB 133-FN deals with the holding of hearings regarding allegations.
- Senator Ward said that Part IV of SB 133-FN would allow any member of the Board of Nursing to preside at meetings and issue oaths to witnesses.
- Senator Ward said that Part IV of SB 133-FN is a re-file of SB 596 (2020), which was recommended Inexpedient to Legislate by Senate Executive Departments and Administration.

Paula Minnehan

New Hampshire Hospital Association (NHHA)

- Ms. Minnehan said that NHHA supports Part IV of SB 133-FN.

Lindsey Courtney

Executive Director, OPLC

- Ms. Courtney said that OPLC supports Part IV of SB 133-FN.
- Ms. Courtney said that Part IV of SB 133-FN would remove the prohibition in RSA 326 on the public member of the Board of Nursing presiding at disciplinary hearings. She said that the Board of Nursing is the only board that does not allow the public member of preside.
- Ms. Courtney said that the presiding officer controls the flow and conduct of hearings. She said that the presiding officer does not have the authority to make decisions on behalf of the

board. She said that the presiding officer has the same authority to question witnesses and helps to facility communication.

- Ms. Courtney said that Part IV of SB 133-FN brings the Board of Nursing in-line with other boards.

Summary of Testimony on Part V of SB 133-FN

Senator Jay Kahn

Senate District 10

- Senator Kahn said that Part V of SB 133-FN is a request of the Department of Education, regarding a change in the specifications for serving roles on the professional standards board.
- Senator Kahn deferred questions to representatives of the Department of Education.

Summary of Testimony on Part VI of SB 133-FN

Senator Tom Sherman

Senate District 24

- Senator Sherman said that Part VI of SB 133-FN adopts the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact.
- Senator Sherman said that he worked with CSG, the American Speech-Language-Hearing Association (ASHA), and OPLC in creating the language for Part VI of SB 133-FN.
- Senator Sherman said that some interstate compacts work well, while others may need some changes. He said that compacts, when supported, increase the availability of the workforce within the state and increase the portability of licensure.
- Senator Sherman presented Amendment 2021-0232s, making a highly technical change on Page 5, Line 25 of SB 133-FN.
- Senator Carson asked if, due to the extensive nature of Part VI of SB 133-FN, there were individuals who could answer questions.
 - Senator Sherman said that there were.

Susan Adams

Director of State Legislative & Regulatory Affairs, ASHA

- Ms. Adams said that ASHA supports Part VI of SB 133-FN and worked with CSG since 2017 to develop the language. She said that the language has been vetted with numerous associations and stakeholders. She added that the language is similar to other interstate compacts.
- Ms. Adams said that compacts apply to both telehealth appointments and in-person appointments.
- Senator Carson asked, for clarity, if the compact would allow speech therapists from New Hampshire to practice in other states as well as allow speech therapists from other states to

practice in New Hampshire.

- Ms. Adams said that that was correct, the compact essentially created reciprocal licensure between compact states.

Nahale Kalfas

Legal Counsel, CSG

- Ms. Kalfas was the primary drafter of the compacts in Part VI of SB 133-FN.
- Ms. Kalfas said that the COVID-19 pandemic has shown how important inter-state access to healthcare services is.
- Ms. Kalfas said that the compacts use a mutual recognition model, like driver's licenses. She said that the mutual recognition model has been recognized by the Federal Trade Commission as a useful tool.
- Senator Carson asked who the partners were in the crafting of the compacts.
 - Ms. Kalfas said that ASHA took the primary role. She said that there is a stakeholder group with over 24 people from all geographic areas of the country, as well as a variety of backgrounds – educators, pathologists, and association members. She said that they also worked with OPLC.
- Senator Carson asked what other states, if any, had adopted the compacts.
 - Ms. Kalfas said that the compacts are in effect in six states, including North Carolina, Louisiana, Utah, West Virginia, and Wyoming, and was being considered in 13 more. With 10 states being needed for the compacts to enter into effect, Ms. Kalfas said she was confident that they would be effective this year.

Tina Kelley

OPLC

- Ms. Kelley said that OPLC supports the two compacts, as they allow mobility between states and still allow for investigations and taking action when they are needed. She said that OPLC will ensure that the requirements are met, with verification of licenses and background checks.
- Ms. Kelley said that a licensee would only have to submit their documents once, to their home state, and would not need to re-file with every other compact state.
- Ms. Kelley said that the compacts issue a privilege to practice in another compact state, while still needing to follow the scope of practice for the state which the patient is in, as well as all local laws and rules.

Summary of Testimony on Part VII of SB 133-FN

Senator Kevin Avard

Senate District 12

- Senator Avard joked that he is known as “the singing Senator” because when children on school tours visit the State House, he sings to them. He said that students start to engage more when he sings.

- Senator Avard said that music has a role in mental health.

Tina Kelley

OPLC

- Ms. Kelley said that OPLC is neutral on Part VII of SB 133-FN, but does have a few concerns.
- On Page 38, Line 30, the definitions listed are added to RSA 328-F. Ms. Kelley said that the definitions should only be in RSA 326 and adding them to RSA 328-F would change the definitions across the Allied Health Boards.
- Ms. Kelley said that the definitions in question are already addressed on Page 40, Line 35 and do not need to be added twice.
- Ms. Kelley said that Part VII of SB 133-FN would add the Music Therapists Governing Board to the Allied Health Boards, which are autonomous boards. Page 40, Line 33 states "The executive director shall seek the advice of the board for issues related to the regulation of music therapists". Ms. Kelley said that that language makes it unclear if the Music Therapists Governing Board is an autonomous board or an advisory board.
- Ms. Kelley said that Page 41, Line 27 creates a new classified position in OPLC. She said that if Part VII of SB 133-FN passes, OPLC would likely need an additional position to fill that role. She said that although the numbers aren't great, there is a lot of administrative work involved. She encouraged Page 41, Line 27 to be left in the bill if Part VII of SB 133-FN passes.

Marissa Scott

New Hampshire Music Therapy Task Force

- Ms. Scott said she has five employees who support 2,500 individuals with music therapy.
- Ms. Scott said that passing Part VII of SB 133-FN will increase access to music therapy services and protect consumers from harm. She said that music therapy helps with emotion regulation, sensory integration, and self-expression.
- Ms. Scott said that her clients face bureaucratic barriers to accessing music therapy, as insurance reimbursement forms and the Centers for Medicare and Medicaid Services (CMS) require a license number, which cannot be bypassed. She said that she receives many referrals from doctors and social workers but many cannot access the services due to the insurance reimbursement issue.
- Ms. Scott noted that reimbursement is not the intention of the legislation, but a barrier to consumers.
- Ms. Scott said that, without the proper training and credentials, a music therapist could pose a risk to consumers by using music that is too complicated for someone's neurological system, too triggering for someone with traumatic experiences, or disorientating for someone with Alzheimer's Disease.

Rebecca Gildea

- Ms. Gildea said that there are 40 music therapists in New Hampshire, who have worked out of 67 different facilities and provided services to 2,841 individuals.

- Ms. Gildea said that the National Institutes of Health has awarded \$20,000,000 for research into music therapy.
- Ms. Gildea said that there are several aspects of music therapy designed for separate goals, including songwriting, lyric analysis, music and movement, and improvisation.
- Ms. Gildea said a music therapist has to hold a B.A. or higher in music, development, psychology, anatomy, or other fields. After classes, 1,200 hours are needed of clinical experience before taking a board exam. Ms. Gildea said continued education is needed.
- Ms. Gildea said that music therapy is an established process with barriers due to licensure issues. She said licensure would uphold the high standards of the practice by creating a comprehensive but accessible State standard.
- Ms. Gildea said that 12 states currently offer music therapy licenses, the closest of which is Rhode Island. She said that 15 more states are considering music therapy licensure. Ms. Gildea said that the music therapy industry has boomed in Rhode Island since licensure, with new courses in the field being offered at the University of Rhode Island.

Summary of Testimony on Part VIII of SB 133-FN

Senator John Reagan

Senate District 17

- Senator Reagan said that it may look like Part VIII of SB 133-FN is seizing authority from the boards but, actually, boards are reluctant to meet and make decisions. He said that more and more pieces of the administration of the professions have been transferred over to OPLC. He said that sometimes that comes at the behest of the boards and other times because of the frustration of the General Court.
- Senator Reagan deferred questions to OPLC.

Michael Porter

Administrator, OPLC Enforcement

- Mr. Porter said that the second part of OPLC's mission is to enforce the statute and the rules, along with the protection of the public, and general safety and welfare.
- Mr. Porter said that Part VIII of SB 133-FN will authorize OPLC to administer administrative duties and provide the public with a centralized and consistent point of access. He said that the proposed process provides consistency from complaint to adjudication while, currently, each board has their own separate mechanism and process.
- Mr. Porter said that the current process can lead to two or three years between complaint and adjudication. He gave the example of a current process: After a board determines that final adjudication is issued, the parties then engage in settlement negotiations, which can take years.
- Mr. Porter said OPLC is working on an internal process for a 60-day timeline to negotiate, followed by a notice hearing on Day 60 for a hearing in 30 days.
- Mr. Porter said OPLC has been able to streamline some processes since September through a standing order, which many boards have already signed on to. This centralized process has been able to identify and address emergency matters. He gave the example of a case involving the American School of Nursing, which took four days from complaint to action.

- Mr. Porter said that a centralized system allows OPLC to identify complaints that don't comply with rules or statute and clear someone of wrongdoing. He said that the Board of Nursing, in the last two months, has had 50 cases dismissed through the centralized process that would normally have taken one or two years. He said that final outcomes can be reached in as little as 60, 90, or 120 days.
- Mr. Porter said between September 1, 2020 and December 31, 2020, OPLC processed 646 cases. Between January 1, 2021 and February 9, 2021, OPLC has 195 open cases.
- Mr. Porter said that by changing the complaint process, each and every board retains their same regulatory and statutory oversight. He said no board's authority is diminished.
- Senator Carson asked how involved the various boards were in this process.
 - Mr. Porter responded that he personally has tried to meet with as many boards as possible about the centralized process. He said that each board has had the chance to review the standing order and many have signed on.

Rahkiya Medley

Chief Administrative Prosecutor, OPLC

- Ms. Medley stressed the importance of consistency.
- Ms. Medley said that Part VIII of SB 133-FN codifies the process already in place and practice through a standing order.
- Ms. Medley said that the centralized process can lead to complaints being responded to within days, possibly hours, which fulfills OPLC's purpose to protect the public.

Lindsey Courtney

Executive Director, OPLC

- Senator Carson asked Ms. Courtney if all of the boards, councils, and commissions support Part VIII of SB 133-FN.
 - Ms. Courtney said that OPLC was collaborating with the boards on standardizing procedures. She said that a lot of boards have adopted the standing order. She said that she did not have the exact number of boards, but many – including the Board of Nursing, the Mental Health Practice Board, the Midwifery Council, and many technological boards – have approved the standing order. She said that her hope is that most boards will have adopted the standing order within a few months after OPLC has proven that the process works.

Summary of Testimony on Part IX of SB 133-FN

Senator Ruth Ward

Senate District 8

- Senator Ward said that the issue involved with Part IX of SB 133-FN is around CMS reimbursement and who is able to render an adverse clinical eligibility determination.
- Senator Ward said that Part IX of SB 133-FN will make it so that only skilled medical professionals who are registered nurses (RNs) and licensed under RSA 326-B may do so.

Douglas Osterhoudt and Wendi Aultman

Department of Health and Human Services (DHHS)

- Mr. Osterhoudt said DHHS objects to Part IX of SB 133-FN.
- Senator Reagan was the prime sponsor of SB 49 (2015), which was a DHHS request, which clarified and broadened the language about who can determine clinical eligibility, opening it up to both advanced practice registered nurses (APRNs) and licensed practical nurses (LPNs). He said that limiting language placed DHHS in a position where they were unable to fill positions, leading to delays in decisions and services.
- Mr. Osterhoudt said that there is currently an RN shortage in New Hampshire.
- Mr. Osterhoudt said that the proposed RSA 151-E:3, III-a is not necessary to meet the definition to administer or supervise programs. He said that it singles out DHHS staff and puts in place restrictions on program administrators beyond those put on program administrators in similar entities. He said that the licensee is responsible for clinical decisions.
- Mr. Osterhoudt said that there is no specialized training for RNs for supervisory or administrative roles.
- Mr. Osterhoudt said that the proposed RSA 151-E:3, III-a would require DHHS to involve medically-trained staff for requests which could be denied for non-clinical reasons. He said that some denials don't need a specific skill set and are administrative in nature.
- Mr. Osterhoudt said that the definitions in Part IX of SB 133-FN are more restrictive than the federal definitions in 42 CFR 423.2. He said that someone like an LPN would be able to submit an adverse clinical eligibility determination. Under Part IX an LPN would not be able to do so.
- Mr. Osterhoudt said that LPNs are governed under RSA 326-B, the same statute that applies to RNs.
- Mr. Osterhoudt said that there were at least two committee work sessions on SB 49 (2015) to refine the definition and remove the reference to 42 CFR 423.2 under the belief that having two CFR definitions would lead to confusion. 42 CFR 432.50(d)(1)(i) was chosen because of its reliance on the phrase "professional education and training" in order to meet the requirements for a 75% CMS match.
- Senator Reagan asked Mr. Osterhoudt to clarify some of the jargon he had used.
 - Mr. Osterhoudt said that CFR stands for Codified Federal Regulation, the federal equivalent of rules.

Summary of Testimony on Part X of SB 133-FN

Senator Erin Hennessey

Senate District 1

- Part X of SB 133-FN begins on page 48.
- Senator Hennessey said Emergency Order 42 allowed for temporary health partners to go in to long-term care facilities after 10 hours of training in order to assist the facility in meeting their needs.
- Senator Hennessey said that Part X of SB 133-FN would allow people who served as a temporary health partner under Emergency Order 42 to transition to being a LNA without

having to go through the traditional LNA process.

Brendan Williams

President, NH Health Care Association

- Mr. Williams said that there has been a toll from the COVID-19 pandemic on nursing homes. He said before the pandemic it was hard to retain staff. He said there was a net loss of 1,000 LNAs across New Hampshire over a two-year period. He said that the pandemic has made it worse.
- Mr. Williams said a federal waiver made it possible to allow temporary nurse aides, called temporary health partners in New Hampshire. Mr. Williams said that Part X of SB 133-FN would allow the experience gained as a temporary health partner to be counted towards becoming a LNA if they choose to.

Summary of Testimony on Part XI of SB 133-FN

Senator Suzanne Prentiss

Senate District 5

- Senator Prentiss said that Part XI of SB 133-FN was a request of the Department of Safety and seeks to do two things:
 - First, to amend the language regarding emergency medical and trauma services (EMS) disciplinary matters to give the Commissioner of Safety the ability to issue a letter of concern. She said that when there is a concern over organizational issues, rather than a provider issue, the only action currently available is to suspend or revoke a license. She said that the “Just Culture” in the field has create an environment that when mistakes are made that are organizational, they are handled and more likely to be brought forward. She said that these issues differ from issues like falsification or misconduct.
 - Second, to change the language to “may” rather than “shall”, which more closely aligns with statute governing nurses and physicians.

Summary of Testimony on Part XII of SB 133-FN

Senator John Reagan

Senate District 17

- Senator Reagan introduced Part XII of SB 133-FN and deferred questions to OPLC.

Tom Broderick

Rule Attorney, OPLC

- Mr. Broderick stated he was speaking on behalf of OPLC and not the Board of Barbering, Cosmetology, and Esthetics (Cosmetology Board). He said that the Cosmetology Board was aware of the language. He said OPLC had requested the changes.
- Mr. Broderick said that Part XII of SB 133-FN fixes two technical issues with the practice act relating to programs in high schools.
- Mr. Broderick said that OPLC licenses private schools and high schools for cosmetology programs. Apprentices are licensed and can learn cosmetology in high school.
- Mr. Broderick said that Part XII of SB 133-FN clarifies that the Cosmetology Board has the authority to regulate programs in high school. He said that the Cosmetology Board currently does so and has. He said that there is a conflict in the definition of school between RSA 313-A:1, XII and RSA 313-A:7, II.
- Mr. Broderick said that Part XII of SB 133-FN also deals with a more complicated issue around the child protection statute, RSA 161-B:11, VI-a. OPLC is required to collect the Social Security Number of applicants. Under federal statute, however, schools cannot require Social Security Numbers. Mr. Broderick said that this is a catch-22, where the school cannot give a Social Security Number but OPLC requires it.
- Mr. Broderick said that Part XII of SB 133-FN exempts those who apply for apprentice certificates from the Cosmetology Board from needing to provide a Social Security Number but retains the Social Security Number requirement for those applying for full licenses.

Summary of Testimony on Part XIII of SB 133-FN

Senator John Reagan

Senate District 17

- Senator Reagan said that Part XIII of SB 133-FN came about because of a disagreement between one of his constituents, Dr. Warner, and Mr. Broderick from OPLC. He said both would be available to explain their positions.

Tom Broderick

Rules Attorney, OPLC

- Mr. Broderick stated he was speaking on behalf of OPLC and not the Board of Psychologists.
- Mr. Broderick said that OPLC is neutral on Part XIII of SB 133-FN but had some concerns.
- Mr. Broderick said that Part XIII of SB 133-FN would create a new licensure category with the intention of making it easier for out of state psychologists to provide services in New Hampshire.
- Mr. Broderick said that the current process is to either go through the New Hampshire licensure process or to be licensed in a PSYPACT state.
- Mr. Broderick said that OPLC's concern centers around the new licensure category. It would be a not insignificant burden on OPLC to set up a new set of initial applications, renewals, and rules. He clarified that OPLC was not against this and would implement it if Part XIII of SB 133-FN passes.
- Mr. Broderick said that OPLC's second concern involves PSYPACT. New Hampshire just

joined PSYPACT in September of 2019, less than two years ago. With the 13 states where PSYPACT is pending, a total of 28 states could be members of PSYPACT in the near future. Licensees from PSYPACT states would make it unnecessary and redundant for people who want to practice in New Hampshire.

- Mr. Broderick said that he believed Part XIII of SB 133-FN was brought forward due to a disagreement with the PSYPACT Commission but that that disagreement had been resolved.

Paula Minnehan

NHHA

- Ms. Minnehan said that NHHA has concerns over Part XIII of SB 133-FN. She said that concern is on a macro perspective, regarding making changes to the telehealth statute.
- Ms. Minnehan said her concern was not about the particular change, but a slippery slope effect on other boards.
- Senator Prentiss asked Ms. Minnehan to clarify her concerns about Part XIII of SB 133-FN.
 - Ms. Minnehan said that there is a concern about making changes to the telehealth law. She said that it is a new law with a new commission, and that that commission was the best avenue for changes to come from.

Dr. Debi Warner

Board of Psychologists

- Dr. Warner said that she requested Part XIII of SB 133-FN. She said that it would create a fast-track for telemedicine licenses for psychologists. She said that while PSYPACT is an option, it is not widely subscribed to and the closest PSYPACT is Delaware.
- Dr. Warner said that the Board of Psychologists wants to ensure that New Hampshire residents who could drive over the border to see a doctor in Maine, Massachusetts, or Vermont can receive the same services via telemedicine. Dr. Warner said that Part XIII of SB 133-FN will not benefit psychologists, but will benefit the citizens of New Hampshire.
- Dr. Warner said that the telemedicine license is envisioned as an *a la carte* item, rather the licensure through PSYPACT, which can take two months and costs \$440. Dr. Warner said she imagined the telemedicine license would be \$100 or less, although she added that OPLC would set the rate based on the administrative burden.
- Referencing the slippery slope discussion raised by other speakers, Dr. Warner said that all boards have different sorts of criteria for their standards of care. She said that psychologists are not required to have an in-person visit before telehealth appointments occur.

Summary of Testimony on Part XIV of SB 133-FN

Senator Bob Giuda

Senate District 2

- Senate Giuda said that Part XIV of SB 133-FN was a request from a group of constituents which stems from a new DHHS regulation. Senator Giuda said many in the food service

industry did not know the new rule was coming and weren't consulted on the new rule's impact before its implementation.

- Senator Giuda said that the public has a responsibility to be informed of rules and regulations but that the government has a responsibility to inform the public.
- Senator Giuda said that he spoke with DHHS about the issue and the response was an insistence that all stakeholders had been involved and all stakeholders were informed. Senator Giuda said that the specific stakeholders involved were city and town health officials and the lodging and restaurant associations. He said that many small businesses did not see the new rule coming.
- Senator Giuda said that the new rule requires any food establishment to train their employees so that a certified food safety specialist was on premise at all times. Senator Giuda said that this costs \$300 per employee, paid by the employer. If an employee leaves the business, he said, the certification becomes worthless and would not transfer to a new business. Senator Giuda said that due to the frequent turnover in the food service industry, the costs would be significant.
- Senator Giuda said that there is not a demonstrated need for this rule and that data that DHHS provided do not prove the need for the rule.
- Senator Giuda said that DHHS reduced the cost for the certification to \$165, but there is an extra \$55 fee if an employee fails the course and has to take it again because the teacher can't teach. He said there is also a limit on how many times per year an employee can take the certification.
- Senator Giuda said that DHHS did want to work towards a reasonable solution. He said that rules can be made even if the Joint Legislative Committee on Administrative Rules (JLCAR) says "no". Senator Giuda said that the only way to fix the rule is to change the law involved.
- Senator Giuda said that in the early 2000s, the General Court determined that there could be no "building code fiefdom". He said that DHHS has done so in the food section of their rules.
- Senator Giuda said that the current negotiation with DHHS looks to be moving forward. Senator Giuda said that he will have an amendment to Part XIV of SB 133-FN but asked for time to develop it.

Colleen Smith and Michelle Roberge

Food Protection Section, DHHS

- Ms. Smith said that DHHS has had several conversations with Senator Giuda on the issue of the certified food protection manager (CFPM) requirement. She said that they are working on a regulatory position.
- Ms. Smith said that DHHS has concerns with Part XIV of SB 133-FN and is working to review a proposed amendment. She said that they are in rulemaking to address the concerns that have been raised.
- Ms. Smith said that Part XIV of SB 133-FN codifies DHHS rules for the sanitary production of food and repeals the authority of the Commissioner in the food service licensure statute.
- Ms. Smith said that the DHHS rules for the sanitary production of food were updated in August of 2019 to reflect the 2017 Food & Drug Administration Food Code. She said that DHHS did extensive stakeholder outreach, including looking at the CFPM requirement. Part of the CFPM requirement process is that a person has to pass an eight-hour class with an exam in food safety.
- Ms. Smith said DHHS found out that half of establishments already had at least one CFPM

on staff. She said DHHS held six trainings across New Hampshire as well as an online training.

- Ms. Smith said Senator Giuda first raised the concern over the rule in April, about a specific location. She said that DHHS worked with that location through a variance to relieve the economic hardship and make it easier for smaller businesses to comply.
- Ms. Smith said that there is a requirement in Part XIV of SB 133-FN for DHHS to offer the CFPM training. In the fiscal note sheet that DHHS provided, she said that they envisioned needing one trainer and an indeterminate cost. She said that DHHS is supportive of offering the training but need an appropriation to fund the training.
- Ms. Smith said that an amendment might address some defects. She said it is a difficult time for the food industry. She said that the easiest way to address the issues are through rulemaking. She said that there is a lot of overcome by placing the rule in statute.
- Ms. Smith said that Senator Giuda made a reference to plumbing and building codes. She said that DHHS is focused on remedying the food requirement and would work on it.
- Senator Prentiss asked, if DHHS is working with Senator Giuda, is there a chance that Part XIV of SB 133-FN may not be needed. She asked if the discussions were close enough that a solution could be offered soon.
 - Ms. Smith said that they had worked through some language on the CFPM requirement. She said that she was not familiar with the breadth of Senator Giuda's concerns. She said that DHHS was happy to work with Senate Giuda.
- Senator Carson asked Ms. Smith to clarify the plumbing section she had referenced.
 - Ms. Smith said that she was not referring to Part II of SB 133-FN, but rather a comment Senator Giuda made with regards to plumbing code references for food establishments.
- Senator Carson asked if DHHS was actively working with Senator Giuda on the issues he raised.
 - Ms. Smith said that they were.
- After Mr. Clegg's testimony, Senator Prentiss asked for Ms. Smith's thoughts on Mr. Clegg's testimony.
 - Ms. Smith said that DHHS has been working with Mr. Sillon regarding the CFPM requirements. She said that with his business model, if one person on staff who is available has the CFPM certification they are absolved from the CFPM requirement for someone being on site at all times.
 - Ms. Smith said that the reference to septic rules refers to Department of Environmental Services (DES) rules and requirements for septic systems. She said that DHHS just requests documentation that the facility is in compliance with the DES rules, especially when there are new owners or a new shop. She said that DHHS does not approve the plans, but simply asks for proof of compliance.
 - Ms. Smith said that, with respect to the plan review process, DHHS defers to local officials for ultimate approval. She said that DHHS just reviews the plan for the kitchen layout, for things like the proper amount of refrigeration and three-bay sinks. She said that DHHS looks for elements in the kitchen to operate food service safely, not for things like egress points.
- After Mr. Clegg's testimony, Senator Prentiss asked what the process would be between now and May.
 - Ms. Smith said that there is an agreement in place for the variance for Mr. Sillon and Aroma Joe's. She said that they are exempt from needing a CFPM staff member on site at all times.

Michael Sillon

Aroma Joe's Franchise Owner

- Mr. Sillon is the owner of 19 Aroma Joe's franchises in New Hampshire. He said that the first store opened in 2000 and they are based out of Dover.
- Mr. Sillon said that CFPM rule was changed in August of 2019. He said that the rule was done by reference, without full public hearings, feedback, or notice.
- Mr. Sillon said that the Aroma Joe's model generally only has one employee at a time in their store for their drive-thru model. He said that the CFPM requirement means that Aroma Joe's would have to pay to certify all of their employees, since there is only one working at each time.
- Mr. Sillon said that, in the 19 stores he owns, he has 275 employees. Of those 275, 15 are CFPM certified.
- Mr. Sillon said that certifying the 260 non-CFPM employees at a cost of \$165 each would cost \$4,300. He said that only 40% of employees pass the course on their first time.
- Mr. Sillon said that Aroma Joe's does not handle raw foods, they simply reheat precooked foods or thaw baked goods. He said that there is no logical reason to train employees on the safe handling of raw chicken or shellfish.
- Mr. Sillon said that the disconnect between the content of the CFPM course and the realities of the Aroma Joe's model is why only 40% of employees pass the course their first time. He said that, at a cost of \$55 per retest, the cost comes out to be \$9,000, with the cost of the original test included.
- Mr. Sillon said that Aroma Joe's is obligated to compensate employees for the hours of taking the CFPM course. For 260 employees to take the six-hour cost at the average wage of \$8.50 per hour, the total is \$13,000 and the wage cost for retaking just the exam is \$3,000.
- Mr. Sillon said that the total, all-inclusive cost to certify all Aroma Joe's employees as CFPMs is \$70,000. He said that he has been fighting this issue since before the COVID-19 pandemic and considered the pandemic an un-related issue.
- Mr. Sillon said that the CFPM rule is too troublesome and too much of a burden. He said that Aroma Joe's already meets or exceeds the intention of the rule through their internal management and inspect program. He said that there was no avenue for a business like Aroma Joe's to explain the detrimental impact of the rule on their business model. He said that the rule should not apply to his business.
- Mr. Sillon said that application of the rule exceeds the original intent of the rule, to educate and protect everyone.
- Senator Carson asked when and how Mr. Sillon became aware of the CFPM rule if he was not aware of any public hearings being held.
 - Mr. Sillon said that a local inspection officer, Mr. Veno of Rochester, inspected a location in January and noted they did not have a CFPM on staff at all times. He said that this was the first time he had heard of the rule. He said that he then reached out to Periklis Karoutas at Legislative Solutions for assistance. Mr. Sillon said that there may need to be a communication bridge between DHHS and the business community to make sure that they understand what is happening. He said that he applied for State and municipal variances and waivers from the rule.
- Senator Carson asked if Aroma Joe's has encountered a similar CFPM rule in other states.
 - Mr. Sillon said that Aroma Joe's has stores along the East Coast, including in Maine, Massachusetts, Pennsylvania, and Florida. He said that only New Hampshire has adopted the 2017 Food & Drug Administration Food Code. He said that all stores have at least one CFPM certified employee on the schedule per week, who is

available to any employee or inspector at any time.

- Speaking for a second time, Mr. Sillon said that the variance is in place but he wants a more permanent solution. He said that he worries about the variance process if the individuals involved change.

Former Senator Bob Clegg

Representing Aroma Joe's

- Mr. Clegg said that there are things in the DHHS rule that do not belong in the rule. He said that they have usurped the state-wide building code regarding septic and plumbing control.
- Mr. Clegg said that he has worked with the Brick Store in Bath on septic issues. He said that there are many new regulations and that the Brick Store had to certify all of their staff. He said that the Brick Store has a lot of staff turnover because they employ many high school students.
- Mr. Clegg said he spent 14 years in the Senate and knows that there is not supposed to be a rule if there is not a law. Mr. Clegg said that departments make laws because it is easier to go through rules. He said that JLCAR can either let the issue go or has to take what is necessary and codify it and then have the department implement it.
- Mr. Clegg said that the local authority should have control over issues of occupancy, sinks, septic, and others.
- Mr. Clegg said that rules need to be fixed and can only be fixed through a law.
- Mr. Clegg said that he worked with John Williams from DHHS in recent days. He said that the idea of waiting to fix the problem through rules do not make sense and will take nine months for anything to happen.
- Mr. Clegg said that he has a color-coded, edited version of the 2017 Food & Drug Administration Food Code that he will supply to the Committee.
- Senator Reagan commented, as the Chair of JLCAR, that JLCAR is always on guard against people trying to create legislation in rules. He said he knows it is a belief out there but JLCAR does not allow it.
- Speaking for a second time, Mr. Clegg said that variances are temporary. He said that not everyone knows that they can get a variance for the rule. He said that there are no places for CFPM classes to take place due to the COVID-19 pandemic.
- Speaking for a second time, Mr. Clegg referenced Ms. Smith's testimony on code issues and said that, if the way Ms. Smith described them is how DHHS believes it should be, he agrees.

cml

Date Hearing Report completed: February 16, 2021

SENATE CALENDAR NOTICE
Finance

Sen Gary Daniels, Chair
Sen John Reagan, Vice Chair
Sen Bob Giuda, Member
Sen Erin Hennessey, Member
Sen Chuck Morse, Member
Sen Lou D'Allesandro, Member
Sen Cindy Rosenwald, Member

Date: March 17, 2021

EXECUTIVE SESSION

Tuesday	03/23/2021	
(Day)	(Date)	
Finance	REMOTE 000	1:00 p.m.
(Name of Committee)	(Place)	(Time)

1:00 p.m. ~~EXECUTIVE SESSION ON PENDING LEGISLATION~~

Committee members will receive secure Zoom invitations via email.

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1. To join the webinar: <https://www.zoom.us/j/98219364180>
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The following email will be monitored throughout the meeting by someone who can assist with and alert the committee to any technical issues: remotesenate@leg.state.nh.us or call (603-271-6931).

Deb Martone 271-4980

Gary L. Daniels
Chairman

Speakers

Name	Title	Representing	Position	Testifying
Carson Sharon	An Elected Official	Senate District 14 Part I III VI VII VIII XII XIII	Support	Yes
Ward Sen Ruth	An Elected Official	Senate District 8 (Supporting Parts IV & IX Prime)	Support	Yes
Prentiss Suzanne	An Elected Official	Senate District 5	Support	Yes
Kahn Jay	An Elected Official	Senate District 10	Support	Yes
Giuda Bob	An Elected Official	NH Senate District 2 - PRIME	Support	Yes
Sherman Senator Tom	An Elected Official	SD24	Support	Yes
gallagher jennifer	A Member of the Public	Senator Rosenwald	Support	Yes
Aultman Wendi	State Agency Staff	DHHS	Oppose	Yes
Romanello Justin	State Agency Staff	Department of Safety/Bureau of EMS	Oppose	Yes
Courtney Lindsey	State Agency Staff	OPLC--supporting parts II IV VI VIII and XIII	Support	Yes
Warner Dr Deborah	A Member of the Public	Board of Psychologists	Support	Yes
Clegg Robert	A Lobbyist	Aroma Joes	Support	Yes
Pelletier David	A Member of the Public	Plumbers and Pipefitters Local 131	Oppose	Yes
Virtue Carolyn	A Member of the Public	Granite Case Management - Section IX	Support	Yes
Kelley Tina	State Agency Staff	OPLC - Section VI	Support	Yes
Williams Brendan	A Member of the Public	New Hampshire Health Care Association	Support	Yes
Trombly Bill	A Member of the Public	NH Mechanical Board	Support	Yes
Porter Michael	State Agency Staff	OPLC	Support	Yes
Osterhoudt Douglas	State Agency Staff	DHHS	Oppose	Yes
stawasz christopher	A Member of the Public	Myself	Oppose	Yes
Broderick Thomas	State Agency Staff	OPLC " in support of section XII and neutral in support of section XIII	Neutral	Yes
Medley Esq. Rahkiya	State Agency Staff	OPLC "in support of section VIII	Neutral	Yes
Parisi Paul	State Agency Staff	State Fire Marshal's Office	Support	Yes
Minnehan Paula	A Lobbyist	NH Hospital Association	Support	Yes
Roberge Michele	State Agency Staff	DHHS - for Sectioin XIV of the Bill	Neutral	Yes
Sillon Mike	A Member of the Public	Myself	Support	Yes
Smith Colleen	State Agency Staff	DHHS	Neutral	Yes
Kalfas Nahale	A Member of the Public	Council of State Governments	Support	Yes
Scott Marissa	A Member of the Public	Myself	Support	Yes
Adams Susan	A Lobbyist	American Speech-Language-Hearing Association	Support	Yes
Arnold Christopher	State Agency Staff	United States Department of Defense	Oppose	Yes
Gildea Rebecca	A Member of the Public	Myself	Support	Yes
Favreau Shyloh	A Member of the Public	Myself	Support	No
Belmonte Karen	A Member of the Public	Myself	Support	No
Gray Stefanie	A Member of the Public	Myself	Support	No
Chorma Maureen	A Member of the Public	Myself	Support	No

Ross Johnna	A Member of the Public	Myself	Support	No
Stacy Kayla	A Member of the Public	Myself	Support	No
Ramos Shawn	A Member of the Public	Myself	Support	No
St. John Michelle	A Member of the Public	Myself	Support	No
Schleifer Erin	A Member of the Public	Myself	Support	No
Klain Laura	A Member of the Public	Myself	Support	No
Constantian Kori	A Member of the Public	Myself	Support	No
Laine Shannon	A Member of the Public	Myself	Support	No
Heline Marta	A Member of the Public	Myself	Support	No
Brannen Pete	A Member of the Public	Myself	Support	No
Manning Holly	A Member of the Public	Myself	Support	No
Deguzis Crystal	A Member of the Public	Myself	Support	No
DeChiaro Sarah	A Member of the Public	Myself	Support	No
West Meredith	A Member of the Public	Myself	Support	No
Ross David	A Member of the Public	Hillsborough County Nursing Home	Support	No
Silcox Christina	A Member of the Public	Myself	Support	No
Tash Lisa	A Member of the Public	Myself	Support	No
Calabro Karen	A Member of the Public	Myself	Support	No
Brannen Beckie	A Member of the Public	Myself	Support	No
Sousa Cecilia	A Member of the Public	Myself	Support	No
Sousa Cameron	A Member of the Public	Myself	Support	No
Scott Greg	A Member of the Public	Myself	Support	No
Laine Jonathan	A Member of the Public	Myself	Support	No
Ross Maria	A Member of the Public	Myself	Support	No
Lavallee Erica	A Member of the Public	Myself	Support	No
Fuller Mark	A Member of the Public	Myself	Support	No
Pizzi Meredith	A Member of the Public	Myself	Support	No
Gagnon Sarah	A Member of the Public	Myself	Support	No
Kiley Shannon	A Member of the Public	Myself	Support	No
Sell Kathlynn	A Member of the Public	Myself	Support	No
shippen channing	A Member of the Public	Myself	Support	No
Wagner Heather	A Member of the Public	Myself	Support	No
Sokira Jennifer	A Member of the Public	Myself	Support	No
Reopell Amanda	A Member of the Public	Myself	Support	No
Bickford Bailey Tara	A Member of the Public	Myself	Support	No
Thomas Bryan	A Member of the Public	Myself	Support	No
Young Sarah	A Member of the Public	Myself	Support	No

Olsen Katie	A Member of the Public	Myself	Support	No
Russell Sarah	A Member of the Public	Myself	Support	No
Krueger Gwendolyn (Wendy)	A Member of the Public	Myself	Support	No
Caiaati Tricia	A Member of the Public	Myself	Support	No
Doyle Marcy	A Member of the Public	NH Nurses Association	Oppose	No
DiNapoli Pamela	A Member of the Public	Myself	Support	No
Lupi Ginnie	State Agency Staff	New Hampshire State Council on the Arts	Neutral	No
King Cacia	A Member of the Public	Myself	Support	No
Stone Neil	A Member of the Public	Myself	Support	No
Grenier Melissa	A Member of the Public	Myself	Support	No
Ullal Ritu	A Member of the Public	Myself	Support	No
Denu Suzanne	A Member of the Public	Myself	Support	No
Prather Tanya	A Member of the Public	Myself	Support	No
Miller Dominique	A Member of the Public	Myself	Support	No
Cremmen LacyJane	A Member of the Public	Myself	Support	No
Grazier Russ	A Member of the Public	Portsmouth Music and Arts Center (PMAC)	Support	No
Reinsch Mary	A Member of the Public	Myself	Support	No
Levesque Andrea	A Member of the Public	Myself	Support	No
Rooney Stephanie	A Member of the Public	Myself	Support	No
Glidden Jennifer	State Agency Staff	Myself	Support	No
Dubois Tonya	A Member of the Public	Myself	Support	No
Chesterley Victoria	A Member of the Public	New Hampshire Speech-Language-Hearing Association	Support	No
King Michele	A Member of the Public	Myself	Support	No
King Michael	A Member of the Public	Myself	Support	No
Appleby Stephen	State Agency Staff	Myself	Neutral	No
Barrow Sarah	A Member of the Public	Myself	Support	No
McGhee Kat	An Elected Official	Hillsborough 27	Support	No
Moffrpid Katrin	A Member of the Public	Myself	Support	No
Ryll Brian	A Lobbyist	Professional Fire Fighters of NH	Support	No
Judd Ryan	A Member of the Public	Myself	Support	No
King Kerry	A Member of the Public	Myself	Support	No
Doyle Jim	A Member of the Public	Myself	Neutral	No
wissenbach sheila	A Member of the Public	Myself	Oppose	No

Testimony

Cameron Lapine

From: Shannon Laine <shannon@mcmusicschool.org>
Sent: Saturday, February 6, 2021 4:13 PM
To: Cameron Lapine
Subject: In Support of SB-133, Part VII, Relative to Licensure for Music Therapists

Madame chairman, members of the Committee, my name is Shannon Laine and I'm representing the NH Music Therapy Advocacy Task Force. I write to you today in support of SB-133, Part VII, relative to the Licensure and Regulation of Music Therapists.

I am a Board Certified Music Therapist, and in 2006, I founded the first music therapy program in New Hampshire at the Manchester Community Music School. This ongoing program provides music therapy benefits to over two hundred seventy five individuals each week from its contracts with over twenty schools, hospitals, agencies, and other community partnerships. Specifically, I provide music therapy to individuals with Developmental Disabilities, including children on the Autism Spectrum, with Down Syndrome, Cerebral Palsy, and other unique needs that might impact a child's development.

The Individuals with Disabilities Education Act (referred to as IDEA), recognizes a multitude of services, known as related services, that school districts can implement in order for students to make documented progress on their defined educational goals. One related service specifically identified in the IDEA is music therapy. Even Commissioner Edelblut with the New Hampshire Department of Education has identified the importance of music therapy services for school-aged students in our state (please see the attached document for reference). Regardless of this, music therapy services across the state are still denied by school districts. Often, the reason that is cited relates to the qualifications of a music therapist, and lack of licensure. By comparison, occupational, speech, and physical therapies are all listed as related services under the IDEA and regularly provided in school districts across the state.

As a frequent collaborator with schools, IEP teams, other service providers, as well as music educators across Southern New Hampshire, licensure has another benefit. With an increase of inclusion experiences for students with developmental disabilities, there is a significant increase in the number of students with severe needs being placed in music education classrooms. Oftentimes, music educators do not have the knowledge, training, or resources to meet the needs of these students. Music Educators are being requested to provide and implement music therapy services in place of regular education music classes despite not having training or education in this discipline. This results in either an erroneous negative regard for the effectiveness of music therapy or confusion over the validity and efficacy of music therapy services. While students with developmental disabilities can benefit from both music therapy and music education experiences, licensure would enable increased access to music therapy services as appropriate for these students.

Without licensure, it may become difficult for consumers to differentiate between trained board certified music therapists and professionals practicing similar sounding, but fundamentally different, disciplines.

With the passing and implementation of SB-133, Part VII, licensure would provide State Recognition for music therapists, ensuring school districts are employing credentialed, qualified, and licensed music therapists.

I ask that you support SB-133, Part VII, by voting yes, further recognizing music therapists as licensed professionals, while increasing access to music therapy services throughout the state.

Thank you for your time,
Shannon Laine, MT-BC

Board Certified Music Therapist
64 Broad Street
Hollis, New Hampshire 03049

Shannon Laine, MT-BC

Manchester Community Music School
Sprouting Melodies Coordinator
Music Therapist
2291 Elm Street
Manchester, NH 03104

(603) 644-4548

Cameron Lapine

From: Kori Constantian <selvagg@hotmail.com>
Sent: Sunday, February 7, 2021 2:16 PM
To: Sharon Carson; John Reagan; Kevin Cavanaugh; Denise Ricciardi; Suzanne Prentiss;
Cameron Lapine
Subject: In support of SB 133

Dear Senate Executive Departments and Administration Committee Members,

I am an Occupational Therapist working in at the Amherst Middle School in Amherst, NH. I am writing this comment to indicate my support of the music therapists in New Hampshire as they seek licensure. This state recognition of the music therapy profession will help ensure that consumers in our state have access to music therapy services provided by a qualified practitioner. It will serve to both protect the public and increase their ability to choose and access healthcare services that best meet their needs. Like any skilled and trained healthcare professional, music therapists need to have state recognition of their profession and credential to ensure quality service delivery for NH citizens. I urge you to support SB 133 Part VII, in the establishment of licensure for music therapists in New Hampshire.

Sincerely,
Kori Constantian



New Hampshire
State Council on the **Arts**

February 10, 2021

Executive Departments and Administration Committee
NH Senate
State House Room 103
Concord, NH 03301

Dear Chair Carson and Committee Members,

My name is Ginnie Lupi and I serve as Director of the New Hampshire State Council on the Arts (the Arts Division of the Department of Natural and Cultural Resources). I am writing to you today regarding Part VII of SB 133, which would license and regulate music therapists in New Hampshire. I am sorry I am unable to attend the hearing.

I'm particularly interested in this legislation because before my work in the arts, I worked in leadership positions in community behavioral health for almost two decades. During that time I witnessed a significant change in the acceptance of creative arts therapies – visual art, dance/ movement, drama, music and writing – and saw firsthand how the arts can help in behavioral health stabilization and recovery. Indeed, the research is very clear that creative arts therapies can be very successful in treating a variety of mental health and addiction conditions – when provided by qualified individuals.

For over 70 years, creative arts therapies have been utilized in psychotherapy and counseling with individuals of all ages. They are rooted in the arts, creativity theory and psychology. These therapies and others that utilize self-expression in treatment are defined as the use of art, music, drama, dance/movement, and poetry/creative writing within the context of psychotherapy, counseling, rehabilitation, and medicine.

According to the American Music Therapy Association, music therapy is:

The clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship by a credentialed professional who has completed an approved music therapy program.

Music Therapy is an established health profession in which music is used within a therapeutic relationship to address physical, emotional, cognitive, and social needs of individuals. After assessing the strengths and needs of each client, the qualified music therapist provides the indicated treatment including creating, singing, moving to, and/or listening to music. Through

musical involvement in the therapeutic context, clients' abilities are strengthened and transferred to other areas of their lives. Music therapy also provides avenues for communication that can be helpful to those who find it difficult to express themselves in words. Research in music therapy supports its effectiveness in many areas such as: overall physical rehabilitation and facilitating movement, increasing people's motivation to become engaged in their treatment, providing emotional support for clients and their families, and providing an outlet for expression of feelings.

<https://www.musictherapy.org/about/quotes/>

The National Endowment for the Arts has embraced the power of music and other creative arts therapies in its program for military patients and veterans who have been diagnosed with traumatic brain injury (TBI) and psychological health conditions, as well as their families and caregivers. The Arts Endowment has also invested in a study here in New Hampshire, at the Dartmouth Hitchcock Medical Center Department of Neurology, to incorporate music, creative writing and visual art into the inpatient unit and clinic to examine whether creative arts can boost quality of life and decrease distress in these patients.

Credentialed (but not licensed) professional music therapists practice in a variety of settings in New Hampshire, from hospitals to community health and mental health centers, to schools and other clinical and community settings, just like mental health professionals who have the benefit of state licensure. Music therapists also practice in several community music schools in New Hampshire, which we support with grants.

In the Granite State, mental health professions such as counseling, psychology, social work, marriage and family therapy and alcohol and drug counseling are licensed. Licensure is important because it protects the public from potential harm that may be caused when a non-qualified person purports to be a qualified practitioner. Licensure ensures that the person receiving services is accessing them from a professional who has been deemed qualified not only by a national accreditation body but also under state law and regulation. Licensure also qualifies professionals for insurance reimbursement, which, these days, is essential for career growth.

Each mental health profession is different and requires its own specialized training (generally Master's degree level and above) and has its own distinct scope of practice. This is why the professions I mentioned a moment ago are separately licensed, and why music therapy (and ideally other creative arts therapies) should be licensed as well. The New Hampshire State Council on the Arts supports the intent of bill as an important first step toward recognition of these proven behavioral health treatment modalities in our state, particularly as we navigate the complexities of the ongoing mental health and opioid crisis.

We are also pleased to see language added to this year's version of the legislation that would provide protection for Certified Music Practitioners, who provide live acoustic music at bedside, one-on-one, for therapeutic purposes. CMPs are **not** music therapists and don't purport to be; they provide important services that aim to bring comfort by having the patient be in the presence of the music. A CMP uses only live music and has no goal other than addressing a patient's immediate needs to provide a healing environment. The State Arts Council supports several projects through our

Arts in Health grant program that utilize the expertise of CMPs and other therapeutic artists, so this protective language will be very important if SB 133 becomes law.

Finally, we have one caveat about our support of this legislation. Ideally, we would prefer to see the Legislature explore a broader "creative arts therapies" license, under which music, art, drama, dance/movement, and poetry/creative writing professionals could be regulated. Such a move would eliminate duplicative governing boards and also recognize registered expressive arts therapists, who work across artistic disciplines. It would also align New Hampshire with other states that are exploring a broader licensure category (New York is currently the only state with this licensure category).

Thank you very much for the opportunity to provide testimony on Part VII of SB 133. Feel free to reach out if you have questions.

All best,



Ginnie Lupi
Director, NH State Council on the Arts
603-271-8418
virginia.a.lupi@dncr.nh.gov

Cameron Lapine

From: Marianne L. Barthel <Marianne.L.Barthel@hitchcock.org>
Sent: Monday, February 8, 2021 10:40 AM
To: Sharon Carson; John Reagan; Kevin Cavanaugh; Denise Ricciardi; Suzanne Prentiss; Cameron Lapine
Subject: NH Arts in Health SB 133

Dear Senate Executive Departments and Administration Committee Members,

I am the director of Arts Programming at Dartmouth-Hitchcock Health in Lebanon, NH. I am writing as community member, not as a representative of Dartmouth-Hitchcock Health, to indicate my support of the music therapists in New Hampshire as they seek licensure. This state recognition of the music therapy profession will help ensure that consumers in our state have access to music therapy services provided by a qualified practitioner. It will serve to both protect the public and increase their ability to choose and access healthcare services that best meet their needs. Like any skilled and trained healthcare professional, music therapists need to have state recognition of their profession and credential to ensure quality service delivery for NH citizens.

Furthermore, this licensure will help pave the way for music therapists to receive reimbursement for their services in healthcare settings which will allow healthcare organizations to expand services to their patients to include Music Therapy. I urge you to support SB 133 Part VII, in the establishment of licensure for music therapists in New Hampshire.

Sincerely,
Marianne Barthel

Marianne Barthel
Director, Arts Program
Marianne.L.Barthel@hitchcock.org
<https://www.dartmouth-hitchcock.org/arts.html>
<https://www.facebook.com/groups/DHarts>

phone: 603.650.6187



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Cameron Lapine

From: David Ross <dross@hcnh.org>
Sent: Monday, February 8, 2021 3:53 PM
To: Cameron Lapine
Cc: Erin Hennessey; Kate Horgan; Brendan Williams
Subject: Support for SB 133
Attachments: SB 133.docx

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Good afternoon Mr. Lapine,

Attached please find my written letter of support for Part X of SB 133 licensure status to eligible Temporary Health Partners.

Please do not hesitate to contact me directly with any questions or concerns.

David J. Ross, Administrator
Hillsborough County Nursing Home
400 Mast Road
Goffstown, NH 03045
(603) 627-5540
Fax (603) 627-5547

Cameron Lapine

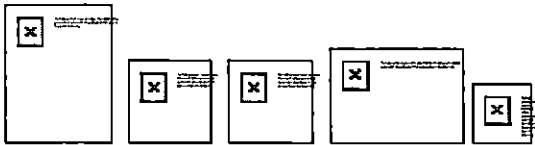
From: Tricia Caiati <triciacaiati@yahoo.com>
Sent: Tuesday, February 9, 2021 11:24 AM
To: Cameron Lapine; Sharon Carson; John Reagan; Kevin Cavanaugh; Denise Ricciardi; Suzanne Prentiss
Subject: Music Therapy 2/10/21 SB 133

Dear Senate Executive Departments and Administration Committee Members,

I am a Music Therapist working in school districts across NH. I am writing this comment to indicate my support of the music therapists in New Hampshire as they seek licensure. This state recognition of the music therapy profession will help ensure that consumers in our state have access to music therapy services provided by a qualified practitioner. It will serve to both protect the public and increase their ability to choose and access healthcare services that best meet their needs. Like any skilled and trained healthcare professional, music therapists need to have state recognition of their profession and credential to ensure quality service delivery for NH citizens. I urge you to support SB 133 Part VII, in the establishment of licensure for music therapists in New Hampshire.

Sincerely,
Tricia

~
Tricia Caiati, MT-BC
Board Certified Music Therapist
978-476-3443



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Cameron Lapine

From: Ava Hawkes
Sent: Tuesday, February 9, 2021 1:09 PM
To: Cameron Lapine
Subject: FW: Support of Temporary Health Partners to LNA

Begin forwarded message:

From: Martha Ilsley <milsley@bearmountainhc.com>
Date: February 8, 2021 at 1:25:04 PM EST
To: Erin Hennessey <Erin.Hennessey@leg.state.nh.us>
Cc: Heather Impey <himpey@bearmountainhc.com>
Subject: FW: Support of Temporary Health Partners to LNA

From: Martha Ilsley
Sent: Monday, February 8, 2021 1:22 PM
To: nh.us <erin.Hennessey@leg.state.>
Cc: Heather Impey <himpey@bearmountainhc.com>
Subject: Support of Temporary Health Partners to LNA

Dear Senator Hennessey,

I am writing in support of legislation that would allow Temporary Health Partners to transition into LNAs without taking an LNA course. During this critical staffing time and when LNAs are so scarce across the State, allowing these workers to be LNAs would be such a tremendous help to all of us in the Skilled Nursing Home Profession. We had an outbreak of covid at our facility, and I am not sure what we would have done without our staff members who became temporary Health Partners.

I appreciate very much your support of this bill

Thank you

Martha Ilsley, Administrator
Hanover Terrace Health and Rehabilitation Center
49 Lyme Road
Hanover, NH 03755



January 29, 2021

The NH State Senate
Senate Executive Departments & Administration Committee
107 N Main Street
Concord, NH 03033

RE: NH S.133

Dear Committee Members:

This letter is in opposition of Section 3 - the proposed repeal of the NH EMS personnel licensure Interstate Compact known as Replica – of S.133.

American Medical Response (AMR) is the largest provider of 9-1-1 emergency medical services (EMS) in the State of New Hampshire. We employ over 200 licensed NH EMS providers operating from multiple different locations through the Granite State and transport over 40,000 patients annually.

Replica solved a potential problem. It created a specific and defined process for licensed qualified EMS staff to safely cross state borders when needed in the performance of their duties without having to hold multiple state EMS licenses. NH participates in approximately 43 interstate compacts. Replica is similar in language and intent to all the other licensure compacts that NH has chosen to participate in.

Now, more than ever, we need this compact to assure that our NH communities will have the EMS personnel resources that we need, when we need them, in times of unplanned national emergencies such as the ongoing worldwide pandemic. When NH became the 15th state to join the Replica EMS Compact in 2018 it was the result of a collaborative effort of numerous NH EMS stakeholder agencies including the fire service, commercial ambulance providers, NH hospitals and the many of the volunteer EMS community members we are so lucky to have in our state. The Replica Compact is now fully operational and there are currently 21 member states with more actively working to join.

Here are some facts about Replica and what it does or does not do;

Replica Does Not

- Does not provide a multi-state license.
- Does not create automatic reciprocity.
- Does not pertain to ambulances – only licensed people (commonly known as providers).
- Does not have authority over EMS/Ambulance agency licensure.
- Does not supersede the state of NH EMS laws and rules.
- Does not allow for 'self-deployment'.
- Does not allow for "routine day to day" operations or response.

380 West Hollis St Nashua, NH 03060

Nationally Accredited by the Commission on Accreditation of Ambulance Services

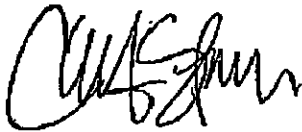
Replica Does

- Extend a privilege to individual providers to practice in member states under authorized circumstances and only to qualified, vetted, licensed providers for specific purposes only.
- Stand up a National Coordinated Personnel Database which allows the NH Bureau of EMS to
 - View complete (multiple state) license history of individuals.
 - Share real-time significant investigatory information.
 - Share License Discipline History
 - Receive cross-border notifications of out of state adverse actions.
 - Expedites filling a need in Large scale unplanned incidents that have drained local resources and require additional personnel – Like a pandemic.

Notably, Replica also creates an expedited licensing process for members of the military and their spouses separating from active duty. As a recognized Patriotic Employer of the NH Guard and Reserve we believe that this is a critical component that brings true value to our employees who choose to serve this country.

In closing, if there are improvements or corrections needed or desired to this compact then I would ask that we find a way to make them together through amendments to the current system rather than exiting the entire agreement and starting from scratch again.

Respectfully,



Christopher H. Stawasz
Regional Director, New Hampshire & Maine
Northeast Regional Director of Government Affairs
603.494.5001
Cstawasz@gmr.net





NEW HAMPSHIRE
HEALTH CARE ASSOCIATION

February 8, 2021

MEMORANDUM

TO: Hon. Sharon Carson, Chair, and Honorable Members
Senate Executive Departments & Administration Committee

FROM: Brendan Williams, President & CEO

RE: Senate Bill 133

I am writing in support of Part X (Temporary licensure of certain licensed nursing assistants) of Senate Bill 133 (pages 48-49) which will be heard by your committee this Wednesday.

In early recognition of the staffing impact of COVID-19, the federal government extended a waiver utilized by most states, whether led by Democrats or Republicans, allowing temporary nurse aides in nursing homes with limited training (typically an 8-hour module). In New Hampshire we called these workers “temporary health partners” and they were authorized to work in nursing homes, *under licensed staff supervision*, by Emergency Order 42 on May 11, 2020.

These workers proved invaluable, particularly in those instances where staff were out on quarantine due to presumptive or identified COVID-19 infection, and in facility outbreaks. Oftentimes it was existing facility staff (dietary, for example) that stepped into these roles.

New Hampshire has experienced a severe shortage of licensed nursing assistants, even prior to the pandemic. Between June 2018 and May 2020 our state suffered a net loss of 1,276 licensed nursing assistants. That has impaired the ability of all health providers, including nursing homes, to staff amidst the COVID-19 pandemic. And each workday a net migration of *thousands* of N.H. health care workers leaves to work in better-paying Massachusetts.

As a result, according to national report using data from December 2020, 30.8% of N.H. nursing homes had a shortage of licensed nursing assistants (the national average was 20.6%), compared to only a 2% nurse aide shortage in Massachusetts’ nursing homes.

To credit the work of temporary health partners toward LNA licensure would not fix this crisis, but every modest effort helps. They have shown an interest in care, and they have been an integral part of providing it under the most trying of circumstances. We appreciate the bipartisan support for this proposal, and we thank Sen. Hennessey for introducing it and the chair for incorporating it into this omnibus bill. We commend Part X of SB 133 to you for passage.

Please feel free to contact me at bwilliams@nhhca.org if you should have any questions.



New Hampshire Speech-Language-Hearing Association
PO Box 1538 Concord NH 03302-1538 nhslnha@gmail.com

Senator Sharon Carson, Chair
Senate Executive and Departments and Administration Committee
107 North Main Street
Concord, NH 03303

February 10, 2021

Re: SB 133 Part VI, VII, VIII

Dear Senator Carson and Members of the Committee:

I am the Past VP of Governmental Affairs for the New Hampshire Speech-Language-Hearing Association (NHSLHA) and have served as President and Treasurer on the NHSLHA Executive Board. I also served two terms on the Advisory Council of the American Speech-Language-Hearing Association (ASHA). I have lived in Nashua since 1952.

Part VI:

The NHSLHA supports the Audiology and Speech-Language Pathology Interstate Compact.

Part VII:

NHSLHA has concerns about the music therapist's scope of practice and requests that additional wording be added to this bill to clarify the scope of practice of music therapists.

On Page 39, Line 8, after "The practice of music therapy does not include the screening, diagnosis, or assessment of any physical, mental, or communication disorder"

add

"or treatment of a communication disorder. The services of a music therapist shall not replace the services of an audiologist or speech-language pathologist."

This would clarify that when the music therapist is working with an individual with a communication disorder, the music therapist is not treating the communication disorder. This would afford additional protection to the public.

Part VIII:

NHSLHA supports of Part VIII of SB 133 for the following reasons.

1. Recruitment of Board members:

As the VP of Governmental Affairs for the New Hampshire Speech-Language-Hearing Association, I have made many attempts to recruit members for the SLP Board of Governors. One of the main reasons that individuals do not want to serve on the Board is that they are reluctant to pass judgments on their colleagues. Assigning that responsibility to the OPLC would alleviate this concern which would help recruit SLP Board of Governors members.

2. Consistency and timeliness:

An SLP forgot to renew her license due to a combination of unusual events. She alerted the SLP Board as soon as she realized that she had not renewed. Since she had completed all the requirements for renewal, there was no issue of possible harm to the public. The SLP Board took eight months to decide to reinstate her. As a result, she lost her job and her family's health insurance.

Had the OPLC been able to adjudicate this issue in a more timely fashion, she may have been able to keep her job and her family's health insurance.

Sincerely,

Victoria Chesterley

Victoria Chesterley, MS. CCC=SLP

VP of Governmental Affairs, New Hampshire Speech-Language Hearing Association

Cameron Lapine

From: Wendy Krueger <wendykrueger.mtbc@gmail.com>
Sent: Tuesday, February 9, 2021 2:45 PM
To: Cameron Lapine; Sharon Carson; John Reagan; Kevin Cavanaugh; Denise Ricciardi; Suzanne Prentiss
Subject: Support of SB133

Dear Senate Executive Departments and Administration Committee Members,

I am a music therapist working in private practice in Greenland, NH. I am writing this comment to indicate my support of the music therapists in New Hampshire as they seek licensure. This state recognition of the music therapy profession will help ensure that consumers in our state have access to music therapy services provided by a qualified practitioner. It will serve to both protect the public and increase their ability to choose and access healthcare services that best meet their needs. Like any skilled and trained healthcare professional, music therapists need to have state recognition of their profession and credential to ensure quality service delivery for NH citizens. I urge you to support SB 133 Part VII, in the establishment of licensure for music therapists in New Hampshire.

Sincerely,

Wendy Krueger, MA, MT-BC
Director, Up Beat Music Therapy
upbeatmusictherapy@gmail.com

February 17, 2021

On February 17, 2021 the Board of Directors of the Plumbing, Fuel Gas Fitters and HVAC Association of New Hampshire met to discuss SB133 Part II (the Limited Plumbing License). We represent over 200 members. After much discussion the board members were in agreement that SB133 Part II (the Limited Plumbing License) is not good for the trade or the consumer. We already have a mechanism in the system to shorten the apprenticeship by a full year. This would negate 2000 hours in the field and 150 hours in the classroom, which changes the program from four to three years.

To issue another license would undermine the apprenticeship program and possibly create health and safety issues, due to the lack of training and supervision. The association works closely with the trade and we can assure you that there is no support for Senate Bill 133 Part II (the Limited Plumbing License).

We respectfully ask for the removal of the Limited Plumbing License found in Part II of Senate Bill 133.

Respectfully,

A handwritten signature in black ink, appearing to read "William Glennon", with a long horizontal flourish extending to the right.

William Glennon

President and Board of Directors

Plumbing Fuel Gas Fitters and HVAC Association of New Hampshire

Hillsborough County Nursing Home

400 Mast Road
Goffstown, NH 03045

David J. Ross
Administrator
Telephone
(603) 627-5540

Fax
(603) 627-5547



February 8, 2021

NH Senate
Health and Human Services Committee
33 North State Street
Concord, NH 03301

RE: SB 132

Dear Honorable Senators,

My name is David Ross and I am the administrator of Hillsborough County Nursing Home. I am writing **IN SUPPORT** of one of the provisions of SB 133, specifically **PART X Relative to temporary licensure of certain licensed nursing assistants**.

The critical shortage of licensed nursing assistants in NH is well known. The COVID-19 pandemic exacerbated this crisis because of the risks associated with providing care in congregate settings and with the suspension of clinical training opportunities statewide.

Governor Sununu's Emergency Order 42 authorized the use of Temporary Health Partners and created a lifesaving mechanism for long term care facilities struggling to meet the care needs of those we serve. The 8-hour training program, along with clinical skills competency verification, has provided additional support to our care-delivery teams and allowed us to continue to provide the care greatly needed by our residents.

Hillsborough County Nursing Home currently employs ten (10) Temporary Health Partners. These individuals, all of whom are seeking to become Licensed Nursing Assistants, have been working side by side and under the supervision of our licensed nursing staff to provide direct patient care in our facility.

This bill will remove two (2) substantial barriers keeping these cherished individuals from becoming Licensed Nursing Assistants:

- Lack of accessible classroom and clinical instruction, and
- Time.

Time is perhaps the greatest barrier. Our Temporary Health Partners are currently working full time. They cannot work and attend and LNA Training Program simultaneously. Equally, at present, we honestly cannot afford to lose ten (10) full time employees to support their class room training.

Acknowledging the hands-on learning that is being completed with the support of our licensed staff is an exceptionally creative and appreciated solution.

I began my nursing home career over 35 years ago, working as a dishwasher, housekeeper and then as a Certified Nursing Assistant (CNA) before becoming a nursing home administrator. On the job training was a significant component of my CNA program. In fact, back then in order to even be considered for the CNA program you needed to work for a few weeks as an “Orderly” to be sure you could demonstrate the caring and compassion necessary for the job. Text book learning is such a small part of nursing care.

COVID-19 has taught us to prioritize differently; to focus on what truly matters. Caring for our residents is what matters most. Care provided by compassionate, dedicated people who demonstrate the ability to put the needs of others over self is what truly makes the difference in the lives of those we serve.

Our Temporary Health Partners are true healthcare heroes. They have stepped up during one of the most critical times in our history. We need more caregivers like these. Creating this pathway to permanence for them is an outstanding recognition of their incredible contribution and commitment.

Respectfully submitted,

David J. Ross, NHA

David J. Ross
Administrator
Dross@HCNH.Org

Cameron Lapine

From: Rosemary Simino <RSimino@goldenview.org>
Sent: Tuesday, February 9, 2021 3:14 PM
To: Erin Hennessey
Subject: SB 133

Senator Hennessey, I would like to thank you for sponsoring this bill. As a licensed nursing home Administrator, I am particularly in support of Part X- Temporary licensure of certain licensed nursing assistants. Golden View experienced an outbreak which began on Christmas week. The temporary health partner program not only assisted us greatly during the staffing crisis the Pandemic caused, it brought NH Citizens to the senior care field who may otherwise not entered this work force. These individuals not only met the required training and competency, they have received hours of on-the-job learning and gained hours of experience during the past almost 12 months now. The BON and state of NH should recognize and value their heroic work with licensure. Thank you. Rosemary

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Dear Senator Carson,

My name is Dr. Robert Rix and I am the Chair of the State Emergency Medical Services (EMS) Medical Control Board, Medical Director for the Capital Area EMS, and practicing emergency physician at Concord Hospital.

I am writing this letter in support of sb133, part IX, page 49, "Relative to the revocation of licensure for licensed emergency medical service units and emergency medical service vehicles".

On November 19, 2020 the State Medical Control Board voted unanimously to support changing the language in NH RSA 153-A:13 regarding Revocation of License from "The commissioner shall deny an application for issuance or renewal of a license, or suspend or revoke a license, when the commissioner finds that the applicant is guilty of any of the following acts or offenses", to "The commissioner *may* deny...".

Not only does this language align with other medical professions within the State (see Chapter 329 section 329:17 for Physicians and Surgeons, Chapter 326-B of the Nurse Practice Act section 326-B:37, Chapter 328-D for Physicians Assistants section 328-D:7, and Chapter 317-A for Dentists and Dentistry section 317-A:17), but it also follows the concept of "Just Culture" which is practiced throughout the EMS community and much of medicine. A Just Culture emphasizes that mistakes are generally the result of a product of faulty organizational cultures rather than solely brought about by the person involved. The concept takes a balanced approach between a blameless culture and a punitive culture. The current language of NH RSA 153-A:13 forces the hand of the commissioner to universally act in a punitive fashion, no matter the infraction. Changing the wording from "shall" to "may" gives the commissioner the flexibility necessary to follow the practices of a Just Culture, which encourages self reporting and honesty within the EMS community when it comes to mistakes or violations of protocol for example. This in turn helps to identify systems issues which ultimately lead to improved and safer patient care.

Sincerely,

Robert Rix, MD, FACEP
Chair, State of NH EMS Medical Control Board
Medical Director, Capital Area EMS
Attending Physician, Concord Hospital Emergency Department

Cameron Lapine

From: Heidi Murray <hmurray@goldenview.org>
Sent: Tuesday, February 9, 2021 3:33 PM
To: Erin Hennessey
Subject: Support Bill

I am in support of SB 133 and is Part 10 of the bill (Temporary licensure of certain licensed nursing assistants). As you may be aware there is a great need for health care workers in our state. The Temporary health partner has been a great way to get new staff trained & working. It's a free 8hr on-line program by AHCA. By comparison The LNA class is 8-12 weeks & cost \$1200-1400. Many individuals can not pay for this up front and the grant programs for this take 3-5 weeks. We are in support of a bill that would allow individuals who take the Temporary health partner certificate to be able to transition this to a state LNA license. This is a great opportunity for our state to bring in health care workers.

Heidi Murray, BSW

Assisted Living Administrator

Golden View Health Care Center

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Cameron Lapine

From: Olivia Freeman <oliviareeman@gmail.com>
Sent: Tuesday, February 9, 2021 4:13 PM
To: Kevin Cavanaugh; Sharon Carson; John Reagan; Denise Ricciardi; Suzanne Prentiss; Cameron Lapine
Subject: Written Testimony for SB 113

To the members of the Executive Departments and Administration Committee,

I am writing to provide support in favor of SB 133 (originally LSR 2021-846) (to be heard on February 10th at 9:00am) which is the adoption of the Occupational Therapy Licensure Compact. This is a bill that is unanimously supported by the New Hampshire Occupational Therapy Governing board.

Under the Occupational Therapy Licensure Compact, developed by the American Occupational Therapy Association (AOTA) and the National Board for Certification of Occupational Therapists (NBCOT), Occupational Therapists (OT) and Occupational Therapy Assistants (OTA) who are licensed in good standing in a Compact member state may practice in other Compact member states via a “compact privilege”, which is equivalent to a license.

This Occupational Therapy Compact will benefit our consumers/clients and the Occupational Therapy profession as it:

- Enhances mobility for the Occupational Therapy Practitioner
- Increases access to care for our clients
- Allows for military personnel and spouses to maintain their certification more easily and to practice in the profession of Occupational Therapy when relocating
- Preserves and strengthens the current system of state licensure

Importantly, the Occupational Therapy Compact preserves each member state’s authority to regulate the profession. Practitioners utilizing the Occupational Therapy Compact must abide by the laws and rules of the state in which they are practicing, including adhering to the state’s scope of practice for the profession of Occupational Therapy.

Thank you for your consideration of support for this bill.

Olivia Freeman, MBA, OTR/L
Member and Chair of the New Hampshire Occupational Therapy Governing Board

**Statement SUPPORTING Section VI of SB 133
from the New Hampshire Occupational Therapy Association
Submitted February 10, 2021**

Dear Senator Sharon Carson, Chair of the Executive Departments and Administration Committee; Vice Chair John Reagan, and members of the Committee:

Thank you for your service to our state. On behalf of the New Hampshire Occupational Therapy Association, we wish to submit the following statement in favor of Section VI of SB 133 adopting the OT Licensure Compact.

We wish to especially thank Sens. Thomas Sherman, MD, prime sponsor of this provision, and co-sponsors Senator Carson, and Senator Donna Soucy; and from the House, Rep. William Marsh, MD.

In essence, the licensure compact enables states to recognize valid licenses issued by other states in the compact. This approach in occupational therapy is sound because core licensure requirements for occupational therapists and occupational therapy assistants are virtually the same across all 50 states.

This streamlining of regulation will improve the exchange of information among member states and improves access to quality health care for all.

The OT compact benefits our state and its citizens in a number of ways:

- Improves access to occupational therapy providers and increases choices of providers for patients seeking care;
- Preserves the existing state-based licensure system;
- Improves communication between states on licensure, investigatory and disciplinary information;
- Provides flexibility for NH occupational therapy professionals licensed in New Hampshire to provide care in other states and facilitates alternate delivery methods such as telehealth.

One benefit of portability is that occupational therapy practitioners who are part of a relocating military family will find greater flexibility in continuing their profession in New Hampshire.

We also believe that by ensuring the sharing of investigative and disciplinary information among member states, the OT Compact will allow member state regulatory entities to better protect the public.

If you have any questions about the OT compact and its impact on our state and our health care system, the NH Occupational Therapy Association is ready to assist you in any way we can.

Sincerely,

**Kerrin Gullison, MS, OTR/L, New Hampshire Occupational Therapy Association
(NHOTA) President**

Pembroke

Alisha Semprebon, MS, OTR/L, NHOTA Vice President

Gilmanton

Danielle Amero, OTD, OTR/L, CHT, NHOTA Legislative Committee Chair

Somersworth

Cameron Lapine

From: Ryan Judd <ryan@therhythmtree.com>
Sent: Tuesday, February 9, 2021 4:13 PM
To: Cameron Lapine
Cc: Sharon Carson; Kevin Cavanaugh; Denise Ricciardi; Suzanne Prentiss; Cameron Lapine
Subject: Music Therapy Licensure, SB-133, Part VII

Dear Senate Executive Departments and Administration Committee Members,

I am a board-certified music therapist working in private practice in Exeter, NH. I am writing this comment to indicate my support of the music therapists in New Hampshire as they seek licensure. This state recognition of the music therapy profession will help ensure that consumers in our state have access to music therapy services provided by a qualified practitioner. It will serve to both protect the public and increase their ability to choose and access healthcare services that best meet their needs. Like any skilled and trained healthcare professional, music therapists need to have state recognition of their profession and credential to ensure quality service delivery for NH citizens. I urge you to support SB 133 Part VII, in the establishment of licensure for music therapists in New Hampshire.

Sincerely,
Ryan Judd, MA, MT-BC



Ryan Judd, MA, MT-BC

Music Therapist, Guitarist, Billboard Top 10 Recording Artist

The Rhythm Tree, LLC

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w: www.TheRhythmTree.com e: ryan@therhythmtree.com

w: www.RyanJuddMusic.com e: Ryan@RyanJuddMusic.com

See My Work In Action: [How Does Music Therapy Benefit Children with Special Needs](#)

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NEW HAMPSHIRE NURSES' ASSOCIATION

25 Hall St. Unit 1E, Concord, NH 03301

PHONE: (603) 225-3783

EMAIL: office@nhnurses.org

WEBSITE: www.NHNurses.org

2/8/2021

Dear Senate Executive Departments and Administration,

I am writing in as NH Nurses Association is in opposition of NH SB 133. The Nursing membership remains steadfast in their believe that disciplinary hearings should be presided over by nurses.

Thank you for your time and consideration in this matter.

Respectfully on Behalf of NHNA,

Marcy Doyle,
Chair of Commission on Government Affairs
NH Nurses Association

PROFESSIONAL FIRE FIGHTERS

O F N E W H A M P S H I R E

Senate Executive Departments and Administration
New Hampshire Senate
107 North Main Street
Concord, NH 03301

RE: Testimony in Support of SB 133, Part III: repealing the emergency medical services personnel licensure interstate compact.

Madame Chair and Honorable Members of the Committee:

My name is Brian Ryll and I serve as the President of the Professional Fire Fighters of New Hampshire and am a Captain for the Portsmouth Fire Department. Today I am providing testimony in support of SB 133 *repealing the emergency medical services personnel licensure interstate compact*, otherwise known as 'REPLICA'.

The initial intent of the RFP for REPLICA was to allow federal resources to maintain a "home state" card, but operate in other states to fulfill their specific mission without seeking reciprocity. It was also intended to exclusively allow emergency resources to cross state lines to assist in emergency responses or large-scale emergency responses which had not been declared such by a governor. However, the scope of REPLICA extends the intent to include day-to-day EMS response, including non-emergency inter-facility work. If this work were to base itself near our state's borders, this would effectively take work away from current positions funded by New Hampshire's cities and towns, and draw New Hampshire-expanded Medicaid dollars from our state which would result in a loss of revenue.

The current REPLICA model allows ambulances to cross state lines to pick up patients and transport them to other states. Unlike our Mutual Aid model, which is on a case-by-case basis through the 9-1-1 emergency system, REPLICA allows companies to come in from around the country on a routine basis and transport patients to participating compact states. By doing this, EMS personnel are working under the licensure and clinical oversight of their home state, and not New Hampshire. There should always be a reasonable expectation that when you or your family calls 9-1-1, the highest possible standard of care is received, and that standard of care is determined by New Hampshire's Medical Control Board.

PROFESSIONAL FIRE FIGHTERS

O F N E W H A M P S H I R E

Under the REPLICA model, providers no longer operate under the same scope of practice, which could not only lead to inappropriate patient treatment, but also leads to confusion within the EMS system that could result in discipline, loss of licensure or termination of a provider.

Furthermore, with the current REPLICA model, we have taken away the ability for local cities and towns to manage their own mutual aid agreements, allowing for a means of self-deployment which adds confusion to an already disastrous situation. Municipalities should have the autonomy to oversee their individual public safety response based on their community's needs.

We believe REPLICA threatens the state's economy and the quality of care delivered to patients in New Hampshire. By routinely allowing out-of-state or out-of-region companies to provide emergency medical services, we are encouraging people to live elsewhere, work in New Hampshire and spend their money out of state. Additionally, allowing EMS providers to migrate into the state intermittently creates a loss of taxable revenue, all translating to a weaker New Hampshire economy. It is clear that REPLICA is not a formula that works for New Hampshire.

Because of these reasons, I respectfully ask that this committee move to support SB 133, Part III: *repealing the emergency medical services personnel licensure interstate compact.*

Respectfully,



Brian Ryll

President

Professional Fire Fighters of New Hampshire

PROFESSIONAL FIRE FIGHTERS

O F N E W H A M P S H I R E

Senate Executive Departments and Administration
New Hampshire Senate
107 North Main Street
Concord, NH 03301

RE: Testimony in Support of SB 133, Part XI: relative to the revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.

Madame Chair and Honorable Members of the Committee:

My name is Brian Ryll and I serve as the President of the Professional Fire Fighters of New Hampshire and am a Captain for the Portsmouth Fire Department. The Professional Fire Fighters of New Hampshire is a state association representing 42 local unions, and approximately 2,000 active and retired professional fire fighters and paramedics across the Granite State. As the preeminent fire fighter organization in New Hampshire, we advocate for the health and safety of the brave men and women that protect the citizens of this great state. I am providing testimony in support of SB 133, Part XI: *relative to the revocation of licensure for licensed emergency medical service units and emergency medical service vehicles.*

This bill offers a simple solution to ensure the Commissioner of the Department of Safety has more discretion when acting upon the licensure for licensed emergency medical service units. Under current law the Commissioner "shall" suspend or revoke a license for a number of non-specific acts or offenses. This includes any situation where a unit or service self-reports a violation in an attempt to rectify the situation. Due to the complex nature of the emergency medical services industry it would be prudent to allow the Commissioner of Safety the flexibility to act on these matters using sound judgement and discretion rather than forced revocation or suspension of license.

As EMS providers in this state, we believe in the just-culture concept and we encourage a provider or a unit to report when a mistake is made. However with the current language of RSA 153-A:13, there is the potential for a provider or a unit to avoid the reporting procedure for fear of revocation of their license.

PROFESSIONAL FIRE FIGHTERS

O F N E W H A M P S H I R E

SB 133, Part XI simply makes a technical change to the current law that could improve the EMS system in New Hampshire, and we ask for the committee's full support.

Respectfully,



Brian Ryll

President

Professional Fire Fighters of New Hampshire

February 10, 2021

ON THE EDUCATION AND EXPERIENCE OF A MUSIC THERAPIST

Ms. Chairwoman, members of the Committee, my name is Rebecca Gildea, I am a board certified music therapist and am representing the NH Music Therapy Advocacy Task Force and music therapists who live and work in our state, here to testify on the education and experience of a music therapist. Thank you for the opportunity to speak with you today in support of Senate Bill 133 relative to the Licensure and Regulation of Music Therapists.

Today there are at least 40 music therapists working in the state of New Hampshire. That may sound like a small number, but the impact of just those 40 music therapists is significant. In 2019, New Hampshire music therapists worked in 67 different facilities, and served at least 2,841 individuals across the granite state in settings such as early intervention, special education, day programs, memory care, behavioral health units, eating disorder clinics, and substance use programs to name a few. Music therapists are uniquely trained and certified to work with clients in domains such as attention and cognition, attachment and socialization, emotional processing and expression, expressive and receptive communication, and mobility and physical rehabilitation. Music therapists use evidence-based practices to work toward each client-centered goal, supported through a body of research spanning decades. In a summary of systematic reviews, Kamioka et. al found that music therapy has proven efficacy in the global and social functioning for people with schizophrenia and serious mental disorders, improving gait and related activities in Parkinson's disease, reducing depressive symptoms, and improving sleep quality (2014). The positive effects of music therapy have also been peer reviewed and reported in journals such as

Journal of Autism and Developmental Disorders
The journal of Vascular Access
Pediatric Nursing
Alternative Therapies in Health & Medicine
The Thoracic and Cardiovascular Surgeon
The Arts in Psychotherapy
Journal of Advanced Nursing
Brain and Language

to name only a few. The field of music therapy also publishes their own body of research in two US based music therapy specific publications, The Journal of Music Therapy and Music Therapy Perspectives, as well as multiple world wide music therapy publications such as British, Canadian, Australian and Nordic journals of music therapy. The evidence of the positive effects of music therapy has grown so much that the National Institutes of Health has awarded 20 million dollars toward research on music therapy and neuroscience over the next five years.

The education, training, and certification of a music therapist is expansive and rigorous. A music therapist must earn a bachelor's degree or higher from one of over 80 American Music Therapy Association approved colleges and universities. The curriculum includes coursework in music, human development, psychology, anatomy and physiology, and behavioral sciences. Through this diverse course of study, a student learns how to use the elements of music, the relationship between therapist and client, and the act of musicking itself as a means of meeting specific, measurable, appropriate, relevant, and timely goals for their clients in cognition, socialization, communication, motor movement, or emotional expression.

In addition to their classes, a student practices therapeutic skills in clinical sites, and ultimately through an internship at an approved mental health, special education, or health care facility, all of which totals a minimum of 1200 hours in supervised clinical training. At the completion of their academic and clinical training, students are eligible to take the national examination administered by the Certification Board for Music Therapists, an independent, non-profit certifying agency accredited by the National Commission for Certifying Agencies. After successful completion of the CBMT examination, graduates are issued the credential necessary for professional practice, Music Therapist-Board Certified (MT-BC). To demonstrate continued competence and to maintain this credential, music therapists are required to complete 100 hours of continuing music therapy education every five years.

Although board certified music therapists know the depth of their clinical training, their standards of practice, code of ethics, and scope of practice, the general public often does not.

A music therapist is not only equipped to use music therapeutically in various settings, but is also able to respond to the emotional response or trigger that may emerge as a result of the therapeutic process. They can address various needs that are present in the session or within the family, and share observable progress toward goal areas. Music therapists are also evaluating when music therapy is no longer needed, or sometimes even detrimental to the individual, and have a clinical process for transition and/or referral out for additional resources.

Music therapy is an established, evidenced-based and efficacious practice that is serving the citizens of the granite state. By creating a state license for music therapists, you will be the governing body that upholds our high standards of practice, thereby protecting your constituents from non-certified practitioners that do not have this body of experience and education. In addition, you will be creating a state standard that is comprehensive and accessible to the public, ensuring a transparent process for New Hampshire citizens to find a qualified and licensed music therapy provider. Finally, you will be removing barriers to much needed services, recognizing music therapists in the state alongside their peers in related professions, and providing an avenue for job growth throughout the state.

Today, I share my support of House Bill 209 and ask you to vote YES for a music therapy license in New Hampshire.

Thank You,
Rebecca Gildea

References:

www.musictherapy.org

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4036702/>

<https://www.nih.gov/news-events/news-releases/nih-awards-20-million-over-five-years-bring-together-music-therapy-neuroscience>



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info@thesonatinacenter.com

Chairwoman Carson and members of the Committee, I am Marissa Scott and I speak to you today as the NH Music Therapy Task Force chair, a female business owner, a board-certified music therapist, and a NH citizen. Thank you for the opportunity to speak with you today in support of Senate Bill 133-FN, Part VII relative to the Licensure and Regulation of Music Therapists.

Music therapy is a health-care profession recognized by the National Institutes of Health, the American Medical Association and the Department of Education. Music therapists are nationally credentialed professionals, providing clinical, evidence-based services to individuals of all ages and abilities. The education and training of a music therapist is comprehensive and rigorous, including collegiate level music, psychology, social and behavioral science studies as well as 1200+ supervised clinical fieldwork hours in multiple settings.

As chair of the NH music therapy task force, I am one of many music therapists in the country working to advocate for our services and improve access for consumers. Through advocacy efforts, eight states have established a music therapy license in the past 10 years (Georgia, New Jersey, New York, Nevada, North Dakota, Oklahoma, Oregon, Rhode Island, and Virginia) and 2 states have established a music therapy registry or state certification in the last 12 years (Utah and Wisconsin). Fifteen states, including New Hampshire, are in motion to introduce legislation to recognize music therapy education, clinical training, and credentialing qualifications in 2021. A state license for music therapy aligns New Hampshire with active movements across the country: recognizing and validating the music therapy profession with other allied health professions.

As the business owner of a music therapy center, I can attest that we provide music therapy services to more than 2500 individuals in NH including children, teens, and adults. Our clients seek our services because they have tried other therapies and they are seeking an alternative. They come to us in need of help to work on individualized goals in areas such as emotion, regulation, sensory integration, and self-expression. Additionally we provide them with opportunities for improving self-esteem, promoting a positive sense of self-worth, supporting their development, addressing rehabilitative needs and enhancing their wellbeing. At The Sonatina Center, we employ five board certified music therapists including myself. The growth of our practice directly correlates to an increasing number of jobs that we have been able to offer in our community.

I would like to highlight two important points as to why this committee should support a state license for board-certified music therapists: First, increasing consumer access to services, and second, protecting consumers from harm.

As a board-certified music therapist, I have observed first hand the impact that music therapy has in medical, educational, and aging settings. Thinking of our clients at the Sonatina Center, I've watched how the therapeutic relationship built in music therapy sessions has helped a child with selective mutism verbalize and build meaningful relationships with peers. I've helped a child with cerebral palsy strengthen motor skills, moving from grasping a drum mallet to grasping a spoon to feed himself independently. Music therapy has given a teen with anxiety and depression a safe and supportive place to express himself. Through the combination of a therapeutic relationship and songwriting interventions, his work in music therapy has ceased and prevented him

from continuing acts of self-harm.

Unfortunately, many individuals seeking our services face bureaucratic barriers that prevent them from accessing music therapy services and have at times caused them to lose music therapy services. You see, when a health-care provider seeks to submit reimbursement claims from a private insurance company, there is a requirement on the credentialing form to provide the providers license number. After hundreds of phone calls to Anthem, Blue Cross & Blue Shield, Aetna, United Behavioral Health, and Cigna to name a few, I have personally been told again and again and again that we cannot bypass this request for a license number. We cannot be contracted “In-Network” providers and their insurance plans will not cover our therapy sessions because our profession is not regulated at the state level and we do not have this required state license. Yet referrals from pediatricians, neurologists and other doctors who know the efficacy and benefits of music therapy services for their patients continue to come in and these patients in need are not able to access our services. Doctor referrals are what dictate medically necessary services, yet in NH, it doesn’t matter if a doctor has said our services are medically necessary, because we don’t have the licensing credentials required by private insurance plans.

Similarly, a large percentage of people who would greatly benefit from our services have NH Medicaid. In fact, according to the December 2020 data, there are 27,428 severely disabled youth, adults, and elderly enrolled in Medicaid¹ who are not able to access our services simply because we can not be considered as providers without a state license. This number doesn’t even include children who have experienced abuse, neglect and trauma and have been placed in foster care.

We are not here today to ask that you advocate for the music therapy profession to private or state insurance organizations, or even get involved in the processes of reimbursement. While billing medical health plans and insurance companies is not the ultimate intent of this legislation, it is imperative that you understand the barriers your NH consumers are facing while trying to access our clinically effective and medically necessary services.

As for my second point, it can be difficult to understand how music can cause harm, but allow me to elaborate. Music therapists are trained to independently observe and respond to client non-verbal, verbal, psychological and physiological responses to music and non-music stimuli. The music therapist implements ongoing evaluation of client responses and adapts interventions accordingly in order to be clinically effective and refrain from contra-indicated practices.

The use of live music interventions demands that the therapist not only possess the knowledge and skills of a trained therapist, but also the unique abilities of an accomplished musician in order to manipulate the music therapy intervention to fit the clients’ needs. Given the diversity of diagnosis with which music therapists work and the practice settings in which they work independently, clinical training and experience are necessary. Individuals attempting to provide music therapy treatment interventions without formalized music therapy training and credentials may pose risks to clients. Examples may include, but are not limited to:

- the clinical use of a music stimulus that is too complex for one’s neurological system, which may cause increased agitation or dysregulation.
- The potential of music to trigger or elicit intense emotions, during which the lack of, or ineffective therapeutic response to, or processing of these emotions may lead to short term and/or long term social and psychological harm.

Contraindicated procedures may involve either the use of music or how the music is used that may harm the consumer. Some specific examples include working with clients who:

¹ “NH Medicaid Enrollment Trends and Geography: December 2020” *NH Department of Health and Human Services*, <https://www.dhhs.nh.gov/ombp/medicaid/documents/medicaid-enrollment-12312020.pdf>. Accessed January 26, 2021.

- have musicogenic epilepsy, where a music stimulus can cause a seizure activity
- have Alzheimer's and other forms of dementia, where music can trigger severe states of anxiety, which can spread to other consumers if, for example, someone lives in a skilled nursing facility.
- are premature infants in the NICU, where music can easily provide too much stimulation, which results in stress behaviors and can impede the infant's ability to thrive
- have experienced trauma, where music has a direct connection to our emotional memories and can cause extreme emotional distress if it triggers a traumatic experience or memory

To protect the public from threats of harm in clinical practice, music therapists comply with safety standards and professional competencies including recognizing and responding to situations where there are clear and present dangers to a client and/or others, recognizing the potential of harm of music, verbal, and physical interventions during music experiences and using them with care, observing infection control protocols and recognizing the client populations and health conditions for which music experiences are contraindicated. Currently in NH, we have individuals claiming they provide music therapy services, yet they are not educated, clinically trained or board-certified and no one is regulating if they are complying with these safety standards. The creation of a state license requires that individuals meet both state and national standards when identifying themselves as music therapists and protects our most vulnerable and marginalized citizens.

In closing, I ask that you vote YES for NH SB133-FN Part VII. Establishing a music therapy license in New Hampshire will allow opportunities for more consumers to access music therapy services and protect consumers including our most vulnerable and marginalized citizens. Thank you for your consideration of this request.

Sincerely,



Marissa Scott, MA, MT-BC, CLD
Chair, State Task Force for Music Therapy Advocacy
Board Certified Music Therapist, Certified Labor Doula
The Sonatina Center, LLC



SENATE EXECUTIVE DEPARTMENTS AND ADMINISTRATION COMMITTEE

February 10, 2021

SB 133 – Adopting Omnibus Legislation Relative to Occupational Licensure

Testimony

Good morning, Madam Chair, and members of the committee. My name is Paula Minnehan, Senior VP, State Government Relations with the New Hampshire Hospital Association (NHHA), representing all 26 of the state's community hospitals as well as all specialty hospitals.

The NHHA will be testifying on only two parts of SB 133: Sections IV and XIII.

NHHA is supportive of Part IV relative to hearings at the Board of Nursing. We believe it is appropriate to allow any board member to preside over an adjudicative hearing. This ensures a more efficient process and avoids potential delays in these important hearings. The role of the presiding officer is to ensure that the adjudicative hearing follows all administrative protocols. It is the role of the entire Board of Nursing to rule on the outcome of a licensee's hearing, not the presiding officer. Other professional licensing boards allow for any member of their board to serve as a presiding officer; therefore, we believe this adjustment is appropriate. Furthermore, NHHA is supportive of the Office of Professional Licensure and Certification's (OPLC) efforts to align various clinical boards' processes to ensure consistency and reduce administrative complexities, while at the same time allowing boards to focus on their missions of ensuring public safety and overseeing that professional qualified individuals can practice in our state. We urge your support of Part IV.

We do, however, have concerns with Part XIII, which is specific to telemedicine provided by out of state psychologists. We are concerned about making any changes to the telehealth law, which was just signed into law last June. It is NHHA's position that the Commission to Study Telehealth Services is the appropriate venue for any potential modifications of the telehealth statute to be considered. We are concerned with the potential implications for other clinical boards of changing one clinical license statute regarding the use of telehealth. Furthermore, the proposed language in this section refers to a "tele-pass" license, which is undefined. We are uncertain how a "tele-pass" would work for only psychologists when there are other clinical professions that also utilize telehealth or why this is even necessary. For these reasons, we would ask that this section of the bill, Part XIII, not be passed.

NHHA appreciates the opportunity to comment on these two sections of SB 133. I am happy to answer any questions.

2/10/2021

Dear Senator Waters and members of the Senate Executive Departments and Administration Committee

I have been a nurse in NH for over 30 years. I have been an active member of the New Hampshire Nurses Association, an Nurse Educator and a Nurse Researcher. When OPLC was legislated the nursing community was understandably concerned that control over our own practice would be compromised. For the first several years Denise Neis, while her title was changed, remained as the administrator of the BON. Upon her retirement changes became evident. The intent of SB 133 to standardize policies and practices of OPLC is understandable it appears there are again efforts to reduce the authority of the BON to administer its own practice. Specifically the following 3 articles. I would like to register opposition to the 2 as indicated and am supportive of the third. I could support the bill if these two articles were removed.

Oppose

Relative to the administration of occupational regulation by the office of professional licensure and certification:

1. Replaces language of "Board" and "Program Administrator" with the term "Executive Director" this implies the executive director of OPLC has all authority over the Board of Nursing and that board should be administered by a nurse.
2. The current Executive Director of OPLC is not a nurse and the BON should have sufficient resources to provide efficient and evidence based services to its members. This includes ensuring that the administrator of the BON be hired with the state classification of Program Specialist IV.

Support

Relative to The Authority Of The Office Of Professional Licensure and Certification to Adopt Rules For Investigations and Disciplinary Hearings

Oppose

Relative to Hearings of the NH Board of Nursing:

1. Disciplinary hearings would not be presided over by a nursing peer.
2. Potential conflict of interest of an employee in hospital senior management presiding over nursing disciplinary hearings.

Thank you for your consideration

Pamela P DiNapoli, PhD, RN, CNL


Cameron Lapine

From: Tara Bickford Bailey <tarabb5480@gmail.com>
Sent: Wednesday, February 10, 2021 1:19 AM
To: Cameron Lapine; sharon.carson@leg.nh.us; John Reagan; kevin.cavanaugh@leg.nh.us; denise.ricciardi@leg.nh.us; suzanne.prentiss@leg.nh.us
Subject: SB 133 Part VII

Dear Senate Executive Departments and Administration Committee Members,

I am a self-employed, Board-Certified, Music Therapist working here in New Hampshire. I am writing to indicate my support of all the music therapists in New Hampshire as they seek licensure. State recognition of the music therapy profession will help ensure that consumers in our state have access to music therapy services provided by qualified practitioners. It will serve to both protect the public and increase their ability to choose and access healthcare services that best meet their needs.

Like any skilled and trained healthcare professional, music therapists need to have state recognition of their profession and credential to ensure quality service delivery for NH citizens. I urge you to support SB 133 Part VII, in the establishment of licensure for music therapists in New Hampshire. Thank you very much for your consideration.

Sincerely,
Tara Bickford Bailey, MT-BC
Board Certified Music Therapist 
16 Piper Dr. , Strafford, NH 03884
480-229-5480
tarabb5480@gmail.com

State of New Hampshire

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION

7 Eagle Square, Suite 200

Concord, N.H. 03301-2412

Telephone 603-271-2152 · Fax 603-271-6202

LINDSEY B. COURTNEY
Executive Director



February 10, 2021

Hon. Sharon Carson
Chair, Executive Departments & Administration
State House
107 North Main Street
Concord, NH 03301

Re: Testimony regarding SB 133—adopting omnibus legislation relative to occupational licensure

Good afternoon, Madam Chair, members of the committee:

My name is Lindsey Courtney, Executive Director of the New Hampshire Office of Professional Licensure and Certification, the agency that administers fifty-four occupational licensing boards, councils, and commissions within the State of New Hampshire.

OPLC wishes to express its support of portions of this bill, specifically Part II (establishing a limited plumbing specialist license); Part IV (hearings at the board of nursing); Part VI (adopting the audiology and speech-language pathology compact and the occupational therapy licensure compact); Part VIII (concerning the authority of the office of professional licensure and certification for administration, rulemaking, and enforcement of investigations, hearings, and appeals); and, Part XII (schools for barbering, cosmetology, and esthetics).

Part II establishes a limited plumbing specialist license. The purpose is to permit individuals to qualify for a limited licensure earlier in their apprenticeship. Essentially, apprentices would be able to provide certain services for which they are qualified as they demonstrate competency, as determined by the Mechanical Licensing Board. This bill is consistent with the national trend toward stacking occupational licenses to promote workforce opportunities, while ensuring the public is protected. As such, OPLC supports Part II of this bill. Should the Mechanical Licensing Board be transferred to OPLC, OPLC would welcome the opportunity to support the Board in its rulemaking and administrative obligations under this bill.

Part IV removes the prohibition in RSA 326-B:38, VIII of public members of the board serving as the presiding officer over disciplinary hearings. The Board of Nursing is the only board of the fifty-four boards, councils, and commissions within the Office of Professional Licensure that does not permit the public member to preside over hearings. The Board of Nursing has

requested this legislation to standardize requirements across the agency, and to permit all members of the board to serve the State in this capacity.

The presiding officer of disciplinary hearings controls the flow and conduct of the hearing, and rules on evidentiary motions. The presiding officer does not have authority to make decisions regarding disciplinary actions on behalf of the board. That authority remains with the board. A quorum of the board must be present to adjudicate cases; all board members have the authority to ask questions of witnesses. The presiding officer simply facilitates communications.

During last session, we heard testimony that some nurses were concerned about a non-nurse presiding over a hearing. However, I believe those concerns are based on the mistaken belief that the presiding officer has authority over the outcome of the proceedings. As noted, the presiding officer has no more authority over the outcome of the proceedings than other board members. OPLC supports this bill as it brings the Board of Nursing in line with the other boards within OPLC and permits all board members appointed by Governor and Council to serve the State in this capacity.

Part VI adopts the audiology and speech-language pathology compact and the occupational therapy licensure compact. The compacts would facilitate the interstate practice of audiology and speech-language pathology and occupational therapy. As it is supported by members of the profession and would promote workforce opportunities within the state, while ensuring the public is protected, OPLC fully supports Part VI of this bill.

Part VIII concerns the authority of the office of professional licensure and certification. The bill would permit the agency to adopt rules regarding hearings and disciplinary proceedings. In order to effectively administer fifty-four boards, councils, and commissions, it is necessary that the agency has one set of rules that govern process for hearings and disciplinary hearings. At present, our four prosecutors must work within fifty-four sets of rules, which is incredibly inefficient. This bill is intended to remedy this.

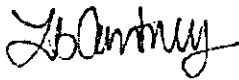
The bill also codifies our present process within the agency. Over the last six months, OPLC has been collaborating with the boards to adopt a streamlined complaint and investigation process. We have been able to implement this through standing orders issued by the majority of the boards. The bill would codify this process and permit OPLC to adopt rules regarding investigations, which would provide more efficient, better support for the boards, councils, and commissions within the agency.

Part XII clarifies the authority of the board of barbering, cosmetology, and esthetics to regulate programs within secondary schools. At present, the board does regulate such programs; the board's regulation permits high school students to obtain licensure through a high school program. However, it is unclear that it has the statutory authority to do so. Part XII clarifies the board's authority to permit high school students to continue to attend board-approved program in high school and, as such, OPLC and the board fully support Part XII.

Hon. Sharon Carson
February 10, 2021
Page Three

Part XII also changes RSA 313-A to permit the board to grant apprentice certificates as opposed to licensure. Licensure carries requirements that the agency capture social security numbers (due to federal child support requirements). In essence, by licensing apprentices in high school, the board must collect social security numbers, effectively preventing those students without social security numbers from participating in a high school education program. This conflicts with federal education law. This bill resolves that conflict.

Very truly yours,



Lindsey B. Courtney, JD
Executive Director
Office of Professional Licensure and Certification

Cameron Lapine

From: Rosemary Simino <RSimino@goldenview.org>
Sent: Wednesday, February 10, 2021 8:34 AM
To: Sharon Carson; John Reagan; Kevin Cavanaugh; Denise Ricciardi; Suzanne Prentiss; Cameron Lapine
Subject: SB 133

Senators, I just wanted to express my support of SB 133. I am particularly in support of Part X- Temporary licensure of certain licensed nursing assistants. Golden View experienced an outbreak which began on Christmas week. The temporary health partner program not only assisted us greatly during the staffing crisis the Pandemic caused, it brought NH Citizens to the senior care field who may otherwise not have entered this work force. These individuals not only met the required training and competency, they have received hours of on-the-job learning and gained hours of experience during the past almost 12 months now. The BON and state of NH should recognize and value their heroic work with licensure. Thank you. Rosemary

Sent from my Verizon, Samsung Galaxy smartphone

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Cameron Lapine

From: Brendan Williams <bwilliams@nhhca.org>
Sent: Thursday, February 11, 2021 9:52 AM
To: Cameron Lapine
Cc: Erin Hennessey; Teresa Rhodes Rosenberger
Subject: Pt. X, SB 133

Hon. Chair Sharon Carson, and Hon. Members, Senate Executive Departments & Administration Committee:

We appreciated the opportunity to testify yesterday on Part X (Temporary licensure of certain licensed nursing assistants) of Senate Bill 133 (pages 48-49). As we explained, the federal government extended a waiver utilized by most states, whether led by Democrats or Republicans, allowing temporary nurse aides in nursing homes with limited training (typically an 8-hour module). In New Hampshire we called these workers “temporary health partners” and they were authorized to work in nursing homes, *under licensed staff supervision*, by Emergency Order 42 on May 11, 2020.

The National Governors Association put out an issue brief on the urgency of *keeping* these workers on staff, and that brief is right on point with the aim of this legislation: “While responding to urgent direct care staffing needs is a top priority for states in the short-term, *it will be critical for states and employers to consider strategies for retaining this workforce when the waiver expires.*” (Emphasis added). Facilitating their becoming licensed nursing assistants is the right strategy.

For more information, see: [Supporting A Trained Direct Care Workforce In Facility Settings During And After The Covid-19 Pandemic - National Governors Association.](#)

We thank you for your consideration of Part X of SB 133, and Sen. Hennessey for sponsoring it.

Respectfully,

Brendan W. Williams, M.A., J.D.

President/CEO

New Hampshire Health Care Association

5 Sheep Davis Road, Suite B, Pembroke, N.H. 03275

(603) 226-4900/Cell: (360) 791-3979

Linked 



Get the latest updates: www.ahcancal.org/coronavirus

Email: COVID19@ahca.org

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OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
1500 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1500

February 9, 2021

The Honorable Sharon Carson
107 North Main Street
Concord, NH 03301

RE: SB133 – Memorandum of Opposition

Dear Senator Carson:

On behalf of military families and the Department of Defense, I am writing to oppose the policy changes proposed in Part III of Senate Bill SB133, an act adopting omnibus legislation relative to occupational licensure.

My name is Christopher Arnold and I am the Northeast Region Liaison for the Defense-State Liaison Office, operating under the direction of Under Secretary of Defense for Personnel and Readiness. Our mission is to be a resource to state policymakers as they work to address quality of life issues for military families.

Last year, my predecessor, Mr. Harold Cooney, wrote to you regarding a previous iteration of this bill. He noted that in his eleven years of working with you on issues to support our military members, veterans and their families, it was the first letter of opposition that he had written to New Hampshire, or any other state. Madame Chairwoman, although I have not yet had the honor of working with you, the Department of Defense wishes to echo Harold's sentiments and express the Department's opposition to the repeal of the emergency medical services personnel licensure interstate compact, or, "REPLICA".

According to the International Association of Firefighters, other states such as Indiana have enacted language to address certain concerns with REPLICA. A potential solution for SB133 could be to amend second three to propose such modifications, rather than an outright repeal of REPLICA.

Licensure issues for both our transitioning military members and the spouses have been a priority for the Department for several years. The issue is so important, the Secretary of Defense has made taking care of Service members and their families a fourth line of effort in the National Defense Strategy.

Subparts A and B of Part VI of SB133 recognize the benefits of interstate compacts, by adopting the Audiology and Speech-Language Pathology Compact and the Occupational Therapy Licensure Compact. Indeed, New Hampshire is one of only 8 states in the nation to have joined the other 4 compacts: REPLICA, the Interjurisdictional Compact for Psychology (PSYPACT); the Nurse Licensure Compact (NLC); and the Physical Therapy Licensure Compact (PTLC).

Occupational licensure compacts provide consistent rules that allow licensed members to work in other states through “privilege to practice policies” or to more easily transfer their license to a new state. The military provisions added to these compacts assist military members and their spouses to participate in these occupational compacts.

A number of occupations are working with the Council of State Governments and the National Governors Association to explore additional compacts to support interstate commerce and interoperability. The FY 2020 National Defense Authorization Act provided authority to DoD to establish cooperative agreements, and \$5 million in funding for grants to develop additional occupational compacts.

As our service members and their families move from state to state, obtaining licenses in order to pursue employment is critical. These compacts serve to relieve one of the many stressors of a military move.

To date, twenty-one states have passed legislation to join the emergency medical services personnel licensure interstate compact and three states have legislation to join REPLICA pending. It would be a step in the wrong direction if New Hampshire repealed the emergency medical services personnel licensure interstate compact as proposed in SB133.

In closing, let me say that we are grateful for the tremendous effort that New Hampshire has historically made to support our service members and their families. The Department asks you to seriously consider not repealing this compact and instead continue New Hampshire’s reputation as a military friendly state.

Please feel free to contact me with any questions you may have.

Sincerely,



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Date: 2021.02.09 16:35:36 -05'00'

CHRISTOPHER R. ARNOLD
Northeast Region Liaison
Defense-State Liaison Office

CC:

Members, Senate Committee on Executive Departments and Administration
N.H. Commissioner Justin Romanello, Interstate Commission for EMS Personnel Practice



ASHA
American
Speech-Language-Hearing
Association

February 7, 2021

The Honorable Sharon Carson
Chairwoman
Executive Departments and Administration Committee
New Hampshire Senate
107 North Main Street
Concord, NH 03301

RE: SB 133, the Audiology and Speech-Language Pathology Interstate Compact

Dear Chairwoman Carson:

On behalf of the American Speech-Language-Hearing Association, I write to support SB 133, the Audiology and Speech-Language Pathology Interstate Compact.

The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 211,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students. Over 950 ASHA members reside in New Hampshire.¹

ASHA members often have difficulty obtaining multiple state licenses to practice due to administrative burdens. These burdens hinder their ability to provide quality services and restrict consumer access in underserved and rural communities. ASHA is pleased to support this bill, which will:

- increase access to care for patients, clients, and/or students; and
- facilitate continuity of care when patients, clients, and/or students relocate or travel to another state, specifically with members of the military and their spouses.

If you or your staff have any questions, please contact Susan Adams, ASHA's director of state legislative and regulatory affairs, at sadams@asha.org.

Sincerely,

A. Lynn Williams, PhD, CCC-SLP
2021 ASHA President

¹ American Speech-Language-Hearing Association. (2020). *New Hampshire* [Quick Facts] <https://www.asha.org/siteassets/uploadedfiles/New-Hampshire-State-Flyer.pdf>.



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info@thesonatinacenter.com

Ms. Chairwoman, members of the Committee, my name is Cacia King, representing music therapists from NH. Thank you for the opportunity to speak with you today on the subject of Senate Bill 133 relative to the Licensure and Regulation of Music Therapists.

I am a board certified music therapist, working in NH, and an adjunct professor of music therapy at Anna Maria College, in Worcester, MA. I grew up singing for the veterans community of New Hampshire, and saw the impact music had on others. When I decided to study music therapy, I discovered that New Hampshire does not have any music therapy degree programs in the state. My intention was always to come back home and serve my community, as I had learned so much from the musicians and music educators in my state, and wanted to give back.

Going through college, I got to know other students from different areas. I assumed that after college, we would all move back to our home states and begin our careers, but I was mistaken. I learned that many people relocate to their college towns or the state that their college was in, and do not choose to go back to their home communities.

After college, students often relocate to new places, but according to research done by Economic Modeling, state university graduates are most likely to permanently live within state lines, and 40% of those students live within 50 miles of their alma mater. Students who attend private or elite colleges tend to move to large cities, and tend to move farther away from where they grew up.

Prospective music therapists from New Hampshire are required to relocate for their education, and often, do not come back. It is clear that there is a need for music therapy services in our state, and who would be better at addressing those needs than people born and raised in New Hampshire.

New Hampshire is lucky to be home to three competitive state universities that reach all areas of our state. The University of New Hampshire is one of only nine universities in the country that is a Land, Sea, and Space Grant Institution, making it a unique university. According to studies of college students' migration trends done by Economic Modeling, graduates from New Hampshire universities tend to stay within the New England region, and many stay within the counties they were educated in.

In 2014, Rhode Island passed a music therapy licensure bill, similar to SB 133. The University of Rhode Island accepted its first class of music therapy students, which began studying in the fall of 2020.

While there are currently no music therapy degree programs within the state of New Hampshire, we know that with the NH SB 133 bill passed, new opportunities in the state will be opened for practitioners and patients, but we hope in the years to come that young people will have the opportunity to study in their

home state and bring their knowledge and experience to their communities.

Along with access and improved awareness of music therapy, will come a need for qualified practitioners. According to the U.S. Bureau of Labor Statistics, the job growth outlook for counselors and social service specialists is 14% in the next five years, and 25% more mental healthcare therapists and providers will be needed in the coming years, which greatly exceeds the average 4% growth for other fields. The need for music therapists in New Hampshire will only continue to grow, and along with that need will come a need for affordable access to care, which is rarely fulfilled through grant and scholarship funding.

My clients greatly benefit from the unique modality of music therapy, and many of them benefit from yearly grant funding or scholarships to pay for services. Often, families are challenged to stretch their funding so they do not have to discontinue services. Although my clients often have adequate healthcare coverage, music therapy cannot be covered due to lack of practitioner licensure. As music therapists who have met all of the requirements by our national governing boards, state licensure is the last barrier that stands between our clients getting the services they need, provided to them for a reasonable fee, through their health insurance.

In closing, I ask that you vote YES for NH SB 133. Establishing a music therapy license in New Hampshire will allow more consumers to access music therapy services, will continue the growth of job opportunities in the state, and hopefully will increase education opportunities for future music therapists. Thank you for your consideration.

Sincerely,

Cacia King, MM, MT-BC
Board Certified Music Therapist

Resource

How Your School Affects Where You Live. (n.d.). Retrieved from
<https://www.economicmodeling.com/how-your-school-affects-where-you-live/>

Substance Abuse, Behavioral Disorder, and Mental Health Counselors : Occupational Outlook Handbook. (2020, September 01). Retrieved from
<https://www.bls.gov/ooh/community-and-social-service/substance-abuse-behavioral-disorder-and-mental-health-counselors.htm>

Cameron Lapine

From: Sharon Carson
Sent: Friday, February 12, 2021 9:25 AM
To: Cameron Lapine
Cc: Sharon Carson
Subject: FW: SB 133 Section IX - Part IX: LSR 21-0928, relative to skilled professional medical personnel, sponsored by Sen. Ward, Prime/Dist 8.

From: Carolyn Virtue <carolyn@granitecm.us>
Sent: Friday, February 12, 2021 8:43 AM
To: Sharon Carson <Sharon.Carson@leg.state.nh.us>; John Reagan <john.reagan111@gmail.com>; Denise Ricciardi <denise.ricciardi@leg.state.nh.us>; Kevin Cavanaugh <Kevin.Cavanaugh@leg.state.nh.us>; Suzanne Prentiss <Suzanne.Prentiss@leg.state.nh.us>
Cc: Ruth Ward <Ruth.Ward@leg.state.nh.us>; Bob Giuda <rjwg75@gmail.com>; Harold French <Harold.French@leg.state.nh.us>; Kevin Avard <Kevin.Avard@leg.state.nh.us>; Cindy Rosenwald <cindy.rosenwald@leg.state.nh.us>; Becky Whitley <Becky.Whitley@leg.state.nh.us>; Lou D'Allesandro <dalas@leg.state.nh.us>; senclegg@aol.com
Subject: SB 133 Section IX - Part IX: LSR 21-0928, relative to skilled professional medical personnel, sponsored by Sen. Ward, Prime/Dist 8.

February 11, 2021

NH Senate Executive Departments and Administration

RE:
SB 133 Section IX - Skilled professional medical personnel
Part IX: LSR 21-0928, relative to skilled professional medical personnel, sponsored by Sen. Ward, Prime/Dist 8.

Dear Madam Chair and Honorable Members -

I write in support of Section IX of SB 133.

I will speak to the impact to the people which I interact with daily. The people who are nursing home level of care who have chosen to receive care in the community in lieu of receiving the care in an institutional placement. People who the state of NH has made safety assurances for to the Center for Medicare and Medicaid services.

Today, as I draft this letter to you, 10 of those individuals, who are my clients are stuck without an answer to requests for service authorizations for care because the decision makers will not make a decision. On a call with those decisions makers today, I was told "this has to go to legal". I have been involved with in the CFI Waiver for over 30 years and not until the qualified staff were eliminated did the legal team become the decision makers. I would add, if one read the federal CFR, the lawyers would not be qualified unless dually trained in a medical field, which I do not believe is the case.

These are simple requests for services identified in the waiver. There should be QUALIFIED individuals in place to approve or deny the requests for care. Since the addition of unqualified staff as decision makers, long delays have

ensued. This has in no way streamlined access to care for the people, it has further separated them from care. To be clear, the department has a responsibility to make the care decisions in a timely manner and that is not happening in the CFI program. In the absence of qualified staff, decisions are being delayed or more frightfully not being made at all. It is my sincere hope, returning qualified staff to oversee this process will ensure care decisions are made correctly, in a timely manner.

Because of the dearth of qualified staff at BEAS, the bureau has been reaching out to nurses in other program areas such as the Bureau of Integrity and Improvement to make the decisions. This is inappropriate for so many reasons, but it also time consuming. The BEAS position that the skilled professional medical personnel are not needed, cannot be substantiated by their actions. frequently seek skilled medical staff are being sought out to intervene.

Please consider a nursing home level of care recipient requesting care after a procedure having to wait 21 days for a decision on that request. The request was denied. Had it been denied in a timely manner other venues could have been pursued to get her the care and that process has ensued. But that does not change the fact that the client went 21 days before a decision was made without the care.

Often times the decisions makers are unaware of critical aspects of the programs they are charged with administering. People are not safe waiting for care while the Bureau of Elderly and Adult Services undergoes on the job training and/or seeks out qualified staff from elsewhere in the department. There should be qualified staff within the Bureau of Elderly and Adult Services to make decision on the care being delivered to the recipients in the community in a timely manner. This language seeks to remedy that.

In addition, recipients are losing access to providers who are frustrated with the delays in the process. This is especially alarming given the workforce shortages. The delays in processing of the service authorizations are further compounding the problem.

In lieu of my going on about the intricacies of the state and federal guidance, please see attached the testimony of Michelle Winchester submitted to JLCAR on 9/15/21 which clearly defines the matter.

Lastly, please keep in mind delays in access to care often has serious consequences and it often results in more costly care being consumed.

Thank you for your consideration and your service. I am happy to answer any questions. Please feel free to call me at the number below.

Take good care and be well. Regards,
Carolyn A Virtue
Granite Case Management
Cell: (603) 848-7345

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September 15, 2020

Representative William A. Hatch, Chair
Senator John Reagan, Vice Chair
Joint Legislative Committee on Administrative Rules

In Re: Final Proposal 2020-57, Rule He-E 802, Nursing Facility Services

Representative Hatch and Senator Reagan:

I submit this written testimony relative to proposed rule He-E 802.01(y), which reads:

(y) "Skilled medical professional" means "skilled professional medical personnel" as defined in RSA 151-E:3.

The term is new and was not relevant in the last re-adoption of this rule in 2011. Important to this discussion, the body of the rule requires the "skilled medical professional" determine eligibility for Medicaid-covered nursing facility services. Also important to this discussion, this same term is used for determining eligibility for Medicaid covered home and community-based care services.

I would note that I am a health policy analyst and have worked in New Hampshire Medicaid law and policy for about 25 years. The term in the proposed paragraph (y) above is the result of a bill sponsored by Senator Reagan in 2015; this was a bill I worked on from the initial draft to completion. Additionally, I sit on the Medical Care Advisory Committee, the Federally required advisory body to the State Medicaid agency, and in that role have worked on this definition with the New Hampshire Department of Health and Human Services (DHHS) over the last year and a half.

The Issue

In summary, the issue here is that the DHHS has taken the position that it will not identify the credentials of the "skilled medical professional" that determines medical eligibility for nursing facility and for home and community-based care services. I and others believe those credentials should be clearly identified to ensure the appropriateness of the credentialing. This is important both to assure the safety of the nursing facility applicant/recipient and to ensure adherence to Federal and State law to safeguard Federal financial participation. Better still, there is no good reason to hide the credentialing requirements.

Summary of the Rationale

The following is a summary of the arguments posed by me and others calling for identification of the allowable skilled professional medical personnel that may perform the duties identified in State statute and rule. Note that the following includes discussion of both nursing facility and home and community-based care services requirements, as the term is relevant to both and only rules for the first service are before JLCAR at this time.

1: The term in rule should be the same as the term in statute and it is not.

The term in State and Federal statute is "skilled professional medical personnel" and not "skilled medical professional," as provided in the He-E 802 proposal. [See NH RSA 151-E:3, 42 USC § 136b(a)(2). See also 42 CFR §§ 432.2 and 432.50.] Deviations in terms, between statute and rule, often cause confusion in practice. The term in rule should be the same as the term in statute.

2: While 42 CFR § 432.50(d)(1)(ii) includes a definition, it is not the definition of "skilled professional medical personnel." The actual definition of the term is found in 42 CFR § 432.2.

NH RSA 151-E:3, II provides that "'skilled professional medical personnel' shall have the same meaning as in 42 C.F.R. section 432.50(d)(1)(ii)." However, the definition in § 432.50(d)(1)(ii) is not a definition of "skilled professional medical personnel," but rather a definition of "professional education and training." The term "skilled medical professional personnel," is used in paragraph (d)(1)(ii) and is defined in 42 CFR § 432.2. [See in 42 CFR § 432.50(b).]

Skilled professional medical personnel means physicians, dentists, nurses, and other specialized personnel who have professional education and training in the field of medical care or appropriate medical practice and who are in an employer-employee relationship with the Medicaid agency. It does not include other nonmedical health professionals such as public administrators, medical analysts, lobbyists, senior managers or administrators of public assistance programs or the Medicaid program. [42 CFR § 432.2.]

Note: The DHHS urged the Legislature to use the reference to 42 C.F.R. § 432.50(d)(1)(ii) in SB 49 (2015). Section 432.50(d) addresses the requirements for the enhanced Federal match for skilled professional medical personnel reimbursement. The enhanced Federal match is 75%, rather than the usual 50%. In 2015, the DHHS argued to ensure the Legislature of the State's ability to maintain the enhanced match— the only obvious rationale for the reference. (Of note, the DHHS recently told the Medical Care Advisory Committee that it no longer draws down the enhanced match, suggesting that the credentials of current personnel do not meet the Federal enhanced match standards.)

3: The New Hampshire home and community-based care waiver application echoes the NH RSA 151-E:3 and the Federal rules 42 CFR §§ 432.2 and 432.50.

The waiver application provides:

NH CFI Waiver, Appendix B, Participant Access and Eligibility (B-6: Evaluation/Reevaluation of Level of Care)

Qualifications of Individuals Performing Initial Evaluation: Per 42 CFR § 441.303(c)(1), specify the educational/professional qualifications of individuals who perform the initial evaluation of level of care for waiver applicants: . . .

Skilled professional medical personnel shall have the same meaning as in 42 C.F.R. section 432.50(d)(1)(ii). Specifically: Skilled professional medical personnel have professional education and training in the field of medical care or appropriate medical practice. "Professional education and training"

means the completion of a 2-year or longer program leading to an academic degree or certificate in a medically related profession. This is demonstrated by possession of a medical license, certificate, or other document issued by a recognized National or State medical licensure or certifying organization or a degree in a medical field issued by a college or university certified by a professional medical organization. Experience in the administration, direction, or implementation of the Medicaid program is not considered the equivalent of professional training in a field of medical care. The skilled professional medical personnel are in positions that have duties and responsibilities that require those professional medical knowledge and skills.

- 4: The CMS instructions for the home and community-based care waiver application further explain that “the qualifications should be appropriate for the target population. Examples might include a physician, registered nurse, or licensed social worker.”

The CMS Instructions are as follows—

Application for a §1915(c) Home and Community-Based Waiver [Version 3.6, January 2019]

Item B-6-c: Qualifications of Individuals Performing Initial Evaluation

Instructions

In the text field, specify the educational/professional qualifications of individuals who perform the initial evaluation of level of care for waiver applicants.

Technical Guidance

42 CFR §441.303(c)(1) requires that the waiver specify the credentials (minimum qualifications) of level of care evaluators. The state has latitude in determining these credentials. However, the qualifications should be appropriate for the waiver’s target population. Examples might include a physician, registered nurse, licensed social worker, or qualified developmental disability professional. The qualifications of individuals who perform re-evaluations are specified in Item B-6-h.

CMS Review Criteria

The specified qualifications of evaluators are appropriate to the target groups specified in the waiver.

- 5: The DHHS should identify the “skilled medical professional” credentials. Applicants, participants, and providers should have access to that information, particularly when services or eligibility are denied. (“Skilled medical professional” qualifications have become a significant concern in the home and community-based care services program.)

- 6: The definition of “professional education and training” in 42 CFR § 432.50 dates back to 1985. Since then, much has changed in professional credentialing and the DHHS should not revert to outdated standards.

42 CFR 432.50(d)(1)(ii) provides:

“Professional education and training” means the completion of a 2-year or longer program leading to an academic degree or certificate in a medically related profession. This is demonstrated by possession of a medical license, certificate, or other document issued by a recognized National or State medical licensure or certifying organization or a degree in a medical field issued by a college or university certified by a professional medical organization. Experience in the administration, direction, or implementation of the Medicaid program is not considered the equivalent of professional training in a field of medical care. 42 CFR § 432.50(d)(1)(ii).

In 1985, as now, there were various standards for licensure and certification of health care professionals across the country. For example, in New Hampshire in 1985 it was not uncommon to find many registered nurses with a 2-year associate degree in nursing, rather than a 4-year degree which is commonplace today. In 2020 we should not be reducing standards.

- 7: The same level of transparency should be afforded the Medicaid recipient as is afforded the New Hampshire health insurance plan beneficiary, including the Medicaid managed care beneficiary.

The New Hampshire health insurer, including the Medicaid managed care health plan, is required to adhere to RSA 420-E, relative to utilization review. In relevant part—

(b) If the claim benefit determination is a claim denial, the notice shall include: . . .

(3) If the claim denial is based upon a determination that the claim is experimental or investigational or not medically necessary or appropriate:

(A) The name and credentials of the carrier or other licensed entity, the medical director, including board status and the state or states where the person is currently licensed. *If the person making the claim denial is not the medical director but a designee, then the credentials, board status, and state or states of current license shall be provided for that person;*

[Emphasis added.]

The Medicaid managed care health plan must also adhere to 42 CFR § 438.210. Per 42 CFR § 438.210(b)(3), “any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested, be made by an individual who has appropriate expertise in addressing the enrollee’s medical, behavioral health, or long-term services and supports needs.”

It seems only logical that the same standards should apply to eligibility determinations and services authorizations performed by the DHHS.

Objection

Respectfully,
Michelle M. Winchester, JD
Health Policy Analyst

SUBMITTED ELECTRONICALLY



STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES
BUREAU OF PUBLIC HEALTH PROTECTION

Lori A. Shibinette
Commissioner

Lisa M. Morris
Director

29 HAZEN DRIVE, CONCORD, NH 03301
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Testimony for
SB 133FN Adopting Omnibus Legislation Relative to Occupational Licensure
Part XIV Sanitary Production and Distribution of Food
Executive Departments and Administration Committee
February 10, 2021

Good afternoon Senator Carson and members of the committee. My name is Colleen Smith, and I am the Administrator of the Food Protection Section within the New Hampshire Department of Health and Human Services (DHHS), Division of Public Health Services (DPHS). Also with me today is Michele Roberge, the Administrator of the Bureau of Public Health Protection at DHHS, Division of Public Health Services. We want to thank the committee for the opportunity to speak on Section XIV of the bill. The Department has had several constructive conversations with Senator Giuda beginning in the spring of 2020, regarding his concerns related to the Department's Food Protection Regulations, in particular the Certified Food Protection Manager requirement, and have been working with him on a regulatory solution. While our testimony today focuses on the Department's serious concerns with this Part of the legislation as introduced, we would like to note that we met with Senator Giuda yesterday and are in the process of reviewing a proposed amendment to this legislation. The Department is also engaged in rulemaking to address the concerns brought forward by Senator Giuda. The Department is committed to collaborating with Senator Giuda to expeditiously address his concerns.

Part XIV of this bill as introduced, proposes to codify the Department of Health and Human Services' Sanitary Production and Distribution of Food regulations (Chapter He-P 2300) into state law. The language contained in Part XIV repeals the rulemaking authority of the Commissioner of the Department of Health and Human Services for the following: food licensure codified in RSA 143-A:9, homestead food operations codified in RSA 143-A:13, and the sale of uninspected poultry and rabbits codified in RSA 143-A:17.

In April 2020, the Department was contacted by Senator Giuda concerning the hardship to a local business due to the requirement to have a Certified Food Protection Manager present during all hours of operation. This was a new requirement for food establishments that came into effect when the Department updated its administrative rules, He-P 2300 *The New Hampshire Rules for the Sanitary Production and Distribution of Food* to incorporate the United States Food and Drug Administration's (FDA) 2017 Food Code by reference in August 2019.

The Department was able to work with this business and quickly resolved their concerns through the issuance of a variance that allowed an alternative compliance option that is equally protective of public health, while removing the economic hardship to the food establishment. The Department has also started a rulemaking process to amend He-P 2300 to remove the requirement for the presence of a Certified Food Protection Manager during all hours for businesses with less than 5 employees and for those engaged in minimal food preparation. The final proposed rules are projected to be before the New Hampshire Joint

Legislative Committee on Administrative Rules in May 2021. The Department feels that the most expedient way to address this important issue is through the administrative rulemaking process.

The proposed legislation as introduced also contains a requirement for the Department to offer a training course for interested parties to become a Certified Food Protection Manager every 30 days. As noted in the Department's Fiscal Note, DHHS estimates that it will need to hire at least one trainer to conduct the Certified Food Protection Manager training every 30 days and manage registration and certifications as currently specified in the bill. Costs per attendee for a textbook and exam are estimated to be \$75 per student. It is unknown as to how many registrations there will be for these classes from the approximately 8,000 food establishments in New Hampshire and costs are indeterminable at this time.

In addition, the bill does not restrict students to only New Hampshire residents or employees of New Hampshire food establishments. The proposed training may need to be offered at different geographical locations within the state, so there may be indeterminable costs associated with procuring training space, necessary software for student registration and issuance of certificates of course completion. There may also be a need for DHHS to offer training in multiple languages or provide interpreter services.

The Department noted many technical and mechanical defects identified within this legislation as introduced. We will highlight some of our major concerns but have provided additional details in our written testimony. Some of the more significant defects include the incorporation by reference to a Food Code that does not exist - the 2015 edition of the United States Food and Drug Administration's (FDA) Food Code. It is the Department's understanding that a proposed amendment to this legislation may provide a technical correction. In addition, the legislation as written includes definitions that are now contained in multiple sections of RSA 143-A, and inconsistently relists and cross-references the new sections of RSA 143-A that the legislation proposes. New requirements that have been included in the legislation requires the Food Protection Section to assess compliance to local building and health codes. This is beyond the scope, responsibility and expertise of the Department.

Thank you for this opportunity to address the committee on this bill. We are happy to answer any questions or provide additional information.

Colleen Smith, MS
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Additional Technical Details

Other technical and mechanical defects noted in the Fiscal Note for the legislation as introduced include the following:

- The legislation grants authority for DHHS to authorize other schools such as New Hampshire Technical Schools and state high schools to offer the Certified Food Protection Manager training. This is not necessary as these schools already have the ability to offer this training by connecting with an accredited organization to offer the training.
- The legislation exempts cities, towns and incorporated places having building codes and health code enforcement jurisdiction from submitting a plan review application. The plan review process is specific to the evaluation of required equipment and layout of a facility for the preparation of safe food. Building code officials do not generally have this level of expertise.
- The legislation does not require regulated food service establishments in cities and towns that have local code enforcement officials having authority of building and health codes to submit to the Department a complete hazard analysis and critical control point (HACCP) plan. The requirement to submit a HACCP plan is triggered by food service establishments that are utilizing a specialized process with high food safety risk factors that need to be controlled and evaluated properly to ensure food safety. Building code officials do not generally have this level expertise to review HACCP plans.
- The legislation references DES administrative rules but does not reference specific rules.
- The legislation references industry standards when referring to wastewater system requirements. This language is nonspecific as to what standards apply.
- There are references to applications throughout the legislation that are currently specified in DHHS regulations. It is not able to be determined by the DHHS whether these applications will be updated in an administrative rule without a statute change or how are they would be approved as part of this legislation.



Robert L. Quinn
Commissioner

State of New Hampshire

DEPARTMENT OF SAFETY

Division of Fire Safety

Office of the State Fire Marshal

Office: 110 Smokey Bear Boulevard, Concord, NH 03301

Mailing Address: 33 Hazen Drive, Concord, NH 03305

Telephone: 603-223-4289 • Fax: 603-223-4294

www.nh.gov/firesafety



Paul J. Parisi
State Fire Marshal

LEGISLATIVE POSITION NH DEPARTMENT OF SAFETY

SB 133, Part I: Relative to the definition of "licensing agency" for the purposes of licensing places of assembly.

LSR 21-0964

Committee: Executive Departments and Administration

Position: SUPPORT

Date: February 10, 2021

Dear Honorable Members of the Committee:

SB 133, Part I would enable the NH State Fire Marshal's Office the ability to issue a Place of Assembly license in the event it is necessary to do so.

NH RSA 155:18 requires that places of assembly are licensed to operate. Places of assembly are rooms or spaces where 100 or more people congregate (50 or more if the space is a tent). Currently, a license is issued by the city, town, or village district where the occupancy is located. This creates a problem when the assembly is located in an unincorporated area of our state such as Green's Grant, the summit of Mount Washington, or an area that does not have an authority having jurisdiction for the purposes of fire prevention such as Dixville Notch.

This bill would allow the State Fire Marshal's Office to be the licensing agency in those cases, and in other unusual cases in consultation with the local licensing agency.

Thank you for the opportunity to testify, and for your consideration. Please do not hesitate to contact me if you have any questions.

Respectfully,

Paul J. Parisi
State Fire Marshal

Cameron Lapine

From: Bill Trombly Jr <Bill@billtrombly.com>
Sent: Tuesday, February 23, 2021 10:46 AM
To: Sharon Carson; John Reagan; Kevin Cavanaugh; Denise Ricciardi; Suzanne Prentiss; Cameron Lapine
Cc: Jesse Doucette (Jesse@crownchimney.com)
Subject: SB 133 Part 2

Dear Chairwoman Carson and Committee Members

I'm writing you today to clarify/amend my testimony from the Wednesday, February 18th Executive Departments and Administration committee meeting referencing SB 133 Part 2. The Mechanical Board is in favor of moving the board from the Fire Marshall office to the Office of Professional Licensure and Certification but we are not in favor of a new Limited Plumbing Specialist License. Before the hearing the Mechanical Board discussed and voted to favor moving to the OPLC and it was my misunderstanding of what the SB 133 was about.

The Mechanical Board doesn't believe that there is a need for a new Limited Plumbing Specialist License because in the passed couple of years the board has worked on improving the plumbing apprentice program. We have worked with the Federal Department of Labor and the NH Department of Education and have developed a first year bypass test that allows plumbing apprentices to "skip" the first year and to go directly into the second year of the program. Changing the program from a four year program to a three program. The Board has also develop rules changes based on a July 2020 law change and Federal Department of Labor guide lines that will allow third and fourth year plumbing apprentices to work with "supervision" from their sponsor. That means a third or a fourth year plumbing apprentices will no longer be require to be "Direct Supervised" by their sponsor. As long as the plumbing apprentices can reach their sponsor for any questions they have it would be acceptable. The board believes that with the move to OPLC the passage of these rules will be completed in a timely manner.

Bill Trombly Jr.
Chairman
New Hampshire Mechanical Board

Voting Sheets

**Senate Executive Departments and
Administration Committee
EXECUTIVE SESSION RECORD**

2021 Session

1

Bill # <i>SB 133-FN</i>

Hearing date: *2-10-21*

Executive Session date: *3-10-21*

Motion of: *Amendment 0232s* Vote: *5-0*

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: *Amendment 0723s* Vote: *5-0*

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: *Amendment to Remove Part II* Vote: *5-0*

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Reported out by: _____

Notes: *CON'T*

**Senate Executive Departments and
Administration Committee**

EXECUTIVE SESSION RECORD

2021 Session

2
CONT

Bill # SB 133-FN

Hearing date: 2-10-21

Executive Session date: 3-10-21

Motion of: OTPA Vote: 5-0

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Present	Made by	Second	Yes	No
Sen. Carson, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Reagan, Vice Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Cavanaugh	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Prentiss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: Sen. Cavanaugh

Notes: _____

Senate Finance Committee

EXECUTIVE SESSION

Bill # SB 133-FN

Hearing date: N/A

Executive session date: 03/23/21

Motion of: OTF

VOTE: 17-0

<p>Made by Daniels <input type="checkbox"/></p> <p>Senator: Reagan <input type="checkbox"/></p> <p style="padding-left: 20px;">Giuda <input checked="" type="checkbox"/></p> <p style="padding-left: 20px;">Rosenwald <input type="checkbox"/></p> <p style="padding-left: 20px;">D'Allesandro <input type="checkbox"/></p> <p style="padding-left: 20px;">Morse <input type="checkbox"/></p> <p style="padding-left: 20px;">Hennessey <input type="checkbox"/></p>	<p>Seconded Daniels <input type="checkbox"/></p> <p>by Senator: Reagan <input checked="" type="checkbox"/></p> <p style="padding-left: 20px;">Giuda <input type="checkbox"/></p> <p style="padding-left: 20px;">Rosenwald <input type="checkbox"/></p> <p style="padding-left: 20px;">D'Allesandro <input type="checkbox"/></p> <p style="padding-left: 20px;">Morse <input type="checkbox"/></p> <p style="padding-left: 20px;">Hennessey <input type="checkbox"/></p>	<p>Reported Daniels <input checked="" type="checkbox"/></p> <p>by Senator: Reagan <input checked="" type="checkbox"/></p> <p style="padding-left: 20px;">Giuda <input type="checkbox"/></p> <p style="padding-left: 20px;">Rosenwald <input type="checkbox"/></p> <p style="padding-left: 20px;">D'Allesandro <input type="checkbox"/></p> <p style="padding-left: 20px;">Morse <input type="checkbox"/></p> <p style="padding-left: 20px;">Hennessey <input type="checkbox"/></p>
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Motion of: _____

VOTE: _____

<p>Made by Daniels <input type="checkbox"/></p> <p>Senator: Reagan <input type="checkbox"/></p> <p style="padding-left: 20px;">Giuda <input type="checkbox"/></p> <p style="padding-left: 20px;">Rosenwald <input type="checkbox"/></p> <p style="padding-left: 20px;">D'Allesandro <input type="checkbox"/></p> <p style="padding-left: 20px;">Morse <input type="checkbox"/></p> <p style="padding-left: 20px;">Hennessey <input type="checkbox"/></p>	<p>Seconded Daniels <input type="checkbox"/></p> <p>by Senator: Reagan <input type="checkbox"/></p> <p style="padding-left: 20px;">Giuda <input type="checkbox"/></p> <p style="padding-left: 20px;">Rosenwald <input type="checkbox"/></p> <p style="padding-left: 20px;">D'Allesandro <input type="checkbox"/></p> <p style="padding-left: 20px;">Morse <input type="checkbox"/></p> <p style="padding-left: 20px;">Hennessey <input type="checkbox"/></p>	<p>Reported Daniels <input type="checkbox"/></p> <p>by Senator: Reagan <input type="checkbox"/></p> <p style="padding-left: 20px;">Giuda <input type="checkbox"/></p> <p style="padding-left: 20px;">Rosenwald <input type="checkbox"/></p> <p style="padding-left: 20px;">D'Allesandro <input type="checkbox"/></p> <p style="padding-left: 20px;">Morse <input type="checkbox"/></p> <p style="padding-left: 20px;">Hennessey <input type="checkbox"/></p>
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<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Daniels, Chairman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Reagan, Vice-Chair	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Senator Giuda	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Hennessey	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Rosenwald	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Morse	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator D'Allesandro	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Amendments: _____

Notes: _____

Committee Report

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

SB 133-FN, adopting omnibus legislation relative to occupational licensure.

Ought to Pass with Amendment, Vote 5-0.

Senator Kevin Cavanaugh for the committee.

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Wednesday, March 24, 2021

THE COMMITTEE ON Finance

to which was referred **SB 133-FN**

AN ACT adopting omnibus legislation relative to occupational
licensure.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 7-0

Senator John Reagan
For the Committee

Deb Martone 271-4980

General Court of New Hampshire - Bill Status System

Docket of SB133

Docket Abbreviations

Bill Title: adopting omnibus legislation relative to occupational licensure.*Official Docket of SB133.:*

Date	Body	Description
2/3/2021	S	Introduced 01/06/2021 and Referred to Executive Departments and Administration; SJ 3
2/4/2021	S	Remote Hearing: 02/10/2021, 09:00 am; Links to join the hearing can be found in the Senate Calendar; SC 10
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4/13/2021	H	Introduced (in recess of) 04/09/2021 and referred to Executive Departments and Administration HJ 7 P. 100
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6/3/2021	H	Amendment #2021-1579h : AA VV 06/03/2021 HJ 8 P. 41
6/3/2021	H	Ought to Pass with Amendment 2021-1579h: MA VV 06/03/2021 HJ 8 P. 41
6/10/2021	S	Sen. Carson Moved Nonconcur with the House Amendment; Requests C of C, MA, VV; 06/10/2021; SJ 19
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6/10/2021	H	House Accedes to Senate Request for CofC (Rep. McGuire): MA VV 06/10/2021 HJ 10 P. 16
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7/28/2021	H	Enrolled (in recess of) 06/24/2021
7/28/2021	S	Enrolled Adopted, VV, (In recess 06/24/2021); SJ 20
8/16/2021	S	Signed by the Governor on 08/10/2021; Chapter 0205
8/16/2021	S	Part I Effective 10/09/2021
8/16/2021	S	Part II Effective 10/09/2021
8/16/2021	S	Part III Effective 08/10/2021
8/16/2021	S	Part IV Effective 07/01/2021
8/16/2021	S	Part V. Effective I. Section 1 & 2 as provided in Part V; Section 5

8/16/2021	S	Part V. II. Remainder Effective 01/01/2022
8/16/2021	S	Part VI Effective 08/10/2021
8/16/2021	S	Part VII Effective 10/09/2021
8/16/2021	S	Part VIII Effective 10/09/2021
8/16/2021	S	Part IX Effective 08/10/2021
8/16/2021	S	Part X Effective 08/10/2021
8/16/2021	S	Part XI Effective 10/09/2021

NH House

NH Senate

Docket of SB133**Bill Title:** adopting omnibus legislation relative to occupational licensure.*Official Docket of SB133.:*

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7/20/2021	H	Enrolled Bill Amendment #2021-2074e : AA VV (in recess of) 06/24/2021

NH House

NH Senate

Other Referrals

June 14, 2021
2021-1943-CofC
05/04

1 Committee of Conference Report on SB 133-FN, adopting omnibus legislation relative to
2 occupational licensure.

3

4 Recommendation:

5 That the Senate recede from its position of nonconcurrency with the House amendment, and
6 concur with the House amendment, and

7 That the Senate and House each pass the bill as passed by the House.

The signatures below attest to the authenticity of this Report on SB 133-FN, adopting omnibus
legislation relative to occupational licensure.

Conferees on the Part of the Senate

Conferees on the Part of the House

Sen. Carson, Dist. 14

Rep. McGuire, Merr. 29

Sen. Reagan, Dist. 17

Rep. S. Pearson, Rock. 6

Sen. Whitley, Dist. 15

Rep. Yakubovich, Merr. 24

Rep. Grote, Rock. 24

Senate Inventory Checklist for Archives

Bill Number: SB 133-FN

Senate Committee: ED-A

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

- Bill version as it came to the committee
- All Calendar Notices
- Hearing Sign-up sheet(s)
- Prepared testimony, presentations, & other submissions handed in at the public hearing
- Hearing Report
- Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

2021 - amendment # 07325 2021 - amendment # 07835
2021 - amendment # 05335 2021 - amendment # 07795

- Executive Session Sheet
- Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

___ - amendment # _____ ___ - amendment # _____
 ___ - amendment # _____ ___ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

- ___ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):
- ___ Enrolled Bill Amendment(s)
- ___ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

as amended by the senate ___ as amended by the house
 ___ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Cameron M. Japine
 Committee Aide

7/16/21
 Date

Senate Clerk's Office _____

July 19, 2021
2021-2074-EBA
11/10

Enrolled Bill Amendment to SB 133-FN

The Committee on Enrolled Bills to which was referred SB 133-FN

AN ACT adopting omnibus legislation relative to occupational licensure.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

Explanation to Enrolled Bill Amendment to SB 133-FN

This enrolled bill amendment renumbers an RSA section and contingently amends additional RSA sections to avoid conflicts with HB 2, SB 155, and SB 58, respectively.

Enrolled Bill Amendment to SB 133-FN

Amend section 2 of Part IV of the bill by replacing lines 2-3 with the following:

Pathology Compact. Amend RSA 326-F by inserting after section 16 the following new section:

326-F:17 Interstate Compact Adopted. The state of New Hampshire hereby adopts the provisions

Amend Part V of the bill by replacing section 3 with the following:

3 Contingent Renumbering; SB155. If SB 155 of the 2021 legislative session becomes law then RSA 310-A:1-h through RSA310-A:1-l, as inserted by section 2, Part V of this act, and the internal references therein, shall be renumbered as RSA 310-A:1-j through RSA 310-A:1-n, respectively.

4 Contingent Version; SB 58; Office of Professional Licensure and Certification; Administration; Rulemaking. Amend RSA 310-A:1-d, II(h)(2) to read as follows:

(2) Such organizational and procedural rules necessary to administer the boards, commissions, councils, and programs in the office of professional licensure and certification, including rules governing the administration of complaints and investigations, *hearings*,

ENROLLED BILL AMENDMENT TO SB 133-FN

- Page 2 -

disciplinary proceedings, payment processing procedures, and application procedures. The boards shall retain the authority to determine the criteria necessary for licensing applications;

5 Contingency. If SB 58 of the 2021 legislative session becomes law, then Part V, section 1 of this act shall not take effect and Part V, section 4 shall take effect January 1, 2022. If SB 58 does not become law then Part V, section 1 of this act shall take effect January 1, 2022 and Part V, section 4 shall not take effect.

6 Effective Date.

I. Part V, sections 1 and 4 of this act shall take effect as provided in Part V, section 5 of this act.

II. The remainder of this Part shall take effect January 1, 2022.

Senate Inventory Checklist for Archives

Bill Number: SB 133-FN

Senate Committee: FINANCE - 2ND
COMMITTEE

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

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- Enrolled Bill Amendment(s) 2074
- Governor's Veto Message

All available versions of the bill: {Clerk's Office}

- as amended by the senate as amended by the house
- final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Deb Martore
Committee Aide

07/20/21
Date

Senate Clerk's Office _____