

JUN 25 2021

APPENDIX II-K

COVER SHEET FOR EMERGENCY RULE

ADOPTED RULE	
DOCUMENT #	<u>13219</u>
FILED	<u>6-25-21 @</u>
EFFECTIVE	<u>6-25-21 @</u>
EXPIRES	<u>Nur 301.02</u>

9:50AM
9:50AM

Document Number 13219

Rule Number _____

<p>1. Agency Name & Address:</p> <p>Office of Professional Licensure & Certification 7 Eagle Square Concord, NH 03301</p> <p>5. Date of Filing: <u>June 25²⁵ 18, 2021</u></p>	<p>2. RSA Authority: <u>RSA 326-B:4, III</u></p> <p>3. Federal Authority: <u>n/a</u></p> <p>4. Type of Action:</p> <p>Adoption <u>X</u></p> <p>Amendment _____</p> <p>Repeal _____</p>
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6. Short Title: **Nursing Licensing Requirements**

7. Contact person for copies and questions:

Name: Lindsey B. Courtney	Title: Executive Director
Address: 7 Eagle Square	Phone #: (603) 271-6985
Concord, NH 03301	

****PLEASE ATTACH THE FOLLOWING**, numbered to correspond to the numbers on this sheet (a separate sheet is not required for every item):

8. An explanation of the nature of (a) the imminent peril to public health or safety, demonstrating that the emergency rule is necessary to prevent the imminent peril, or (b) the substantial fiscal harm to the state or its citizens which could otherwise occur if the rule were not adopted as an emergency rule.

9. A summary of the effect if the rule were not adopted.

10. A description of those affected.

***PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET** and all attachments along with 2 copies of the emergency rule to the Office of Legislative Services, Administrative Rules.

****PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,* hereby certify that the attached is an accurate statement explaining why an emergency rule is necessary.

Date: 6-24-2021

Signature: Tracy Collins

Name: Tracy Collins

Title: Chair

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

8. On Friday, March 13, 2020, Governor Chris Sununu signed Executive Order 2020-04. This executive order declared a state of emergency due to Novel Coronavirus (COVID-19). Section 5 of the Executive Order states:

Any out-of-state personnel, including, but not limited to, medical personnel, entering New Hampshire to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in RSA 21-P:41 and any other applicable statutory authority with respect to licensing and certification regarding mutual aid during emergencies for a period of time not to exceed the duration of this emergency.

The Executive Order also stated that pursuant to RSA 4:45 and 4:47, the Governor's Office may be issuing additional emergency orders to deal with the COVID-19 pandemic.

On March 23, 2020, the Governor issued Emergency Order #15, which states, in part:

To protect the public's health and increase access to medical care in New Hampshire, any out-of-state medical provider whose profession is licensed within this State shall be allowed to perform any medically necessary service as if the medical provider were licensed to perform such service within the state of New Hampshire subject to the following conditions:

- a) The medical provider is licensed and in good standing in another United States jurisdiction.
- b) The medical services provided within New Hampshire are in-person or through appropriate forms of telehealth, as set forth in Emergency Order #8.
- c) The medical provider presents to the Office of Professional Licensure & Certification evidence that they are licensed in good standing in another jurisdiction. Such medical providers shall be issued an emergency New Hampshire license at no cost, which shall remain valid during the declared state of emergency.
- d) Medical providers shall be subject to the jurisdiction of the appropriate state licensing body while providing services within New Hampshire.

Emergency Order #15 has been renewed consistently since March 2020, through Executive 2020-04 (2020) as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, 2020-21, 2020-23, 2020-24, 2020-25, 2021-01, 2021-02, 2021-04, 2021-05, 2021-06, and 2021-08. Pursuant to Emergency Order #15, emergency licenses remain valid only during the declared state of emergency.

On December 10, 2020, the Governor issued Emergency Order #75, granting the Office the ability to issue emergency licenses pursuant to Emergency Order #15 to nursing students who were scheduled to graduate on or before May 31, 2021, from a Board of Nursing approved registered or practical nursing program. The Order permitted nursing students to work alongside licensed staff in healthcare facilities to assist with the healthcare workforce shortage impacting the State during the COVID-19 pandemic.

On June 11, 2021, the State of Emergency expired. As of June 11, 2021, 216 nursing graduates were practicing nursing under an emergency license. With the expiration of the State of Emergency, the student nursing emergency licenses expired, significantly impacting our healthcare workforce. These graduates are not able to obtain full licensure until such time as they complete an examination and undergo an FBI background check, which takes weeks, if not months. These emergency rules permit these individuals to apply for a temporary license under RSA 326-B, while their examination and FBI background checks are pending.

These rules are being implemented because there is an imminent peril to public health and safety which requires that these emergency rules be implemented to prevent the imminent peril. As a result of the expiration of these emergency nursing licenses, the State lost 216 of healthcare workers overnight. Facilities who relied on these nurses were left scrambling to try to obtain additional workforce at a time when there is already a significant workforce shortage. Facilities have reported having to consider bed closure. As the State was already facing a health care workforce shortage when COVID-19 began, a continued, unnecessary loss of qualified licensees in the State would have devastating impact on public health.

9. If these rules were not adopted, New Hampshire would continue to lose 216 healthcare workers, at a time when New Hampshire already faces a significant healthcare workforce shortage. New Hampshire would not be able to provide an adequate workforce to meet the health needs of its constituents.

10. These emergency rules will affect nursing graduates seeking licensure in New Hampshire, including those who have an emergency license issued pursuant to Emergency Order #75 and Emergency Order #15 pursuant to Executive Order #2020-04.

Doc. #13219 (app. 6/25/21)
Emergency Rule Expires: 12-20-21

Readopt with amendments Nur 301.02, effective 4-4-19 (Document #12753) to read as follows:

Nur 301.02 Temporary Registered and Practical Nurse Licensure.

(a) This section shall apply to each registered or practical nurse applicant who **is waiting for the results of an FBI background check**, has met the requirements for licensure except passage of the required examination, and seeks a once-per-lifetime temporary registered or practical nurse license pursuant to RSA 326-B:24 while awaiting a decision on full licensure pursuant to Nur 301.01.

(b) Each applicant for a temporary registered or practical nurse license shall:

- (1) Submit a completed “Application for New Hampshire Temporary Nurse Licensure”, as amended 7-2015;
- (2) Demonstrate proficiency in English as outlined in Nur 302.01(a), if currently foreign educated; and
- (3) Pay the application fee of \$20.

(c) Each temporary license shall expire at the earlier of the following:

- (1) A final licensure determination is made after receipt of initial examination results;
or
- (2) The passage of 120 days from the date of issuance.

(d) A temporary licensee shall, pursuant to RSA 326-B:24, III, practice only under the supervision of an RN currently licensed in New Hampshire or working under a compact license, pursuant to RSA 326-B:46.