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STATE OF NEW HAMPSHIRE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
*DIVISION OF MEDICAID SERVICES*

Lori A. Shibanette  
Commissioner

Henry D. Lipman  
Director

129 PLEASANT STREET, CONCORD, NH 03301  
603-271-9422 1-800-852-3345 Ext. 9422  
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July 15, 2022

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Health and Human Services, Division of Medicaid Services, to enter into a memorandum of understanding with Office of Professional Licensure and Certification (OPLC) (VC#177884), Concord, NH, to reimburse OPLC for the Medicaid and Medicare share of costs to maintain the state Licensed Nursing Assistant registry, in an amount not to exceed \$375,000, effective upon Governor and Council approval through June 30, 2027. 100% Federal Funds.

Funds are available in the following account for State Fiscal Year 2023, and are anticipated to be available in State Fiscal Years 2024, 2025, 2026 and 2027, upon the availability and continued appropriation of funds in the future operating budget, with the authority to adjust budget line items within the price limitation and encumbrances between state fiscal years through the Budget Office, if needed and justified.

**05-95-47-470010-7937 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS DEPT, HHS: OFC MEDICAID SERVICES, DIVISION OF MEDICAID SERVICES, MEDICAID ADMINISTRATION**

State Fiscal Year	Class / Account	Class Title	Job Number	Total Amount
2023	049-504921	Transf to Oth State Agcy	47000059	\$37,500
2024	049-504921	Transf to Oth State Agcy	47000059	\$37,500
2025	049-504921	Transf to Oth State Agcy	47000059	\$37,500
2026	049-504921	Transf to Oth State Agcy	47000059	\$37,500
2027	049-504921	Transf to Oth State Agcy	47000059	\$37,500
			<b>Subtotal</b>	<b>\$187,500</b>

His Excellency, Governor Christopher T. Sununu  
 and the Honorable Council  
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**05-95-95-952010-5146 HEALTH AND SOCIAL SERVICES, HEALTH AND HUMAN SVCS  
 DEPT, HHS: COMMISSIONER'S OFFICE, LEGAL & REGULATORY SERVICES, HEALTH  
 FACILITIES ADMINISTRATION**

State Fiscal Year	Class / Account	Class Title	Job Number	Total Amount
2023	049-504921	Transf to Oth State Agcy	95200024	\$37,500
2024	049-504921	Transf to Oth State Agcy	95200024	\$37,500
2025	049-504921	Transf to Oth State Agcy	95200024	\$37,500
2026	049-504921	Transf to Oth State Agcy	95200024	\$37,500
2027	049-504921	Transf to Oth State Agcy	95200024	\$37,500
			<b>Subtotal</b>	<b>\$187,500</b>
			<b>Total</b>	<b>\$375,000</b>

**EXPLANATION**

Pursuant to RSA 326-B:26, the New Hampshire Board of Nursing is required to maintain a Licensed Nursing Assistant registry used to screen nursing assistants for founded cases of abuse, neglect, exploitation, misappropriation of resident's property, and other related offenses. RSA 310-A mandates that OPLC provide such administrative services on behalf of the New Hampshire Board of Nursing.

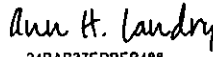
The purpose of this request for the Department to reimburse OPLC for the Medicaid and Medicare share of costs to maintain the Licensed Nursing Assistant registry, subject to the availability of funds. The funds will be budgeted through the biennial budgeting process as an interagency transfer. The reimbursable amount will be calculated using a methodology, as specified in Exhibit A of the attached memorandum of understanding, to determine the allocation of the registry costs attributable to the screening of nursing assistants in Medicare and/or Medicaid facilities. The memorandum of understanding also outlines the billing process to allow for transfer of federal funds to the OPLC for the maintenance of the registry.

Should the Governor and Council not authorize this request, there will be a lack of federal funds being allocated to pay for the registry for Licensed Nursing Assistants, which could result in the State not being in compliance with RSA 326-B:26.

Source of Federal Funds: Assistance Listing Number #93.778, FAIN #2205NH5ADM.

In the event that the Federal Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,

DocuSigned by:  
  
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 Lori A. Shibinette  
 Commissioner



State of NH: Office of Professional Licensure and Certification and  
Department of Health and Human Services –  
Memorandum of Understanding

**I. PURPOSE, LEGAL AUTHORITY, AND DEFINITIONS**

**A. Purpose**

This Memorandum of Understanding, hereinafter the “Agreement” or “MOU,” made as of \_\_\_ day of \_\_\_ 2022 (Effective Date, upon Governor and Council approval), by and between the State of New Hampshire, Office of Professional Licensure and Certification (OPLC) and the State of New Hampshire, Department of Health and Human Services (DHHS) contains the framework and the terms, conditions, safeguards, and procedures under which OPLC agrees to maintain the state registry for Licensed Nursing Assistants (LNA) and to gather and maintain certain information from which an approved cost allocation methodology will be used to determine the amount of federal funding available to OPLC for operation of the registry.

The purpose of this MOU is to identify the roles and responsibilities of the parties; to establish an appropriate methodology for the allocation of the costs of the registry that are attributable to the screening of nursing assistants in Medicare and/or Medicaid facilities; and, to provide for an appropriate billing process that will allow for the billing and transfer of federal funds to the OPLC for the maintenance of the registry.

**B. Legal Authority**

Pursuant to RSA 326-B:26 the New Hampshire Board of Nursing (Board) is required to maintain a nursing assistant registry used to screen nursing assistants for founded cases of abuse, neglect, exploitation, misappropriation of resident’s property and other related offenses. RSA 310-A mandates that OPLC provide such administrative services on behalf of Board. Pursuant to Title 18, Social Security Act, Sec. 1819, 42 U.S.C. 1395i-3, and Public Law 100-203, federal funding is available to reimburse the state for a percentage of the cost to maintain the registry that is attributable to the screening of nursing assistants who are employed by a Medicare or Medicaid reimbursable facility.

**C. Definitions**

The following terms may be reflected and have the described meaning in this document:

“Facility” means a skilled nursing facility or a nursing facility that meets the requirements of Section 1819 or 1919(a), (b), (c), and (d) of the Social Security Act.

“Skilled nursing facility” means an institution or part of an institution that is primarily engaged in providing skilled nursing care and related services for residents who require medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled or sick persons.



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“Nursing facility” means an institution or part of an institution that is primarily engaged in providing skilled nursing care and related services for residents who require medical or nursing care, rehabilitation services for the rehabilitation of injured, disabled, or sick persons, or on a regular basis health related care and services to individuals who because of their mental or physical condition require care and services above the level of room and board which can be made available to them only through institutional facilities.

## II. RESPONSIBILITIES OF OPLC

- A. OPLC agrees to maintain the State LNA registry pursuant to 42 U.S.C. § 1395i-3(e)(2)(A). Information set forth in the registry shall be in accordance with § 1395i-3(e)(2)(B) and corresponding regulations.

## III. RESPONSIBILITIES OF DHHS

- A. DHHS agrees to reimburse OPLC for the federal Medicaid share of such costs properly calculated, if such funding is available, and reimburse OPLC for the federal Medicare share of such costs, provided that such funds are available for this purpose within the current New Hampshire Health Facilities Certification budget approved by Centers for Medicare and Medicaid Services.

## IV. REIMBURSEMENT

### A. Background

Pursuant to Title 18, Social Security Act, Sec. 1819, 42 U.S.C. 1395i-3, and Public Law 100-203, federal funds are available to pay the allocated federal share of the cost of maintaining an LNA registry relative to the percentage of LNAs employed by facilities receiving federal funding.

For purposes of this MOU, facilities receiving federal funds include nursing facilities and skilled nursing facilities that receive:

1. Medicaid funding pursuant to Title XIX (at the Medicaid funding mix);
2. Medicare funding pursuant to Title XVIII (at the Medicare funding mix); and,
3. Joint Medicare/Medicaid facilities that receive both Medicare and Medicaid funding, allocated at the appropriate funding mix based on the number and type of facilities as determined at the close of the Federal Fiscal Year (FFY).

### B. Cost Allocation and Billing

The amount of federal funding available for each State Fiscal Year (SFY) shall be determined as provided in Appendix A which is incorporated herein by reference. To determine the appropriate cost allocation OPLC shall, on or before August 15th of each year,



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using data from the close of the previous SFY:

1. Determine the actual cost of maintaining the registry in accordance with the formula set forth in Appendix A.
2. Determine the actual number of Full Time Equivalents (FTE) working on maintaining the registry at the close of the SFY.
3. Divide the actual cost of maintaining the registry as determined above by the total number of LNAs at the close of the SFY to determine a cost per LNA.
4. Determine for the SFY close the total number of LNAs working in facilities broken down by facility type and categorized as follows:
  - a. Title XVIII - only (Medicare) facilities.
  - b. Title XIX - only (Medicaid) facilities.
  - c. Joint Title XVIII & XIX facilities.
5. Calculate on billing worksheets provided by DHHS (See Appendix B), in coordination with the Office of Operations Support (OOS) Financial Manager, the correct Medicaid/Medicare reimbursement due to Board and bill the DHHS quarterly, based on FFY quarters, as follows:
  - a. Directly related program expenses for the Nursing Aide Registry in Org 24040000.
  - b. Divide total cost by the number of facility Nursing Assistants.
  - c. Allocate each Medicare/Medicaid share by facility type.
  - d. Matching Funds for Medicaid and such matching Medicare funds as may be budgeted and available to contribute to the cost of the LNA registry.

C. Approval of Federal Costs

All cost allocation calculations and quarterly billing shall be submitted by OPLC to the Financial Manager of the DHHS' OOS for approval (See Appendix A for cost allocation calculations, and Appendix B for the template to be used for quarterly billing).

The Financial Managers of the OOS and the Division of Medicaid Services will determine the percentage of matching or budgeted and available federal funds required. Any required non-federal funds for the registry will be paid by the OPLC and shall not be the responsibility of DHHS. The amount billed and paid through cost allocation will be the federal Medicare and Medicaid dollars. Any payments subsequently disallowed by CMS or found to be improperly paid by other audit or financial review, will be the responsibility of the OPLC and not the responsibility of the DHHS.

The billing worksheet must be submitted as backup to the billing and include the calculation of non-federal OPLC amounts along with appropriate Detailed Transaction Register and Appropriation Statement for Org 24040000, Appendix B (The Billing



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Worksheet) and the Billing Invoice. DHHS will approve the expenses in accord with the above methodology.

OPLC shall not bill more frequently than quarterly. DHHS payment shall not exceed the combined department budget for this service. DHHS obligation shall not exceed federal budgeted and available amount for this program in the FFY. Total DHHS payment for the Duration of the Agreement shall not exceed \$375,000.

**D. Training**

Upon request, DHHS shall provide training for OPLC on the calculation and allocation of allowable costs and on the DHHS' billing requirements under this MOU.

**V. PERIODIC REVIEW**

The parties shall annually review and revise, as necessary, the assumptions in Appendixes A and B that are used to calculate and allocate costs.

**VI. MISCELLANEOUS**

This Agreement and attachments make up the entire understanding between the parties. Neither party may modify or amend the terms of this Agreement except by a written agreement signed by both parties. Neither this Agreement, nor any rights, duties, nor obligations described herein, shall be assigned by either party without the prior written consent of the other party.

**VII. DURATION**

This Agreement shall continue through June 30, 2027, subject to appropriation of sufficient funds. This Agreement may be terminated by either party without cause with 90 days written notice.

**VII. DURATION**

Disputes arising under this MOU which cannot be resolved between the agencies shall be referred to the New Hampshire Department of Justice, Civil Bureau, for review and resolution



State of NH: Office of Professional Licensure and Certification and  
Department of Health and Human Services –  
Memorandum of Understanding

Date: 7/13/2022

DocuSigned by:

*Ann H. Landry*

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Ann Landry, Associate Commissioner  
Department of Health and Human Services

Date: 7/14/2022

DocuSigned by:

*Robert Berry*

7EC50B757897465

Robert F. Berry, Jr. Esq. Department of  
Health and Human Services

Date: 7/13/2022

DocuSigned by:

*Henry D. Lipman*

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Henry Lipman, FACHE, Medicaid Director  
Department of Health and Human Services,  
Division of Medicaid Services

Date: 7/15/2022

DocuSigned by:

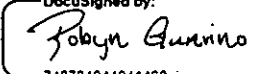
*Lindsey Courtney*

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Lindsey B. Courtney, Executive Director  
Office of Professional Licensure and  
Certification

The preceding Memorandum of Understanding, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

DocuSigned by:  
  
748734011011460  
Name: Robyn Guarino  
Title: Attorney

7/15/2022  
Date

The foregoing Memorandum of Understanding was approved by the following authority of the State of New Hampshire:

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Date



Office of Professional Licensure and Certification: Allocation Method by # Facilities  
 Example QE 6/2021

Appendix A  
 Cost Allocation calculating  
 Federal and State Share

Facility Data: SFY 2020

	Billing Period: QE 6/2021 4/1/2021 to 6/30/2021			Nurse Registry Cost
	Medicaid Only	Medicare Only	Both	
Licenses in Long Term Care				6,781
Facilities (Long Term Care)	3	2	77	82
Percent	3.66%	2.44%	93.90%	100.00%
Licenses	248	165	6,368	6,781
Cost per License	\$ 3.56	\$ 3.56	\$ 3.56	
OPLC: Nurse Registry Cost	\$882	\$588	\$22,648	\$24,119
Dual Split 50/50	\$11,324.24	\$11,324.24	(\$22,648)	
Allocable Cost	\$12,206.65	\$11,912.52		\$24,119.17
OPLC Share is State Share: Medicaid (Fed 50%, State 50%), Medicare (56% Fed, State 44%)	(\$6,103.33)	(\$5,241.51)		(\$11,344.83)
Federal Share-Billed to DHHS	\$6,103.33	\$6,671.01		\$12,774.34

Appendix B

**AP PAYMENT INFORMATION**

Vendor Code: 177884 - B001

Vendor Name: Office of Professional Licensure and Certification

HFA Accounts: 51460000-584921

Job Code: 95200024

Please Pay Amount: \$6,671.01

Division of Medicaid Services: 79370000-584921

Job Code: 47000059 MEDICAID ADMIN 100% FEDERAL

Please Pay Amount: \$6,103.33

**\*ANY INFO LISTED BELOW IS FOR BOARD OF NURSING ONLY\***

FROM: Heather Kelley  
Finance Director

RE: Medicare/Medicaid Funding for Nursing Assistant Registry:  
010-021-24060000-401867

Reimbursement for Costs is requested as follows:

Total number of Nursing Assistants working in Long Term Care = 6,781

Quarter 4- SFY 21 Actual / Allowable Costs  
4/1/2021-6/30/2021 \$ 24,119.17

If you have any questions, please contact: Heather Kelley - Tel. 271-0142  
Email: Heather.A.Kelley@oplc.nh.gov