

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2022-42

Rule Number Plc 1003.02, 1003.06

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)(3)

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: **Reimbursable Expenses for Board of Registration of Funeral Directors & Embalmers**

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 17, 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: n/a

4. Type of Action:

Adoption X

Repeal

Readoption

Readoption w/amendment X

5. Short Title: **Reimbursable Expenses for Board of Registration of Funeral Directors & Embalmers**

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

The Office of Professional Licensure and Certification (OPLC) is proposing to readopt Plc 1003.02 with amendments to revise the definition of “reimbursable expenses” to accommodate reimbursing members of the Board of Registration of Funeral Directors and Embalmers (Board) for inspections and examinations, and to adopt a new section, Plc 1003.06, to establish the reimbursement rates and payment mechanism for Board members.

RSA 325 promotes public health, safety, and welfare by safeguarding the people of New Hampshire against incompetent and unauthorized embalming and funeral practices, and established the Board to ensure proper implementation of the statute.

RSA 325:17 authorizes the Board to conduct inspections of funeral homes and related sites, and is implemented through rules adopted by the Board as Frl 603. RSA 325:18 authorizes the Board to conduct examinations for the purpose of licensure of embalmers and funeral directors, and is implemented through rules adopted by the Board as Frl 302 relative to embalming, Frl 303 relative to funeral directors, and Frl 403 relative to reinstatement.

Inspections and examinations are conducted by members of the Board. Until the repeal of RSA 325:6 by Laws of 2021, 197:56, I (eff. 7-1-21), Board members received a per diem for conducting inspections and examinations. However, the per diem rules adopted by the OPLC only authorize per diems for attendance at meetings, not for other activities. Board members will not conduct the inspections and examinations without any reimbursement, which means that inspections and examinations are not being conducted and so licenses cannot be issued or renewed. By adopting the proposed rules, the OPLC will ensure that Board members can be compensated at least in part for their conduct of inspections and examination.

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

These rules directly affect members of the Board who are authorized to conduct inspections and examinations and indirectly affect funeral homes that need to be inspected and applicants for licensure as a funeral home director or embalmer who need to take and pass an examination.

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 1003.02	RSA 310-A:1-d, II(h)(3)
Plc 1003.06	RSA 310-A:1-d, II(h)(3); RSA 325:17, 18

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 22, 2022**

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

☐ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, April 12, 2022 at 1:30 PM**

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

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

FIS # **22:038**, dated **03/10/2022**

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

There is no difference in cost when comparing proposed Plc 1003.02 to the existing rule. Not applicable to Plc 1003.06 which is a new section.

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):

Plc 1003.06 provides for reimbursement to board members who perform inspections and examinations. Until July 2021, pursuant to RSA 325:6, board members received a per diem payment and travel reimbursement when conducting inspections or examinations. RSA 325:6 was repealed effective July 1, 2021. There will be no cost to the facilities or applicants as the inspection fees and examination fees are not being changed.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

- C. **To independently owned businesses:**
None.

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 2022-42, Plc 1003 Reimbursable Expenses for Board of Registration of
Funeral Directors & Embalmers**
Summary of Comments on Initial Proposal with OPLC Responses
April 27, 2022

Background

The Office of Professional Licensure and Certification (OPLC) is proposing to readopt Plc 1003.02 with amendments to revise the definition of “reimbursable expenses” to accommodate reimbursing members of the Board of Registration of Funeral Directors and Embalmers (Board) for inspections and examinations, and to adopt a new section, Plc 1003.06, to establish the reimbursement rates and payment mechanism for Board members. More information about the proposed changes was provided in the Rulemaking Notice published in the March 17, 2022 *Rulemaking Register*.

No one from the public attended the public hearing held on April 12, 2022. A comment was received from the Board and is addressed below. One editorial comment was received from OLS/ Administrative Rules; the noted edit (to Plc 1003.02(a)) has been made.

The OPLC made the following revision on its own initiative:

Plc 1003.06(a): changed “ensure proper reimbursement” to “provide for reimbursement”.

Plc 1003.06 re: reimbursement of board members

Comment: *We do not see anything that allows the board members to be paid for administering the written exam as it does for the practical exam administration and inspections.*

Response: This was an oversight; the rule is intended to apply to all examinations. The OPLC has inserted “written or” before “practical examination” to clarify that both are eligible for reimbursement.

Readopt with amendment Plc 1003.02, eff. 12-22-21 (doc. #13316), to read as follows:

Plc 1003.02 Definitions. For purposes of this part and for reimbursement, the following definitions shall apply:

(a) “Meeting” means a convening of a quorum of a supported board, commission, or council for the purpose of conducting official business within the jurisdiction of the body, whether conducted in-person or, if authorized by law to do so, held via electronic means or conducted in-person with participation via electronic means by one or more members of the body or the public, or both, provided that if a meeting is continued so as to occur on more than one calendar day, each day that any part of the meeting occurs is a separate meeting for purposes of per diem and expense reimbursement. The term includes meetings of a quorum of a statutorily-created committee or subcommittee of a supported board, commission, or council.

(b) “Member” means an individual who has been appointed as required by applicable law to serve on a supported board, commission, or council or on a subunit.

(c) “Reimbursable expenses” means:

- (1) Mileage, parking, and tolls as determined pursuant to Plc 1003.05 for all supported boards, commissions, and councils; and
- (2) For the board of registration of funeral directors and embalmers, expenses of examinations and inspections as determined pursuant to Plc 1003.06.

(d) “Sub-unit” means a statutorily-created committee or subcommittee of a supported board, commission, or council.

Adopt Plc 1003.06 to read as follows:

Plc 1003.06 Reimbursable Expenses for Board of Registration of Funeral Directors and Embalmers.

(a) The purpose of this section is to provide for reimbursement for members of the board of registration of funeral directors and embalmers (board) who:

- (1) Perform inspections pursuant to RSA 325:17 and Frl 603; and
- (2) Conduct practical examinations pursuant to RSA 325:18 and Frl 302 relative to embalming, Frl 303 relative to funeral directors, or Frl 403 relative to reinstatement.

(b) A member of the board who has been duly authorized by the board to conduct an inspection shall be reimbursed the amount specified in Table 1003-1, below, as applicable to the type of inspection conducted:

Table 1003-1: Reimbursement Rates for Inspections

Type of Inspection	Reimbursement Rate
New facility funeral home or chapel	\$250 per inspection
Funeral home reinspection (every 3 years)	\$200 per inspection
Funeral home reinspection (deficiencies)	\$100 per inspection
Chapel reinspection (every 3 years)	\$100 per inspection

(c) A member of the board who has been duly authorized by the board to conduct a written or practical examination shall be reimbursed \$150 for each examination conducted.

(d) To receive reimbursement, the board member shall submit to the OPLC an invoice that identifies the total amount of reimbursement sought and, for each activity for which reimbursement is sought:

- (1) The date the activity occurred;
- (2) The location of the activity;
- (3) Whether the activity was an inspection or an examination;
- (4) If the activity was an inspection:
 - a. The name of the facility inspected;
 - b. The type of inspection conducted using the categories listed in Table 1003-1, above; and
 - c. The reimbursement rate, from Table 1003-1, above; and
- (5) If the activity was an examination:
 - a. The name of the individual to whom the examination was administered;
 - b. The type of examination conducted; and
 - c. The reimbursement rate from (c), above.

(e) The board member shall sign and date the invoice to certify that the information submitted is true, complete, and not misleading to the best knowledge and belief of the board member.

Appendix A: State Statutes Implemented

Rule	State Statute(s) Implemented
Plc 1003.02	RSA 310-A:1-d, II(h)(3)
Plc 1003.06	RSA 310-A:1-d, II(h)(3); RSA 325:17, 18

[no change to Appendix B]

Edit: The Appendix must be included. It may be inserted at the time of adoption.