

**COVER SHEET FOR EMERGENCY RULE**

Document Number \_\_\_\_\_

Rule Number Plc 803

1. Agency Name & Address:

**Office of Professional Licensure and  
Certification  
7 Eagle Square  
Concord, NH 03301**

2. RSA Authority: RSA 310-A:1-d, (h)(2)

3. Federal Authority: \_\_\_\_\_

4. Type of Action:

Adoption X

Amendment \_\_\_\_\_

Repeal \_\_\_\_\_

5. Date of Filing: **September 17, 2021**

6. Short Title: **Emergency Licensure Under Laws of 2021, 121:2**

7. Contact person for copies and questions:

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**\*\*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: September 17, 2021

Signature: 

Name: Lindsey B. Courtney

Title: Executive Director

\*("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.)

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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.

**Laws of 2021, chapter 121, effective July 9, 2021, was enacted to codify provisions included in select emergency orders issued by the Governor in response to the COVID-19 pandemic. RSA 310-A:1-i as inserted by 2021, 121:2 requires the Office of Professional Licensure and Certification (OPLC) to issue emergency licenses to certain individuals with health care training to alleviate a shortage of medical providers available during the continuing pandemic. These emergency rules implement this new law to enable qualifying student nurses, medical fellows, and medical providers to apply for an emergency license. As provided in the law, emergency licenses issued pursuant to the law “shall expire on or before January 31, 2022.”**

**These rules are being adopted because there is an imminent peril to public health and safety that requires the licensing, on an emergency, temporary basis, of certain health care professionals to respond to the continuing COVID-19 pandemic. According to information available on [www.nh.gov](http://www.nh.gov), “New Hampshire announced 561 cases for September 16. There were an average of 447 cases per day over the most recent 7 day period (September 10 to September 16). This is a 22% increase compared to the previous 7-day period.” (Emphasis in original.) Also, the website reports that there have been 1,452 deaths in New Hampshire attributed to COVID-19 cases, and there currently are over 4,000 active cases of COVID-19 in the state.**

**The state, and the nation, are in the midst of another wave of COVID-19 cases. Experts are warning that our health care system may be overburdened by the amount patients that will need care due to COVID-19. At a press conference on September 16, 2021, Governor Sununu stated, in response to a question about providing a sense of the anticipated trajectory of the pandemic, “It’ll be worse than last year, I think. Yeah. It’ll be as bad or worse than last year, in terms of cases.” He also asserted that part of providing support to hospitals, doctors, and nurses is “broadening the scope of all Healthcare Professionals, whether you’re a Dental Hygienist or a Dentist, a Midwife, whatever it might be, broaden their scope of ability so they could be part of the solution. Maybe it’s not in a COVID ICU. Maybe it’s just helping another individual with a heart condition, whatever it might be. But a lot of these individuals have great medical training that can be utilized in our Healthcare Network as we see this crunch come on.” The Governor also spoke of the impact that having hospitals so burdened with COVID-19 cases that they could not address other serious medical conditions. See <https://www.governor.nh.gov/sites/g/files/ehbemt336/files/inline-documents/sonh/20210915-transcript.pdf>.**

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

**If these emergency rules were not adopted, the OPLC would not have duly-adopted procedures by which eligible individuals could apply for emergency licensure, thereby continuing the shortage of those who can provide medical care during the pandemic. If the shortage continues, some citizens will die who may have lived if they had received adequate treatment and care.**

10. A description of those affected.

**The emergency rules directly affect those individuals who are qualified to apply for emergency licensure under Laws of 2021, 121:2, and indirectly affect every New Hampshire citizen who needs or who may need health care in the coming months.**

*Adopt Part Plc 803 to read as follows:*

PART Plc 803 EMERGENCY LICENSURE UNDER LAWS OF 2021, 121:2

Statutory Authority: RSA 310-A:1-d(h)(2)

Plc 803.01 Purpose and Applicability.

(a) The purpose of this part is to implement RSA 310-A:1-i as inserted by Laws of 2021, 121:2, effective July 9, 2021, reprinted in Appendix B, relative to emergency licensure for certain medical professionals in response to the COVID-19 pandemic.

(b) This part shall apply to those individuals identified in Laws of 2021, 121:2, namely medical providers who are not currently licensed, fellows enrolled in a New Hampshire program accredited by the Accreditation Council for Graduate Medical Education who meet the specified criteria, and senior nursing students who are scheduled to graduate within 5 months from the date of application who meet the specified criteria.

Plc 803.02 Definitions. For purposes of this part, the following definitions shall apply:

(a) “Applicable statute” means RSA 310-A:1-i as inserted by Laws of 2021, 121:2, effective July 9, 2021;

(b) “Executive director” means the executive director of the office of professional licensure and certification (OPLC) or designee for licensing purposes; and

(c) “Medical provider” means an individual covered by the previous definition of “health care professional” in RSA 310-A:1-f, namely those licensed under any of the following statutes:

- (1) RSA 328-G relative to acupuncture;
- (2) RSA 330-C relative to alcohol and other drug use professionals;
- (3) RSA 328-F relative to allied health professionals;
- (4) RSA 316-A relative to chiropractors;
- (5) RSA 317-A relative to dentists;
- (6) RSA 326-H relative to dietitians;
- (7) RSA 325 relative to funeral directors and embalmers;
- (8) RSA 328-J relative to medical imaging and radiation therapists;
- (9) RSA 328-I relative to medical technicians;
- (10) RSA 329 relative to physicians and surgeons or RSA 328-D relative to physician assistants;
- (11) RSA 330-A relative to mental health practice;
- (12) RSA 326-D relative to midwifery;
- (13) RSA 328-E relative to naturopaths;
- (14) RSA 326-B relative to nursing;
- (15) RSA 151-A relative to nursing home administrators;

- (16) RSA 327-A relative to ophthalmic dispensers;
- (17) RSA 327 relative to optometry; and
- (18) RSA 318 relative to pharmacy.

Plc 803.03 Applying for a Student Nursing Emergency License.

(a) For purposes of this section, the following definitions shall apply:

- (1) “Licensed health care facility” means a facility licensed under New Hampshire law to provide health care on an in-patient or out-patient basis, or both;
- (2) “Licensed health care provider” means a New Hampshire-licensed doctor of medicine (MD), doctor of osteopathy (DO), advanced practice registered nurse (APRN), registered nurse (RN), licensed practical nurse (LPN), or physician assistant (PA); and
- (3) “Qualifying student nurse” means an individual who is scheduled to graduate, within 5 months from the date of application, from a registered nursing or practical nursing program approved by the board of nursing.

(b) As provided in the applicable statute, a qualifying student nurse may apply for an emergency license if he or she meets the following criteria:

- (1) The individual is employed by, or providing health care services at the direction of, a licensed health care facility or a licensed health care provider;
- (2) The individual is directly supervised while providing health care services; and
- (3) The health care services are being provided in response to the COVID-19 pandemic.

(c) An applicant for an emergency license under this section shall provide the executive director with the following via the electronic licensing portal available at <https://forms.nh.gov/license/Login.aspx>:

- (1) First name, middle name, and last name, as well as any maiden name or other name(s) used;
- (2) Home mailing address;
- (3) Telephone number including area code;
- (4) Social security number as required by RSA 161-B:11, VI-a;
- (5) Email address;
- (6) Date of birth;
- (7) A transcript from a board-approved nursing program documenting the student’s projected graduation date; and
- (8) Affirmation of the following certification:

Under penalty of law, I state that the information provided is accurate to the best of my knowledge and belief. I understand that knowingly providing false information may be grounds for denial, probation, reprimand, suspension, or revocation of a license and may be grounds for conviction of a misdemeanor under RSA 641 relative to falsification in official matters.

Plc 803.04 Applying for Emergency Licenses for Inactive Medical Provider.

(a) For purposes of this section, “qualifying medical provider” means:

- (1) Any medical provider previously licensed in New Hampshire in the last 3 years whose license is no longer active, provided the medical provider’s license was in good standing prior to being placed in inactive or lapsed status; and
- (2) Any medical provider previously licensed to practice in another jurisdiction within the last 3 years whose license is no longer active, provided:
  - a. The medical provider’s license was in good standing in another United States jurisdiction prior to being placed in inactive or lapsed status; and
  - b. The medical provider presents evidence to the OPLC that the medical provider was licensed and in good standing immediately prior to the change in licensure status.

(b) As provided in the applicable statute, notwithstanding any law or rule to the contrary a qualifying medical provider shall not be required to complete continuing education as a condition precedent to:

- (1) Reactivating his or her license pursuant to this section, if previously licensed in New Hampshire; or
- (2) Receiving an emergency license pursuant to this section, if previously licensed in another U.S. jurisdiction.

(c) A qualifying medical provider applying for an emergency license under this section shall provide the executive director with the following via the electronic licensing portal available at <https://forms.nh.gov/license/Login.aspx>:

- (1) First name, middle name, and last name, as well as any maiden name or other name(s) used;
- (2) Home mailing address;
- (3) Telephone number including area code;
- (4) Social security number as required by RSA 161-B:11, VI-a;
- (5) Email address;
- (6) Date of birth;
- (7) If the applicant was not previously licensed in New Hampshire, primary source verification such as a print-out or screen capture of the licensing board’s portal from the prior state of licensure demonstrating the individual was licensed to practice in another jurisdiction within the past 3 years, and that the license was in good standing prior to being placed in inactive or lapsed status; and
- (8) Affirmation of the following certification:

Under penalty of law, I state that the information provided is accurate to the best of my knowledge and belief. I understand that knowingly providing false information may be grounds for denial, probation, reprimand, suspension, or revocation of a license and may be grounds for conviction of a misdemeanor under RSA 641 relative to falsification in official matters.

Plc 803.05 Applying for Emergency Licenses for Medical Fellows.

(a) As provided in the applicable statute, any fellow enrolled in a New Hampshire program accredited by the Accreditation Council for Graduate Medical Education to practice within the fellow's core specialty may apply for an emergency license under this section, provided:

- (1) The fellow is American Board of Medical Specialties (ABMS) or American Osteopathic Association (AOA) board-eligible or certified in the core specialty;
- (2) The fellow is appointed to the medical staff at a sponsoring institution and will engage in practice consistent with the policies and procedures of the sponsoring institution and its participating sites; and
- (3) The time spent in core specialty service is limited to 20 percent of the fellow's annual education time in any academic year.

(b) An applicant for an emergency license under this section shall provide the executive director with the following via the electronic licensing portal available at <https://forms.nh.gov/license/Login.aspx>:

- (1) First name, middle name, and last name, as well as any maiden name or other name(s) used;
- (2) Home mailing address;
- (3) Telephone number including area code;
- (4) Social security number as required by RSA 161-B:11, VI-a;
- (5) Email address;
- (6) Date of birth;
- (7) A letter from the sponsoring institution attesting to the following:
  - a. The fellow is appointed to the medical staff at the sponsoring institution and will engage in practice consistent with the policies and procedures of the sponsoring institution and its participating sites; and
  - b. The time spent in the core specialty is limited to 20 percent of the fellow's annual education time in any academic year;
- (8) Affirmation that the applicant is board eligible or board certified; and
- (9) Affirmation of the following certification:

Under penalty of law, I state that the information provided is accurate to the best of my knowledge and belief. I understand that knowingly providing false information may be grounds for denial, probation, reprimand, suspension, or revocation of a license and may be grounds for conviction of a misdemeanor under RSA 641 relative to falsification in official matters.

Plc 803.06 Processing of Applications for Emergency Licensure.

(a) Upon receipt of an application under this part, the executive director shall review the application to determine whether the application is complete.

(b) If the application is not complete, the executive director shall promptly notify the applicant of what is needed to complete the application.

(c) If the application is complete, the executive director shall review the application to determine whether the applicant meets the criteria for emergency licensure under this part.

(d) If the applicant has demonstrated that he or she meets the criteria for emergency licensure under this part, the executive director shall issue an emergency license as provided in Plc 803.07.

(e) If the applicant has not demonstrated that he or she meets the criteria for emergency licensure under this part, the executive director shall notify the applicant that the application is being denied, and include the reason(s) for the denial.

(f) If the applicant believes the denial is in error, the applicant may request a hearing to provide additional information supporting the application.

(g) If a hearing is requested under (f), above, the executive director shall:

(1) Schedule a hearing promptly; and

(2) Conduct the hearing in accordance with Plc 200 and RSA 541-A.

Plc 803.07 Emergency Licenses.

(a) An emergency license issued pursuant to Plc 803.06(d) shall identify the individual licensed and the date of issuance.

(b) As provided in the applicable statute, an emergency license issued pursuant to this part shall expire on January 31, 2022 unless sooner revoked or suspended.

(c) As provided in the applicable statute, all individuals licensed under this section shall be subject to the jurisdiction of the state licensing body for that profession.

#### Appendix A: State Statute Implemented

Rule	State Statute Implemented
Plc 803	RSA 310-A:1-i as inserted by Laws of 2021, 121:2, effective 07/09/2021

#### Appendix B: Laws of 2021, 121:2, effective 07/09/2021

121:2 New Section; Office of Professional Licensure and Certification; Emergency Licensing Process. Amend RSA 310-A by inserting after section 1-h the following new section:

**310-A:1-i Emergency Licensing Process.** Notwithstanding any other law to the contrary, the office of professional licensure and certification may issue emergency licenses to the following applicants:

I. Any medical provider previously licensed in New Hampshire in the last 3 years whose license is no longer active, subject to the following:

(a) The medical provider's license was in good standing prior to being placed in inactive or lapsed status.

(b) Notwithstanding any law or rule to the contrary, a medical provider shall not be required to complete continuing education as a condition precedent to reactivating their license pursuant to this section.

II. Any medical provider previously licensed to practice in another jurisdiction within the last 3 years whose license is no longer active, subject to the following:

(a) The medical provider's license was in good standing in another United States jurisdiction prior to being placed in inactive or lapsed status; and

(b) The medical provider presents evidence to the office of professional licensure and certification that the medical provider was licensed and in good standing immediately prior to the change in licensure status.

(c) Notwithstanding any law or rule to the contrary, a medical provider shall not be required to complete continuing education as a condition precedent to receive an emergency license pursuant to this section.

III. Any fellow enrolled in a New Hampshire program accredited by the Accreditation Council for Graduate Medical Education to practice within the fellow's core specialty, subject to the following:

(a) The fellow is American Board of Medical Specialties (ABMS) or American Osteopathic Association (AOA) board-eligible or certified in the core specialty.

(b) The fellow is appointed to the medical staff at a sponsoring institution and will engage in practice consistent with the policies and procedures of the sponsoring institution and its participating sites.

(c) The time spent in core specialty service is limited to 20 percent of the fellow's annual education time in any academic year.

(d) A fellow seeking to practice under this paragraph shall provide the office of professional licensure and certification with appropriate evidence that the required qualifications have been met.

IV. Senior nursing students, who are scheduled to graduate within 5 months from the date of application, from a board of nursing approved registered nursing or practical nursing program, subject to the following:

(a) The individual is employed by or providing health care services at the direction of, a licensed health care facility or a licensed health care provider.

(b) The individual is directly supervised while providing health care services.

(c) The health care services are being provided in response to the COVID-19 pandemic.

V. Any provider seeking an emergency license under this section shall submit his or her request on a form adopted by the office of professional licensure and certification for such purpose.

VI. In this section, an applicant in good standing shall include medical providers who are subject to nondisciplinary conditions, but shall not include medical providers whose licenses have been revoked, canceled, surrendered, suspended, denied, or subject to disciplinary restrictions.

VII. Licenses issued pursuant to this section shall be on a temporary basis and shall expire on or before January 31, 2022.

VIII. Emergency licenses issued during the COVID-19 pandemic pursuant to the governor's executive order 2020-04 shall not be deemed to have lapsed upon expiration of the state of emergency and shall be converted to a license under this section on the effective date of this section. This provision is intended to apply retroactively to extend the expiration date of all emergency licenses issued under executive order 2020-04 to January 31, 2022.

IX. All individuals licensed under this section shall be subject to the jurisdiction of the state licensing body for that profession.

X. The office of professional licensure and certification may issue guidance relative to the emergency licensing process established in this section, which may include guidance concerning the appropriate supervision of nursing students. Any guidance shall be posted on the board's website.