



NEW HAMPSHIRE

RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

ROOM 219, STATE HOUSE ANNEX

25 CAPITOL STREET

CONCORD, NEW HAMPSHIRE 03301-6312

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Website: www.gencourt.state.nh.us/rules/index.html

TDD Access:

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VOLUME XL, Number 53, December 31, 2020

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NOTE: POSSIBLE RULE EXTENSION

If the proposed rules contain existing, regular rules being readopted or readopted with amendments, and are not adopted and effective until after the expiration date(s) of the existing rules(s), then the existing rules will nevertheless continue in effect pursuant to RSA 541-A:14-a until the proposed rules are adopted and effective.

2. COMMITTEE (JLCAR)

REGULAR MEETING: **Friday, January 15, 2021 9:00 a.m.**
This remote meeting will take place as a Zoom webinar, with further instructions on Page 19 of this Register, and at <http://gencourt.state.nh.us/rules/default.htm>.

CONTINUED MEETING: **Friday, February 5, 2021 9:00 a.m.**
This remote meeting will take place as a Zoom webinar, with further instructions TBD.

See 2021 JLCAR Meeting dates and deadlines on pages i & ii

**JLCAR MEETING DATES AND RELATED FILING DEADLINES
JANUARY-JUNE, 2021**

The JLCAR has voted to hold its regularly scheduled meetings for January through June, 2021 on the third Friday of the month as listed below, except as noted. The minimum 21-day “deadline” prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules* for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Fridays to address items postponed from the prior regular meetings.

Regular Meeting Filing Deadline*	Regular Meeting Date	Continued Meeting Date
December 28*	January 15	February 5
January 29	February 19	March 5
February 26	March 19	February 26
March 26	April 16	May 7
April 30	May 21	June 4
May 28	June 18	June 26

***NOTE:**

The 21-day deadline to file for the January 15, 2021 meeting falls on December 25, a state holiday. Pursuant to RSA 541-A:16, IV, it is automatically extended to Monday, December 28. But see below relative to proposed interim rules.

The filing deadlines relate to JLCAR meetings pursuant to RSA 541-A. However, if a proposed interim rule is filed with a rulemaking notice for publication in the *Rulemaking Register*, be aware that Thursdays—not Fridays—remain the filing deadline under the *Drafting and Procedure Manual for Administrative Rules* to have the rulemaking notice published the following week. Pursuant to RSA 541-A:19, V, the notice must be published at least 14 days before the regularly scheduled meeting for which the proposed interim rule has been placed on the agenda. Therefore, filing the notice together with the proposed interim rule no later than the Thursday **before** the 21-day statutory deadline would assure that both the 21-day deadline for filing the rule and the 14-day deadline for publication in the *Rulemaking Register* would be met. For the January 15, 2021 meeting, that means filing the proposed interim rule with its notice by December 24, 2020.

**JLCAR MEETING DATES AND RELATED FILING DEADLINES
JULY-DECEMBER, 2021**

The JLCAR has voted to hold its regularly scheduled monthly meetings for July through December, 2021 on the third Thursday of the month as listed below. The minimum 21-day “deadline” prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Thursdays to address any items postponed from the prior regular meetings.

Regular Meeting Filing Deadline	Regular Meeting Date	Continued Meeting Date
June 24	July 15	August 5
July 29	August 19	September 2
August 26	September 16	October 7
September 30	October 21	November 4
October 28	November 18	December 2
November 29*	December 16	None

*** NOTE:**

The 21-day deadline to file for the December 16 meeting falls on Thanksgiving, November 25. Pursuant to RSA 541-A:16, IV, it is automatically extended to Monday, November 29.

However, if a proposed interim rule is filed with a rulemaking notice for publication in the *Rulemaking Register*, be aware that Wednesday, November 24 remains the filing deadline under the *Drafting and Procedure Manual for Administrative Rules* to have the rulemaking notice published the following week. Pursuant to RSA 541-A:19, V, the notice must be published at least 14 days before the regularly scheduled meeting for which the proposed interim rule has been placed on the agenda. Therefore, filing the interim rulemaking notice together with the proposed interim rule no later than Wednesday, November 24 would assure that both the 21-day deadline for filing the rule for the December 16 JLCAR meeting and the 14-day period for notice publication in the *Rulemaking Register* would be met.

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2020-104	Cub 305.03, Cub 305.04, Cub 305.05, Cub 305.06	Current Use Board Assessment Ranges for Forest Land Categories, With and Without Stewardship, Unproductive Land and Wetland Categories	1
2020-105	Fis 806.05	Fish and Game Department Snowshoe Hare Live Capture Requirements	4
2020-106	He-C 401	Department of Health and Human Services, Commissioner Therapeutic Cannabis Program- Registry Rules	7
2020-107	Plc 1001	Office of Professional Licensure and Certification OPLC Rules Governing General Fees, Credit Card Fees, and Professional Health Program Fees	14

Notices of Proposed Interim Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
INT 2020-7	Ed 504.12; Ed 505.07(b) intro., (16), & (17); Ed 505.08; and Ed 505.09(d)	Board of Education Criminal History Record Check Credential	17

CORRECTION

The rulemaking notices on Pages 9, 12, and 15 of the online Rulemaking Register of December 17, 2020 had an error in the year for the public hearing and/or public comment deadline for the following proposed rules:

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>
2020-101	Saf-C 5902.06	Department of Safety Commissioner Emergency Medical Care Provider Requirements
2020-102	Saf-C 5904.02 & Saf-C 5904.04	Department of Safety Commissioner Emergency Medical Services (“EMS”): Provider License Application & Provider Licensing Requirements
EXIR 2020-4	Saf-C 5906.08(b) intro, Table 5906.1	Department of Safety Commissioner EMS Vehicle Equipment and US DOT Emergency Response Guidebook Update

For notices NN 2020-101 and NN 2020-102 the hearing date was stated as January 8, 2020 and the comment deadline as January 15, 2020, when the year should have been “2021.” For the notice EXIR 2020-4 the comment deadline was stated as January 5, 2020, when the year should have been “2021.”

The errors have been corrected in the online Rulemaking Register.

Notice Number **2020-104**

Rule Number **Cub 305.03, Cub 305.04,
Cub 305.05, Cub 305.06**

<p>1. Agency Name & Address: Current Use Board c/o NH Department of Revenue Admin. 109 Pleasant Street PO Box 487 Concord, NH 03302-0487</p>	<p>2. RSA Authority: <u>RSA 79-A:4, IV</u> 3. Federal Authority: _____ 4. Type of Action: Adoption _____ Repeal _____ Readoption _____ Readoption w/amendment X</p>
<p>5. Short Title: Assessment Ranges for Forest Land Categories, With and Without Stewardship, Unproductive Land and Wetland Categories</p>	

6. (a) Summary of what the rule says and of any proposed amendments:

The administrative rules Cub 305.03, Cub 305.04, Cub 305.05, and Cub 305.06 on assessment ranges, respectively, for forest land categories, with and without stewardship, the unproductive land category, and the wetland category are being readopted with amendment as follows:

- 1. The assessment ranges for the white pine category for forest land, with and without documented stewardship have increased;**
- 2. The assessment range for the hardwood category for forest land with documented stewardship has increased, but the assessment range for the hardwood category for forest land without documented stewardship did not change;**
- 3. The assessment ranges for the “other” category for forest land, with and without documented stewardship, have increased;**
- 4. The assessment range for the unproductive land category has increased; and**
- 5. The assessment range for the wetland category has increased.**

As a result of these rule changes, property owners may see an increase in their taxes. Municipalities and unincorporated places may see an increase in revenue from current use taxes.

6. (b) Brief description of the groups affected:

Property owners with land enrolled in current use, municipalities, and unincorporated places with current use land will be affected.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

RULE	STATUTE
Cub 305.03	RSA 79-A:4
Cub 305.04	RSA 79-A:4
Cub 305.05	RSA 79-A:4
Cub 305.06	RSA 79-A:4

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Stephanie Derosier** Title: **Supervisor II**
Address: **109 Pleasant Street** Phone #: **603.230.5096**
PO Box 487 Fax#: **603.230.5947**
Concord NH 03302-0487 E-mail: **Stephanie.l.derosier@dra.nh.gov**
TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, February 4, 2021**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, January 25, 2021 at 10:00 a.m.**
This will be a remote hearing, accessed through the following link:
<https://nhgov.webex.com/nhgov/j.php?MTID=mb42e532d79d834b93802fa155629ae10>
Place: **Meeting password: kaE5AfpMp22**
Join by phone: 1-415-655-0001, Access Code: 180 139 4866
If you need assistance accessing the meeting, please call (603) 230-5096

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 20:107, dated 12/17/20

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rules, the proposed rules may increase costs by an indeterminable amount to state citizens and independently owned businesses.

2. Cite the Federal mandate. Identify the impact on state funds:

None.

3. Cost and benefits of the proposed rule(s):

The Department of Revenue Administration states approximately 50 percent of taxable land in the state is subject to this alternative use (Current Use) valuation model. The proposed rates for Cub

305.03, Cub 305.04, Cub 305.05 and Cub 305.06 reflect minor changes in the valuation of the income-producing capacity of forest land and agricultural land in the state and are being readopted with amendments in order to implement the assessment ranges recommended by the Current Use Board for open space land assessed on or after April 1, 2021.

The proposed rules make the following changes to the range of assessed values for land in current use:

Assessment Ranges for Forest Land Categories				
	Existing Rules		Proposed Rules	
	Minimum	Maximum	Minimum	Maximum
White Pine	\$118	\$176	\$122	\$183
Hardwood	\$57	\$86	\$57 (no change)	\$86 (no change)
Other	\$38	\$57	\$40	\$60
Assessment Ranges for Forest Land Categories with Documented Stewardship				
	Existing Rules		Proposed Rules	
	Minimum	Maximum	Minimum	Maximum
White Pine	\$71	\$106	\$73	\$110
Hardwood	\$34	\$52	\$38	\$57
Other	\$23	\$34	\$24	\$36

	Existing Rules	Proposed Rules
Unproductive Land (per acre)	\$23	\$24
Wetland (per acre)	\$23	\$24

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

To the extent state citizens own land falling within the affected categories, their costs may increase slightly based on the assessment changes. The proposed rules will result in a minor reapportionment of local tax burdens due to the changes in distribution of value and minimal impact to local tax rates.

C. To independently owned businesses:

To the extent independently owned businesses own land falling within the affected categories, their costs may increase slightly based on the assessment changes.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rules and rule amendments do not mandate fees, or additional local expenditures, on a political subdivision of the state and, therefore, do not violate Part I, Article 28-a of the NH Constitution.

Notice Number 2020-105

Rule Number Fis 806.05

<p>1. Agency Name & Address:</p> <p>NH Fish and Game Department 11 Hazen Drive Concord, NH 03301</p>	<p>2. RSA Authority: RSA 206:10, II; 212:25, II</p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>xx</u></p>
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5. Short Title: **Snowshoe Hare Live Capture Requirements**

6. (a) Summary of what the rule says and of any proposed amendments:

Fis 806.05 provides for a permit to live-capture snowshoe hare on behalf of beagle clubs, and to hold the animals in captivity for training and propagation purposes. The rule is being readopted with amendment to add a requirement that each permittee annually assist a conservation officer to have one or more animals inspected for disease, general health, and condition by a veterinarian, with the costs of such inspection to be borne by the permittee, and a report of the inspection filed with the Department.

6. (b) Brief description of the groups affected:

New Hampshire resident beagle clubs permitted to live-capture snowshoe hare, and then hold the animals in captivity for training and propagation purposes.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	State or Federal Statute the Rule Implements
Fis 806.05	RSA 206:10; RSA 207:12-a, II; RSA 212:25

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: Paul G. Sanderson, Esq.	Title: Legal Coordinator
Address: 11 Hazen Drive	Phone #: 603-271-1136
Concord, NH 03301	Fax#: None
	E-mail: comments@wildlife.nh.gov
	TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **February 5, 2021 at 4:00 P.M.**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, January 29, 2021 at 10:00 AM**

This hearing will be held virtually, via Microsoft Teams using the information below:

Join on your computer or mobile app

[Click here to join the meeting](#)

Place:

Or call in (audio only)

[+1 603-931-4944,,621377230#](#) **United States, Concord**

Phone Conference ID: 621 377 230#

The following email address will be monitored during the meeting. If there are any public access or technical problems during the meeting please contact paul.sanderson@wildlife.nh.gov.

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 20-105, dated 12/18/ 2020

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rules, the proposed rules may increase costs to independently owned businesses by an indeterminable amount, to the extent they are a beagle club permitted to hold snowshoe hare in captivity for propagation.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

To the extent an independently owned business is a permitted beagle club that engages in holding snowshoe hares in captivity for propagation purposes, the proposed rules will result in increased costs. The proposed rules require, at least once each calendar year, such entities request the Fish and Game Department Enforcement Division have a conservation officer select and remove one or more animals for a veterinary inspection. The cost of such inspection would be borne by the permittee.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposal does not impose any programs, responsibilities, or administrative duties upon any political subdivision of the state, and thus does not violate the NH Constitution, Part I, Article 28-a.

Notice Number 2020-106Rule Number He-C 401

1. Agency Name & Address:

**Dept. of Health & Human Services
Division of Public Health Services
Therapeutic Cannabis Program
29 Hazen Drive
Concord, NH 03301**

2. RSA Authority: RSA 126-X:6, I

3. Federal Authority: _____

4. Type of Action:

Adoption XRepeal XReadoption XReadoption w/amendment X5. Short Title: Therapeutic Cannabis Program- Registry Rules

6. (a) Summary of what the rule says and of any proposed amendments:

He-C 401 describes the requirements for the Therapeutic Cannabis Program registry, including the application process for qualifying patients and designated caregivers to obtain a registry ID card (including processing, approval, denial, revocation, expiration, renewal, notifications, confidentiality, and fees), as well as requirements for certifying medical providers.

The Department of Health and Human Services (Department) is proposing to effectively readopt with amendment He-C 401.

Since these rules were first made effective in 2015, there have been many statutory changes to RSA 126-X, the use of cannabis for therapeutic purposes law, in the intervening years. This proposal updates the rule to align with these statutory changes. The proposal is also responsive to the 2019 performance audit conducted by the Office of the Legislative Budget Assistant, which made findings related to the need to update the rule to align with current statute and current practice. Other proposed changes are intended to improve program integrity and efficiency.

The proposed changes to He-C 401 include the following:

Statutory Changes

- **Adds an allowance for border-state providers to certify patients [401.02(i); 401.06(a)];**
- **Adds an allowance for physician assistants licensed in NH to certify patients [401.02(i); 401.06(a)];**
- **Removes the requirement for a provider-patient relationship of at least a 3-month duration [401.06(b)(1)];**
- **Changes/adds qualifying medical conditions [401.02(k)] by:**
 - **Changing hepatitis C and one or more injuries; and**
 - **Adding ulcerative colitis, Ehlers-Danlos syndrome, and 3 stand-alone conditions which do not need a qualifying symptom: moderate to severe chronic pain; severe pain that has not responded to previously prescribed medication or surgical measures or for which other treatment options produced serious side effects; and moderate or severe post-traumatic stress disorder;**
- **Adds federal notice requirement for applicants [401.04(a)(7)n.; 401.05(a)(4)l.];**
- **Removes the requirement for a photograph to be submitted with the application and to appear on the registry ID card [401.04(b)(3); 401.05(b); 401.11(b)];**

- Updates criminal history records requirements [401.05(d)-(e)];
- Adds an allowance for minor patients and adult patients with co-guardians to have 2 caregivers [401.08 & 401.09];
- Repeals the existing rule text which removes the petition process to request that the Department make a case-by-case determination to approve a condition not listed in the law [401.09];
- Removes the requirement that a new registry ID number be issued for replacement cards [401.13(h)]; and
- Adds a provision that registry information may be released if such release is consistent with applicable HIPAA standards [401.15(b)(9)].

Application Changes

Patient and Caregiver Applications

- Removes the registry ID number as required information for renewal applications [401.04(a)(1); 401.05(a)(1)];
- Adds gender as required information [401.04(a)(2)f.; 401.05(a)(2)f.];
- Removes the requirement to initial the acknowledgements [401.04(a)(7); 401.05(a)(4)];
- Updates the language for the required acknowledgements [401.04(a)(7); 401.05(a)(4)]; and
- Adds an acknowledgement relative to the potential denial of rights and privileges by federal agencies (statutory) [401.04(a)(7)n.; 401.05(a)(4)l.];

Patient Application

- Removes the requirement to provide a NH driver's license or state ID number [401.04(a)(2)f.];
- Removes the requirement to provide the physical address and telephone number of the patient's caregiver [401.04(a)(5)c. and d.]; and
- Removes elements relative to a minor applicant (see new application types below) [various];

Caregiver Application

- Adds an indication whether the criminal record check has been done [401.05(a)(1)];
- Removes the requirement to provide the telephone number of the caregiver's patient [401.05(a)(3)d.]; and
- Removes the requirement to provide the alternative treatment center (ATC) of the caregiver's patient [401.05(a)(3)e.];

Written Certification

- Adds a requirement for the name of the provider's medical practice and fax number [401.07(a)(2)];
- Makes various updates based on statutory changes related to border-state providers, physician assistants, qualifying medical conditions, and duration of a provider-patient relationship (statutory) [various]; and
- Clarifies that if the duration of the certification is not indicated, it shall default to one year [401.07(b)(6)].

New Application Types***Minor Application***

- Adds a new minor patient application, a combined application for both patient and caregiver(s) [401.08]; and
- Establishes the fee for this application type to be \$50 [401.14(b)(3)];

Guardianship Application

- Repeals the existing rule text of He-C 401.09 on approval of a severely debilitating or terminal medical condition not listed as a qualifying medical condition and adopts new rule text to add a new guardianship application for adult patients with a guardian or co-guardians, a combined application for both patient and caregiver(s) [401.09]; and
- Establishes the fee for this application type to be \$50 [401.14(b)(4)].

Application Process Changes

- Changes the timeframe for a signed certification to be accepted, from 60 days to 6 months [401.04(b)(1)];
- Changes the timeframe for proof of residency documentation for patients from 2 to 6 months [401.04(b)(3)c.iii.];
- Adds an exception to non-refundable application fee [401.04(b)(2); 401.05(b)];
- Removes photo requirement to conform to a statute [401.04(b)(3); 401.05(b)(2)];
- Clarifies that notice of an incomplete certification is sent to the certifying provider [401.10(b)-(c)];
- Establishes that if information or documentation is not received within 6 months of an incomplete notice, an application shall be closed [401.10(d)];
- Clarifies that notice of patient approval is sent to the certifying provider [401.10(i)]; and
- Clarifies requirements about insufficient funds [401.11(e)(4)].

Renewal Process Changes

- For caregivers, clarifies that a lapse of registration of one year or longer shall require a new criminal history records check [401.11(b)(1)];
- For patients, establishes that proof of residency is not required if there has not been a change of address [401.11(b)(2)]; and
- Establishes that guardianship documentation is not required unless there has been a change [401.11(b)(3)].

Provider Requirements Changes

- Adds an allowance for border-state providers to conform to a statute [401.06(a)(2) & (b)(2)];
- Prohibits border-state providers who are naturopathic doctors from certifying patients [401.06(a)(2)];
- Adds physician assistants as a NH certifying provider type to conform to a statute [401.06(a)(1) & (b)(3)];
- Removes the requirement for a provider-patient relationship of at least 3 months duration to conform to a statute [401.06(b)(1)];
- Allows telehealth for follow-up care and for recertification by the same certifying provider [401.06(b)(4)a.];

- Establishes a specific process for a provider to withdraw a certification [401.06(f); 401.11(e)(2); 401.13(e)];
- Establishes a process for a provider to extend a short-duration certification [401.06(g); 401.11(e)(1)]; and
- Removes the allowance for a patient's provider, who is not the certifying provider, to request that a patient's registry ID card be voided [401.13(c)].

Other Changes

- Removes the requirement to return old registry ID cards to the Department, and the associated penalty for not doing so and replaces this with the requirement to destroy the cards [401.11(g); 401.12(g); 401.13 (various)];
- Establishes forms to notify the Department of changes and to request replacement cards [401.13(c)-(d)];
- Clarifies that registry information may be released pursuant to a signed release [401.15(b)(8)]; and
- Adds that registry information may be released if such release is consistent with applicable HIPAA standards to conform to a statute [401.15(b)(8)-(9)].

Fees/Fines Changes

- Removes the application fee for a caregiver [401.14(b)(1) & (2); various];
- Establishes the minor application fee and guardianship application fee as \$50 [401.14(b)(3)-(5)];
- Removes the fee for a replacement registry ID card due to a change of name or address [401.14(b)(5)];
- Reduces the fee from \$25 to \$10 for a replacement card due to loss, theft, or destruction [401.14(b)(7)];
- Adds an exception to the non-refundable fee requirement to include the death of patient prior to card issuance [401.14(d)]; and
- Removes the \$150 fine for failure to provide the Department with timely required notifications [401.14(d)].

6. (b) Brief description of the groups affected:

This rule affects patients and their designated caregivers who qualify for the therapeutic use of cannabis. The rule also affects licensed medical providers, including physicians, physician assistants, and advanced practice registered nurses, who certify patients for the Therapeutic Cannabis Program.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

RULE	STATUTE
He-C 401.01	RSA 126-X
He-C 401.02	RSA 126-X:1
He-C 401.03	RSA 126-X:2, IV(a)-(b); RSA 126-X:3, V
He-C 401.04	RSA 126-X:4, I
He-C 401.04(a)(7)n.	RSA 126-X:4, VI
He-C 401.04(b)(3)	RSA 126-X:1, X
He-C 401.05	RSA 126-X:4, II
He-C 401.05(a)(3)	RSA 126-X:1, VI(b)
He-C 401.05(a)(4)l.	RSA 126-X:4, VI
He-C 401.05(b)-(d)	RSA 126-X:4, II-a
He-C 401.06	RSA 126-X:1, VII(a), VIII, XVII
He-C 401.06(b)(5)b.	RSA 126-X:4, V(b)
He-C 401.06(e)	RSA 126-X:8, XVIII
He-C 401.06(f)	RSA 126-X:4, IX(b)
He-C 401.07	RSA 126-X:1, XVII
He-C 401.07(c)(3)b.	RSA 126-X:4, V(b)
He-C 401.07(b)(6)	RSA 126-X:4, IV
He-C 401.08	RSA 126-X:4, I, II, II-a, and V
He-C 401.09	RSA 126-X:4, I, II, and II-a
He-C 401.10	RSA 126-X:4, I-IV
He-C 401.11	RSA 126-X:4, I-IV
He-C 401.11(e)(2)	RSA 126-X:4, IX(b)
He-C 401.12	RSA 126-X:4, III; RSA 126-X:3, VI-VII; RSA 126-X:6, I(c)
He-C 401.13	RSA 126-X:4, IX
He-C 401.13(f)	RSA 126-X:4, XII; RSA 126-X:2, XIV(b)-(c)
He-C 401.14	RSA 126-X:4, I(b); RSA 126-X:6: I(d); RSA 126-X:4, IX(f)
He-C 401.15	RSA 126-X:4, XI; RSA 126-X:10, VI
He-C 401.15(b)(5)	RSA 126-X:4, VII(a)(2)
He-C 401.15(b)(6)	RSA 126-X:10
He-C 401.15(d)	RSA 126-X:4, II(g)
He-C 401.16	RSA 126-X:1, XVI; RSA 126-X:1, VII(b); RSA 126-X:2, V
He-C 401.17	RSA 541-A:22, IV
He-C 401.18	RSA 126-X:6, I(c)

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Allyson Zinno** Title: **Administrative Rules Coordinator**
Address: **Dept. of Health and Human Services** Phone #: **(603) 271-9604**
Administrative Rules Unit Fax#: **(603) 271-5590**
129 Pleasant Street, 2nd Floor E-mail: **allyson.zinno@dhhs.nh.gov**
Concord, NH 03301

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:

<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Tuesday, February 2, 2021**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, January 26, 2021 at 1:00pm**

Place: **[DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH](#)**

This meeting may also be accessed using Microsoft Teams using the information below:

Join on your computer or mobile app

[Click here to join the meeting](#)

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The following email address will be monitored during the meeting if there is any public access or technical problems during the meeting: allyson.zinno@dhhs.nh.gov.

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 20:100 , dated December 18, 2020

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rule, the proposed rule may decrease costs to state citizens and increase costs to independently-owned businesses.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

Any costs or benefits due to changes to qualifying medical conditions are attributable to statute (RSA 126-X:1, IX) and are not described here. Costs and benefits due to proposed changes to the schedule of fees and fines are attributable to the rule, and are described below.

A. To State general or State special funds:

Pursuant to RSA 126-X:6, II(a), the fee structure established by the Department for registry ID cards and Alternative Treatment Centers shall generate revenues sufficient to offset all Department expenses of implementing and administering RSA 126-X. As a result, although the proposed rule will result in decreased fee revenue, this will necessitate a corresponding increase in costs allocated among the licensed Alternative Treatment Centers (ATC). Accordingly, there are no costs or benefits to the state general fund resulting from the rule.

B. To State citizens and political subdivisions:

Citizens of the state who are qualifying patients or designated caregivers, or are applying to become one, will benefit from proposed changes to the fee/fine schedule, as follows:

- Caregivers will benefit by not having to pay an annual \$50 application fee;
- Patients and caregivers will benefit by not having to pay a \$25 fee for a replacement registry ID card due to a change of name or address;
- Patients and caregivers will benefit by having to pay \$10, rather than \$25, for a replacement registry ID card due to loss, theft, or destruction;
- Patients and caregivers will benefit from the removal of the \$150 fine for failure to provide the Department with timely required notifications, to the extent they did not provide such notifications;
- Citizens will benefit from being able to receive a refund of the \$50 application fee if the patient applicant dies prior to a registry ID card being issued; and
- Citizens will benefit from the statutory change that removes the requirement for a photograph of the applicant's face to be submitted to the Department every 5 years, to the extent that securing such a photo was a cost to such citizens.

C. To independently owned businesses:

The proposed changes to the fee schedule will result in indeterminable costs to ATCs, because such changes will decrease fee revenue received by the Department and thus increase the share of Department costs for administering the program that is billed to the ATCs. The Department of Health and Human Services provided the following data for State Fiscal Year 2020:

SFY20 (July 1, 2019 – June 30, 2020)

Fee Type	Current Fee	Instances	Revenue	Proposed fee	Projected fiscal impact (revenue reduction)
Change of Name*	\$25	6	\$150	\$0	\$150
Change of Address*	\$25	189	\$4,725	\$0	\$4,725
Lost Card	\$25	68	\$1,700	\$10	\$1,020
Caregiver Application**	\$50	510	\$25,500	\$0	\$25,500
				TOTAL:	\$31,395

Assuming the same number of instances of these events over a subsequent fiscal year, it could be estimated that there would be a \$31,395 reduction in Department revenue, and a corresponding increase in costs allocated among the four licensed ATCs.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rule modifies an existing program or responsibility, but does not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.

Notice Number 2020-107

Rule Number Plc 1001

<p>1. Agency Name & Address:</p> <p>Office of Professional Licensure & Certification 7 Eagle Square Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 310-A:1-d, II(h)(1)</u></p> <p>3. Federal Authority: <u>n/a</u></p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p>
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5. Short Title: **OPLC Rules Governing General Fees, Credit Card Fees, and Professional Health Program Fees**

6. (a) Summary of what the rule says and of any proposed amendments:

The intended action is to adopt various fees in a new Chapter Plc 1000 on fees and per diems, containing Part Plc 1001 on fees applicable across all or a subset of OPLC boards, commissions, and councils, as follows:

- **Adopt Plc 1001.01, concerning general fees for all boards, commissions, and councils, to standardize the fee for copying of documents;**
- **Adopt Plc 1001.02, concerning credit card service fees, to begin charging a fee of \$2.50 for the use of a credit card, as contemplated in RSA 21-G:6-a; and**
- **Adopt Plc 1001.03, concerning a professional health program fee, to set a fee for licensees of the boards that use the professional health program, as contemplated by RSA 310-A:1-e, I-a.**

6. (b) Brief description of the groups affected:

This proposal affects individuals who are requesting paper copies of records from the OPLC, as those individuals will be charged a standard fee of \$.25 per page for those copies. This proposal also affects individuals who are applying for a license or renewing a license with a credit card, as these individuals will be charged a flat service fee of \$2.50 for the use of a credit card. Finally, this proposal affects licensees of the following boards, as they will be charged a \$16.00 professional health program fee at initial licensure and at each renewal, at a cost of \$8.00 per year: Medicine, Pharmacy, Dental Examiners, Nursing, Veterinary Medicine, Psychologists, Chiropractic Examiners, Mental Health Practitioners, Optometrists, Podiatrists, Licensed Dietitians, and Licensed Alcohol and Drug Use Professionals.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule	Statute Implemented
Plc 1001.01	RSA 310-A:1-e; RSA 310-A:1-d, II(h)(1)
Plc 1001.02	RSA 310-A:1-e; RSA 21-G:6-a
Plc 1001.03	RSA 310-A:1-e, I-a

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Thomas Broderick** Title: **Attorney III**
 Address: **Office of Professional Licensure and Certification** Phone #: **(603) 271-3103**
7 Eagle Square Fax#: **(603) 271-0597**
Concord, NH 03301 E-mail: **Thomas.R.Broderick@oplcnh.gov**

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **On January 21, 2021 at the end of the hearing.**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, January 21, 2021 at 9:00 a.m.**
Zoom Meeting. Login and Dial-in details will be posted to the Office of Professional Licensing and Certification website at <https://us02web.zoom.us/j/87558804637?pwd=c040dIV5ZURzOEU1WGdkUU1JSVFEz09>, by Thursday, January 14, 2021. If any member of the public has difficulty accessing the meeting, please contact Lindsey Courtney, J.D. at Lindsey.B.Courtney@oplcnh.gov.

Place:

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 20:101, dated 12-14-2020

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Not applicable as these are new rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

Proposed Plc 1001.01 implements a new service fee of \$0.25 per page for copies of documents and is permitted pursuant to RSA 91-A:4, IV(d). The Office of Professional Licensure and Certification (OPLC) intends to only charge this fee for specific requests for paper copies of records, which is a rare instance. The OPLC is unable to estimate the fiscal impact of this new fee but expects it to have a de minimus positive impact on the OPLC fund (RSA 310-A:1-e,I(b)).

Proposed Plc 1001.02 implements a new fee of \$2.50 for each transaction where a credit card is used. This type of fee is permitted pursuant to RSA 21-G:6-a to allow state agencies to recoup the

cost of these transactions. Individuals will still have the option to pay a fee in person or via check and avoid this administrative fee, but if they choose to pay with a credit card, they will be charged this fee to defray the cost of credit card fees that is currently being absorbed by the OPLC. OPLC cannot provide an estimate of the amount raised by this proposed fee for the OPLC fund but reports it paid approximately \$130,000 in such fees to its credit card vendor in FY 2020 and this amount is expected to increase in future fiscal years with increased online transactions for applicants and licensees.

Proposed Plc 1001.03 implements a \$16 fee to be deposited in the New Hampshire health professionals administration fund (PHP fund) on each initial application and each renewal application for the following boards: Medicine, Pharmacy, Dental Examiners, Nursing, Veterinary Medicine, Psychologists, Chiropractic Examiners, Mental Health Practitioners, Optometrists, Podiatrists, Licensed Dietitians, and Licensed Alcohol and Drug Use Professionals. The PHP fund is continually appropriated and fees are allowable pursuant to RSA 310-A:1-e, I-a and such fees may also be assessed to cover 125% of the actual cost of providing the service.

The current contract with a PHP provider costs \$542,000 annually, or roughly \$7.18 per licensee, based on 75,445 licensees of the impacted boards. The proposed \$16 fee would cover a 2 year license period, equating to \$8 per year. The proposed \$8 annual fee is expected to raise \$603,560. This amount is approximately 111% of the actual cost of providing the service, which is within the 125% assessment allowable in RSA 310-1-e, I-a.

A. To State general or State special funds:

The OPLC fund will benefit by an indeterminable amount based on the fees proposed in Plc 1001.01 and Plc1001.02 to offset current costs. The PHP fund will benefit by approximately \$603,560 based on proposed Plc 1001.03.

B. To State citizens and political subdivisions:

State citizens and licensees who wish to obtain paper copies of records, utilize credit cards for transactions and those licensees covered by affected boards within the PHP program will incur such fees to obtain services or license and renewal applications. No impact on political subdivisions.

C. To independently owned businesses:

Independent businesses or businesses that cover their licensed employees' expenses will incur fees for those who wish to obtain paper copies of records, utilize credit cards for transactions and those licensees covered by affected boards within the PHP program.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

These rules do not violate Part I, Article 28-a of the New Hampshire Constitution. These rules do not mandate or assign this program to any political subdivision in any way.

INTERIM RULEMAKING NOTICE FORM

Proposed Interim Rule Number **2020-7** Rule Number **Ed 504.12; Ed 505.07(b) intro., (16), & (17); Ed 505.08; and Ed 505.09(d)**

<p>1. Agency Name & Address: State Board of Education c/o Department of Education 101 Pleasant Street Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 21-N:9,II(s)</u> 3. Federal Authority: _____ 4. Type of Action: Adoption <u> X </u> Amendment <u> X </u> Repeal _____ Readoption _____ Readoption w/amendment <u> X </u></p>
<p>5. Filing Date: December 22, 2020</p>	

6. Short Title: **Criminal History Record Check Credential**

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Amanda Phelps	Title:	Administrative Rules Coordinator
Address:	Department of Education 101 Pleasant Street Concord, NH 03301	Phone #:	603-271-2718
		Fax#:	603-271-4134
		E-mail:	amanda.phelpse@doe.nh.gov

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Summary explaining the effect of the rule:

Ed 504.12 regarding criminal history record check credentials is being proposed as an interim rule pursuant to RSA 541-A:19, I(a) to conform to HB 1558 (Chapter 38 of the Laws of 2020). Section 35 of HB 1558, effective 1-1-21, amended RSA 21-N:9, II(s) to include school bus drivers and transportation monitors in the State Board of Education’s rulemaking authority over credentialing standards. In addition, Section 35 of HB 1558, effective 1-1-21, enacted RSA 189:13-b, which requires the Department of Education to run background checks on all school bus drivers. Ed 505.07(b) on application instructions and Ed 505.09(d) on applicant, employer, and mentor responsibilities are being amended to incorporate the new credential application by reference and add the application to the application process, and Ed 505.08 on fees is being readopted with amendment to add the new credentialing fee.

9. Listing of people, enterprises, and government agencies affected by the rule:

School districts, school bus companies, school bus drivers, and transportation monitors are affected by the rule.

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

Rule	Specific State Statute the Rule Implements
Ed 504.12	RSA 21-N:9,II(s); RSA 186:11, X(a)
Ed 505.07(b) intro. (b)(16), and (b)(17)	RSA 186:11, X(a)&(b)
Ed 505.08	RSA 186:11, X(b)
Ed 505.09(d)	RSA 186:11, X

11. Summary of the effect upon the state if the rule were not adopted:

Pursuant to RSA 189:13-b, the Department is required to run background checks on all school bus drivers and transportation monitors effective January 1, 2021. The interim rule is required to establish the process for the criminal history record check until regular rulemaking can be completed.

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules:

January 15, 2021

13. The fiscal impact statement prepared by the Legislative Budget Assistant, if applicable.

FIS # 20-106, dated 12/21/2020

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

The proposed interim rules would increase costs to state citizens, to the extent they are employed as a school bus driver or transportation monitor.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

The proposed rules, in response to the requirement in RSA 189:13-b, establish an application for criminal history record check for school bus drivers and transportation monitors, along with a \$100 fee to cover a five-year period. The Department of Education does not have data to estimate total number of school bus drivers and transportation monitors employed by school bus companies and school districts. This rule would result in increased costs to state citizens, to the extent they are a school bus driver or transportation monitor.

All fee revenue collected would be credited to the Department of Education Credentialing Fund (RSA 186:11, X).

A. To State general or State special funds:

See 3 above. No impact on state general funds.

B. To State citizens and political subdivisions:

See 3 above. No impact to political subdivisions.

C. To independently owned businesses:

None.

**REMOTE REGULAR MEETING
LOGIN INSTRUCTIONS**

FRIDAY, JANUARY 15, 2021 @ 9:00 A.M.

The Regular Meeting of the Joint Legislative Committee on Administrative Rules (JLCAR) on January 15, 2020 will be held as a Zoom webinar.

Committee and staff members will receive secure Zoom invitations by e-mail.

Members of the public and state agency personnel who plan to attend the meeting do not have to pre-register, but if they wish to speak they should contact Cheryl Walsh in the Administrative Rules office at cheryl.walsh@leg.state.nh.us. This makes it easier to keep track of how many persons may have to be upgraded in the meeting as participants and therefore to ensure participation by agency staff and the public.

Members of the public and state agency personnel may attend using one of the following alternatives:

1. Join the webinar: <https://zoom.us/j/99054565866>

2. iPhone one-tap:

US: +13017158592,,99054565866# or +13126266799,,99054565866#

3. Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +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

Webinar ID: 990 5456 5866

International numbers available: <https://zoom.us/u/abLCeu0QgY>

The following e-mail address will be monitored throughout the meeting by JLCAR staff who can assist with and alert the JLCAR to any technical issues: cheryl.walsh@leg.state.nh.us or call 603-271-6647.