

LEGISLATIVE COMMITTEE MINUTES

HB1059

Bill as Introduced

HB 1059 - AS INTRODUCED

2022 SESSION

22-2032

11/04

HOUSE BILL **1059**

AN ACT clarifying limits on licensure by operation of law.

SPONSORS: Rep. Fellows, Graf. 8

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill clarifies that the executive director of the office of professional licensure and certification shall issue licenses pursuant to RSA 541-A:29-a only if applications for such licenses otherwise meet the requirements for licensure.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT clarifying limits on licensure by operation of law.

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

1 1 New Paragraph; Administration of the Office of Professional Licensure and Certification.
2 Amend RSA 310-A:1-d by inserting after paragraph IV the following new paragraph:

3 V. In the event a board, commission, or council does not meet the requirements of RSA 541-
4 A:29 for taking action on a license application, such application shall only be deemed approved and
5 the executive director shall only issue a license if the application otherwise meets the requirements
6 for licensure established in law or administrative rule.

7 2 Administrative Procedure Act; Failure of Agency to Act. Amend RSA 541-A:29-a, I to read as
8 follows:

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

14 3 Effective Date. This act shall take effect 60 days after its passage.

CHAPTER 32
HB 1059 - FINAL VERSION

2022 SESSION

22-2032
11/04

HOUSE BILL **1059**
AN ACT clarifying limits on licensure by operation of law.
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CHAPTER 32
HB 1059 - FINAL VERSION

22-2032
11/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT clarifying limits on licensure by operation of law.

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

1 32:1 New Paragraph; Administration of the Office of Professional Licensure and Certification. Amend
2 RSA 310-A:1-d by inserting after paragraph IV the following new paragraph:

3 V. In the event a board, commission, or council does not meet the requirements of RSA 541-A:29
4 for taking action on a license application, such application shall only be deemed approved and the
5 executive director shall only issue a license if the application otherwise meets the requirements for
6 licensure established in law or administrative rule.

7 32:2 Administrative Procedure Act; Failure of Agency to Act. Amend RSA 541-A:29-a, I to read as
8 follows:

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

32:3 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 03, 2022
Effective Date: July 02, 2022

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: March 16, 2022

HEARINGS

Wednesday	03/23/2022
(Day)	(Date)
Executive Departments and Administration	State House 103
(Name of Committee)	(Place)
	9:00 a.m.
	(Time)
9:00 a.m. HB 1681-FN	relative to the state building code and the state fire code.
9:15 a.m. HB 1548-LOCAL	relating to the sale of the Lakes Region Facility.
9:30 a.m. HB 1446-FN	relative to the governing board of recreational therapists and relative to the governing board of respiratory care practitioners.
9:45 a.m. HB 1354	relative to regulation by the New Hampshire real estate commission.
10:00 a.m. HB 1059	clarifying limits on licensure by operation of law.
10:15 a.m. HB 1581	relative to the use of open source software by state agencies.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

HB 1681-FN

Rep. McGuire
 Sen. Cavanaugh

Rep. Pimentel
 Sen. Prentiss

Sen. Reagan

Sen. Carson

HB 1548-LOCAL

Rep. Fellows
 Rep. Ham

Rep. Adjutant
 Rep. Crawford

Rep. Marsh
 Rep. Weston

Rep. Suzanne Smith
 Sen. Giuda

HB 1446-FN

Rep. Schuett

Rep. McGuire

HB 1354

Rep. Acton

HB 1059

Rep. Fellows

HB 1581

Rep. Berezny

Rep. Ammon

Rep. Hill

Rep. Gallager

Chantell Wheeler 271-1403

Sharon M Carson
 Chairman

Senate Executive Departments and Administration Committee

Chantell Wheeler 271-1403

HB 1059, clarifying limits on licensure by operation of law.

Hearing Date: March 23, 2022

Members of the Committee Present: Senators Carson, Reagan, Ricciardi, Cavanaugh and Prentiss

Members of the Committee Absent: None

Bill Analysis: This bill clarifies that the executive director of the office of professional licensure and certification shall issue licenses pursuant to RSA 541-A:29-a only if applications for such licenses otherwise meet the requirements for licensure.

Sponsors:
Rep. Fellows

Who supports the bill: Rep. Fellows, Rep. McGuire, Joe Shoemaker

Who opposes the bill: None

Who is neutral on the bill: None

Summary of testimony presented in support:
Rep. McGuire:

- Rep. McGuire explained that this bill clarifies an omission in current statute.
- Currently, if an application is not acted upon by the board by the deadline, the Executive Director shall issue the license. This is great if the applicant is worthy, but the Executive Director found that some applicants were unqualified.
- This bill states that the Executive Director shall look at the application and approve it if the qualifications are met.
- The House opposition to the bill included the idea that if the boards cannot meet in time, there will be no licensing in that profession.

Senator Carson asked if a bill heard earlier today regarding recreational therapists will help with the issues raised in this bill.

Rep. McGuire stated this will help all boards that can't or don't meet.

Joe Shoemaker, Office of Professional Licensure and Certification

- Offered a scenario where some boards only meet quarterly by statute. The 60 day window requirement resulted in the unintended consequences.
- This bill closes this loophole for unqualified applicants.

Summary of testimony presented in opposition: None

Neutral Information Presented: None

cbw

Date Hearing Report completed: March 24, 2022

Speakers

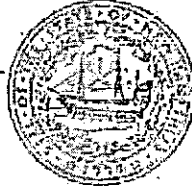
Testimony

State of New Hampshire

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION

7 Eagle Square, Suite 200
Concord, N.H. 03301-2412
Telephone 603-271-2152

LINDSEY B. COURTNEY
Executive Director



March 22, 2022

Hon. Sharon Carson
Chair, Executive Departments and Administration Committee
State House, Room 103
Concord, NH 03301

Re: Testimony in support of HB 1059

Dear Hon. Chair Carson:

The Office of Professional Licensure & Certification ("OPLC") wishes to express its support of HB 1059, clarifying that OPLC is not statutorily required to issue licenses under RSA 541-A:29-a to those applicants who do not meet the requirements for licensure.

At present, several OPLC boards currently lack a quorum, despite extensive efforts to find qualified individuals to serve. Many of these boards have not delegated to OPLC the authority to issue licenses to those who qualify for such licenses. Additionally, OPLC is not permitted to deny a license to any individual. The only statutory authority for OPLC to issue licenses to individuals applying for licensure to a board that lacks a quorum is RSA 541-A:29-a.

There are certain time limits a board must adhere to in processing license applications. RSA 541-A:29, Agency Action on Applications, requires an agency to respond to an application within 30 days of receiving the application and notify the applicant "of any apparent errors or omissions, request any additional information," if applicable. Within 60 days of receiving the applicant's response to a request for information, the agency shall act on the application. Under RSA 541-A:29-a, if the board fails to take action on the application, "the application . . . shall be deemed approved . . ."

Accordingly, when a board lacks a quorum and an individual files an application with the board, licenses may not be issued until 60 days have passed, at which point license applications are deemed granted automatically by operation of law. This is true, regardless of whether the applicant meets the requirements for licensure.

Hon. Sharon Carson
March 22, 2022
Page Two

As an example, current respiratory care applicants applying for licensure must wait 60 days to be approved, as the board lacks a quorum. As OPLC does not have statutory authority to deny applications for licensure, licenses are issued to individuals after 60 days by operation of law, without regard to application requirements. OPLC has grave concerns that this scenario harms the public in two ways: 1) First, 60 days is too long to adjudicate an application, particularly for those professionals that are desperately needed to meet the State's healthcare workforce needs; and 2) an unqualified individual could harm the public by performing services he or she is not qualified to perform.

HB 1059 proposes to permit the OPLC to deny a licensure application that would otherwise be granted by operation of law, if the applicant is not qualified according to the requirements established in statute or rule.

Thank you for the opportunity to provide comments. Feel free to contact me directly with any questions.

Very truly yours,



Lindsey B. Courtney, JD
Executive Director
Office of Professional Licensure and Certification

Voting Sheets

**Senate Executive Departments and
Administration Committee
EXECUTIVE SESSION RECORD
2022 Session**

Bill # HB 1059

Hearing date: 3/23/2022

Executive Session date: 3/23/2022

Motion of: OTP 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 checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: consent 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 checked="" 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 checked="" 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"/>

Reported out by: Sen Ricciardi

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Wednesday, March 23, 2022

THE COMMITTEE ON Executive Departments and Administration
to which was referred **HB 1059**

AN ACT clarifying limits on licensure by operation of law.

Having considered the same, the committee recommends that the Bill
OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Denise Ricciardi
For the Committee

This bill permits the Executive Director of the Office of Professional Licensure and Certification (OPLC) to review license applications if the relevant licensing board does not act within the required 60-day period after the application is made. This bill was requested by OPLC because some boards are unable to act due to membership and quorum issues. This bill closes the loop-hole that allows potentially unqualified applicants from becoming licensed by default if the licensing board is unable to meet and review the application.

Chantell Wheeler 271-1403

General Court of New Hampshire - Bill Status System

Docket of HB1059

Docket Abbreviations

Bill Title: clarifying limits on licensure by operation of law.*Official Docket of HB1059.:*

Date	Body	Description
11/2/2021	H	To Be Introduced 01/05/2022 and referred to Executive Departments and Administration
1/20/2022	H	Public Hearing: 01/20/2022 10:00 a.m. LOB302-304
2/2/2022	H	Executive Session: 01/20/2022 10:00 am LOB302-304
2/2/2022	H	Majority Committee Report: Ought to Pass (Vote 11-5; RC)
2/2/2022	H	Minority Committee Report: Inexpedient to Legislate
3/11/2022	H	Ought to Pass: MA DV 177-157 03/10/2022 HJ 5
3/15/2022	S	Introduced 02/24/2022 and Referred to Executive Departments and Administration; SJ 5
3/16/2022	S	Hearing: 03/23/2022, Room 103, SH, 10:00 am; SC 12
3/23/2022	S	Committee Report: Ought to Pass, 03/31/2022; Vote 5-0; CC; SC 13
3/31/2022	S	Ought to Pass: MA, VV; OT3rdg; 03/31/2022; SJ 7
4/25/2022	S	Enrolled Adopted, VV, (In recess 04/21/2022); SJ 10
4/25/2022	H	Enrolled (in recess of) 04/21/2022 HJ 10
5/6/2022	H	Signed by Governor Sununu 05/03/2022; Chapter 32; 07/02/2022

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: HB 1059

Senate Committee: FDA

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):

- amendment # _____
- amendment # _____
- amendment # _____
- amendment # _____
- 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:

AK
Committee Aide

5 13 2022
Date

Senate Clerk's Office AK