

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: January 19, 2022

FROM: Michael A. Morrell
Acting Administrative Rules Director

AT (OFFICE): Legislative Services

SUBJECT: Emergency Rule Document #13319 Expedited Issuance of Temporary Licenses and Conversion of Emergency Licenses to Temporary Licenses

To: File

Attached is an emergency rule amending Plc 802 from the Office of Professional Licensure and Certification (OPLC) (Document # 13319, effective 12-23-21). As noted in Item #8 of the OPLC's Cover Sheet, the Laws of 2021, 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. Included in Chapter 121 was the enactment of RSA 310-A:1-i which required the OPLC to issue emergency licenses to certain individuals to alleviate a shortage of medical providers. Subsequently, the OPLC adopted an emergency rule (Plc 803) to carry out Chapter 121. Pursuant to the Governor's emergency order and the enactment of Chapter 121, the OPLC issued approximately 22,000 licenses. The emergency rule automatically converts existing emergency licenses to temporary licenses and allows a new applicant to obtain a temporary license through an expedited process.

Item #8 of the Cover Sheet states that the emergency rule is necessary because the critical shortage of licensed medical professionals continues to exist. Exacerbating this problem is the fact that Chapter 121, in addition to authorizing emergency licenses through RSA 310-A:1-i, repeals such licenses effective January 31, 2022. The Cover Sheet clearly explains the existence of an emergency and the rule would correct this by converting the emergency licenses to temporary licenses.

In Item #9 of the cover letter, the OPLC states that without the emergency rule, "*the OPLC would not be able to expedite New Hampshire licensing of health care professional who are licensed in other U.S. jurisdictions and would not be able to convert the approximately 22,000 emergency licenses issued under RSA 310-A:1-i to temporary licenses.*" While the adopted rule effectively addresses this issue, it appears to be in direct conflict with Chapter 121, which, as noted above, repeals the emergency licenses effective January 31, 2022. Therefore, adoption of the emergency rule appears to conflict with legislative intent.

Please note that the JLCAR may not object to an emergency rule, but it may petition pursuant to RSA 541-A:18, IV for repeal if the grounds for an emergency rule are not met. Unless readopted, the emergency rule will expire on June 21, 2022.