

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2022-34

Rule Number Plc 1001.08, 1001.14, 1001.15, 1001.16

1. Agency Name & Address:

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

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

3. Federal Authority: n/a

4. Type of Action:

- ☒ Adopt
☐ Amendment (only if Initial
Proposal was filed before 9/27/20.)
☐ Repeal
☐ Readoption
☒ Readoption w/amendment

5. Short Title: **Professionals' Health Program Fees; Fees for Letter of Good Standing, Warranty Seal**

6. Contact person for copies and questions:

Name: **Gretchen Hamel**

Title: **Program Specialist IV**

Address: **OPLC
7 Eagle Square
Concord, NH 03301**

Phone #: **Please contact via email:
Gretchen.Hamel1@oplcnh.gov**

7. The rulemaking notice appeared in the Rulemaking Register on **March 10, 2022**.

**SEE THE INSTRUCTIONS--PLEASE SUBMIT ONE COPY OF THIS COVER SHEET
AND ONE COPY OF THE FOLLOWING:
(optional to number correspondingly)**

8. The "Final Proposal-Fixed Text," including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

9. Yes ☐ N/A ☒ Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

10. Yes ☒ N/A ☐ The "Final Proposal-Annotated Text," indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(d).

11. Yes ☐ N/A ☒ The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

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	3. Federal Authority: <u>n/a</u>
	4. Type of Action:
	Adoption <u>X</u>
	Repeal <u> </u>
	Readoption <u> </u>
	Readoption w/amendment <u>X</u>

5. Short Title: **Professionals' Health Program Fees; Fees for Letter of Good Standing, Warranty Seal**

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

The OPLC is proposing to readopt Plc 1001.08 with amendments to adjust the professionals' health program fee based on new license and cost information, to readopt Plc 1001.14 with amendments to remove letters of good standing or other verification of licensure status and warranty seals from services for which no fee is charged, and to adopt Plc 1001.15 to establish a fee for providing letters of good standing or other verification of licensure status and Plc 1001.16 to establish a fee for warranty seals obtained from the Manufactured Housing Installation Standards Board (Board).

Plc 1001.08 and Plc 1001.14 were recently adopted as regular rules to establish the professionals' health program fees and to identify services for which no fees would be charged, respectively. Based on updated licensing numbers and costs impacting the professionals' health program, the OPLC has determined that the fee of \$20 per initial or renewal license is inadequate to cover program costs. Also, the fee was based on a 2-year initial or renewal license, but some of the licenses issued for the professions covered by the fee are 3-year licenses. Also, some professionals may obtain more than once license, for example advanced practice registered nurses (APRNs) who must first be a licensed registered nurse (RN), but they should not have to pay the program fee more than once. The OPLC is thus proposing to increase the fee to be \$28 for a 2-year initial or renewal license and \$42 for a 3-year initial or renewal license, and to include a rule so that individuals who obtain or renew more than one license in a profession for which the fee is charged only pay the fee once per initial license or renewal cycle.

The existing Plc 1001.14 specifies that there are no fees for providing a letter of good standing or otherwise verifying licensure status, replacing a pocket card or identification card, reviewing a course for pre-licensing education credit, filing a complaint or a petition for declaratory ruling, providing a copy of a roster or mailing list, or providing a "warranty seal". The OPLC has been asked to reinstate a fee for providing letters of good standing/other verification of licensure status based on the costs of providing such verifications, so is proposing to remove it from Plc 1001.14 and adopt a new section to establish a fee of \$10 per letter/other verification. RSA 205-D:17 provides that "no manufactured house may be installed in this state until the manufacturer or an installer licensed by the [installation standards] board has obtained a warranty seal from the board and attached the seal to the manufactured house." The OPLC has been asked to reinstate the warranty seal fee, so is proposing to remove it from Plc 1001.14 and adopt a new section to establish a fee of \$50 per seal, which is the fee previously established by the Board.

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

These rules affect anyone who holds or wishes to apply for a license in a health care profession for which the professionals' health program is available, anyone holding a license in a profession regulated by a board, commission, or council supported by the OPLC who needs a letter of good standing or other verification of licensure status, and anyone who manufactures, installs, or purchases manufactured housing.

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

Rule	State Statutes Implemented
Plc 1001.08, 1001.14, 1001.15	RSA 310-A:1-e
Plc 1001.16	RSA 310-A:1-e; RSA 205-D:17

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

Name: **Gretchen Hamel**

Title: **Program Specialist IV**

Address: **OPLC
7 Eagle Square
Concord, NH 03301**

Phone #: **Please contact via email**

Fax#: **[discontinued]**

E-mail: **Gretchen.R.Hamel1@oplc.nh.gov**

**The rules can be reviewed on-line at
<https://www.oplc.nh.gov/oplc-laws-and-rules>**

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: **4:00 PM on Friday, April 15, 2022**

Please submit comments to OPLC-Rules@oplc.nh.gov

☐ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, April 7, 2022 at 11:00 AM**

Place: **Hearing Room, Office of Professional Licensure & Certification
7 Eagle Square, Concord, NH 03301**

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

FIS # **22:021**, dated **02/25/2022**

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

When compared to the existing rules, the proposed rules will increase State revenues and increase costs to certain State citizens and employers including 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):

The proposed rule changes the cost for professional's health program fee from \$20 per initial or renewal licenses for 2-year and 3-year licenses to \$28 for 2-year licenses and \$42 for 3-year licenses. Currently, there are 67,292 licenses that pay the professional's health program fee. Multiplying the number of licenses by the new rate minus the old rate would result in an estimated annual increase in revenue to the office of professional licensure and certification (OPLC) fund in the amount of \$269,168. Additionally, the proposed rules establish a \$10 fee for Letter of Good Standing or other verification of licensure status, as well as a \$50 fee for manufactured housing installation warranty seal. OPLC does not have information on the number of Letters of Good Standing/other verifications issued. However, they were able to provide that approximately 359 warranty seals were issued in 2021. If this same number of warranty seals is issued in 2022 it would increase revenue by \$17,950.

A. To State general or State special funds:

There will be no direct impact on the State general fund, however after paying all costs and salaries associated with the Office, any remaining balance in the fund lapses to the general fund at the close of each biennium. There will be additional revenue to the office of professional licensure and certification fund from the proposed certification and renewal fees.

B. To State citizens and political subdivisions:

There would be an increase in costs to State citizens to the extent they are subject to a professionals' health program fee or are obtaining a manufactured housing installation warranty seal. There is no impact to political subdivisions.

C. To independently owned businesses:

There would be a cost to independently owned businesses who pay for their employee's professional's health program fee. There would also be a cost if a business obtains a manufactured housing installation warranty seal and/or a letter of good standing/other verification.

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

The rules do not apply to political subdivisions. The rules thus do not mandate or assign any new, expanded, or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures and so do not violate Part I, Article 28-a of the N.H. Constitution.

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



**FP 2022-34, Plc 1001 (various sections) Professionals' Health Program Fees;
Fees for Letter of Good Standing, Warranty Seal
Summary of Comments on Initial Proposal with OPLC Responses
April 26, 2022**

Background

The Office of Professional Licensure and Certification (OPLC) is proposing to readopt Plc 1001.08 with amendments to adjust the professionals' health program fee based on new license and cost information, to readopt Plc 1001.14 with amendments to remove letters of good standing or other verification of licensure status and warranty seals from services for which no fee is charged, and to adopt Plc 1001.15 to establish a fee for providing letters of good standing or other verification of licensure status and Plc 1001.16 to establish a fee for warranty seals obtained from the Manufactured Housing Installation Standards Board (Board). More information was provided in the Rulemaking Notice published in the March 10, 2022 *Rulemaking Register*.

No one from the public attended the public hearing held on April 7, 2022. No written comments were received from licensees or other members of the public. Comments were received from OLS/Administrative Rules; those comments and responses thereto are below.

OLS Comments

Plc 1001.08 re: professionals' health program fees

Comment: *"Unclear/Legis. Intent. Pursuant to RSA 310-A:1-e, I. (a) the Executive Director of the OPLC has authority to assess licensing, certification, renewal fees, and any necessary administrative fees associated with licensing or certifications. RSA 310-A:1-e, I requires the OPLC to set its fees at a rate that would provide for 125% of its operating costs. Here the rule cites to an application processing fee that doesn't yet exist in the cited rule. Chapter Plc 1000 as a whole is a mix of regular, interim, and emergency rules. Recent OPLC proposals have cited to fees not listed in Plc 1000 or 1002, and the OPLC has engaged [in] rulemaking on a piecemeal basis to deal with the issue."* (**Bold** in original.)

Response: The OPLC shares this frustration with the state of the fee rules, but has been prevented by circumstances beyond its control from adopting a comprehensive set of rules for application-related fees in Plc 1002. A rulemaking has been initiated to adopt a limited number of fees in Plc 1002, but it does not cover all of the professions that pay the professionals' health program fee. The OPLC has revised the rule to reference other sources for fees if the fees are not established in Plc 1002.

Readopt with amendment Plc 1001.08, eff. 1-27-22 (doc. #13336), to read as follows:

Plc 1001.08 Professionals' Health Program Fee.

(a) Pursuant to RSA 310-A:1-e, I-a, and subject to (e), below, licensees in the professions regulated by the following boards shall be charged a professionals' health program fee as specified in (d), below, for each renewal application:

- (1) Board of licensed alcohol and other drug use professionals;
- (2) Board of chiropractic examiners;
- (3) Board of dental examiners;
- (4) Board of licensed dietitians;
- (5) Board of medicine;
- (6) Board of mental health practitioners;
- (7) Midwifery council;
- (8) Board of nursing;
- (9) Board of optometrists;
- (10) Pharmacy board;
- (11) Board of podiatrists;
- (12) Board of psychologists;
- (13) Board of veterinary medicine; and

Edit: "registration in optometry"

Edit: "podiatry"

Edit. Here and below, please place all AARL in **bold**. See example in Section 2.4 of Chapter 4 of the *Manual*.

(b) If a board is added pursuant to (a)(14), above, the executive director shall:

- (1) Publicize the board's participation in the way most likely to inform affected persons; and
- (2) Initiate a rulemaking to add the board to (a), above.

(c) Pursuant to RSA 310-A:1-d, II(h)(1), and subject to (e), below, applicants in the professions listed in (a), above, shall also be charged a professionals' health program fee as specified in (d), below, for each initial application.

(d) The professionals' health program fee required by (a) and (c), above, shall be:

- (1) \$28.00 for each 2-year license; and
- (2) \$42.00 for each 3-year license.

(e) An applicant or licensee who obtains more than one type of license in professions that are subject to payment of the professionals' health program fee, including but not limited to an advanced practice registered nurse (APRN) who first obtains a registered nurse (RN) license, shall not be charged the fee more than once for an initial license or for each renewal license.

(f) The OPLC shall deposit professionals' health program fee payments in the New Hampshire health professionals' program administration fund established by RSA 310-A:1-e, I-a.

(g) The professionals' health program fee shall be separate from, and in addition to, the application processing fees established in:

 Plc 1002; or

(2) If fees applicable to the profession have not yet been adopted in Plc 1002, in the applicable statute or in rules adopted by the applicable board.

Readopt with amendment Plc 1001.14, eff. 1-27-22 (doc. #13337), to read as follows:

Plc 1001.14 No Fees For Certain Services. No fee shall be charged for any of the following:

- (a) Providing a replacement for a pocket card or identification card;
- (b) Reviewing a course to determine its suitability for pre-licensing education credit;
- (c) Filing a complaint or a petition for declaratory ruling; or
- (d) Providing a copy of a roster or mailing list.

Adopt Plc 1001.15 and Plc 1001.16 to read as follows:

Plc 1001.15 Fee for Letter of Good Standing or Other Verification of Licensure Status. The fee for providing a letter of good standing or other verification of licensure status shall be \$10 per letter or other verification provided.

Plc 1001.16 Fee for Manufactured Housing Installation Warranty Seal. The fee for a warranty seal from the manufactured housing installation standards board as required by RSA 205-D:17 shall be \$50.00.

Appendix

Rule	State Statutes Implemented
Plc 1001.08, 1001.14, 1001.15	RSA 310-A:1-e
Plc 1001.16	RSA 310-A:1-e; RSA 205-D:17

Note to JLCAR: Pursuant RSA 310-A:1-e, I. (a) the Executive Director of the OPLC has authority to assess licensing, certification, renewal fees, and any necessary administrative fees associated with licensing or certifications. However, the OPLC has not affirmatively established some fees and recent rulemaking proposals have been citing Plc 1002 but which does not contain the fees referenced in the proposals. Here, the rule cites to an application processing fee that doesn't yet exist in the cited rule and in the alternative, if the fee isn't in Plc 1002 then to fees in the applicable statute or adopted by the applicable board; however most of the Boards' authority for fees has been transferred to the Executive Director of the OPLC and so, in some case there will be no fee in the statute or in the Boards' rules.

OPLC has begun rulemaking to establish its fees in Plc 1002 by filing an initial proposal with OLS.