

State of New Hampshire

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION

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Lindsey B. Courtney
Executive Director



Standing Order 2022-1

The Executive Director's Delegation of its Quasi-Judicial Authority and Responsibilities Related to the Boards of Body Art Practitioners, Electrologists, Massage Therapists, Ophthalmic Dispensers, Reflexology, Structural Integrators & Asian Bodywork Therapists, Recreational Therapists, Respiratory Care Practitioners, Court Reporters, and Medical Imaging and Radiation Therapy to the Hearings Examiner.

Recitals and Purpose

WHEREAS the legislature has entrusted the Executive Director of the New Hampshire Office of Professional Licensure and Certification ("Executive Director") with the quasi-judicial authority and responsibilities of the Boards of Body Art Practitioners, Electrologists, Massage Therapists, Ophthalmic Dispensers, Reflexology, Structural Integrators & Asian Bodywork Therapists, Recreational Therapists, Respiratory Care Practitioners, Court Reporters, and Medical Imaging and Radiation Therapy (collectively "Advisory Boards");¹ and

WHEREAS the legislature has made the Executive Director responsible for "[e]mployment of such personnel needed to carry out the functions of the boards." RSA 310-A:1-d, II(c);² and

WHEREAS the Executive Director has created the position of Hearings Examiner within the New Hampshire Office of Professional Licensure and Certification ("Hearings Examiner"), in part, to carry out the quasi-judicial authority and responsibilities of the Advisory Boards on behalf of the Executive Director.

NOW THEREFORE the Executive Director issues the following Standing Order with respect to the Advisory Boards:

¹ See RSA 328-B:4, I, II; RSA 328-B:8; 328-B:11-a; RSA 328-H:5, II, III, IV; RSA 328-H:10; RSA 328-H:11; RSA 328-H:12; RSA 328-H:15; RSA 314:2, III, IV, VII; RSA 314:6; RSA 314:7; RSA 314:13; RSA 327-A:5, III; RSA 327-A:9; RSA 327-A:11; RSA 327-A:17; RSA 314-A:9; RSA 314-A:10; RSA 326-J:1-a, II; 326-J:5, II and III; RSA 326-E:2, VI; RSA 310-A:174; RSA 310-A:175; RSA 328-J:7, VIII and IX; RSA 328-J:9; RSA 328-J:18; RSA 328-J:19; RSA 310-A:1-k; RSA 310-A:1-l; RSA 310-A:1-m; RSA 541-A:29; II(b); RSA 541-A:30, II and III; RSA 541-A:31-35.

² See also RSA 328-B:4, V; RSA 328-H:5, VI.

Order

1. The Executive Director hereby delegates to the Hearings Examiner all the statutory authority and responsibilities the legislature has conferred upon the Executive Director that are necessary for carrying out the quasi-judicial functions of the Advisory Boards, including but not limited to the powers and duties enumerated in the statutes referenced in footnote 1 of this Standing Order, as well as all corresponding Advisory Board and OPLC, and Department of Justice Rules.³
2. Included among these duties and responsibilities shall be receiving from the New Hampshire Office of Professional Licensure and Certification Division of Enforcement (“Enforcement”) certain complaints and reports of investigations (“ROIs”) pertaining to Applicants and Licensees of the Advisory Boards, as determined by Enforcement. The Hearings Examiner shall determine whether received complaints and ROIs should be dismissed, further investigated, or scheduled and noticed for a hearing. In determining how to proceed with a complaint or ROI, the Hearings Examiner may request input or information from the applicable Advisory Board before rendering his or her decision. The standard for dismissal of a complaint or ROI shall be the same as for a civil complaint under New Hampshire law. *See Tessier v. Rockefeller*, 162 N.H. 324, 330 (N.H. 2011)(internal citations and quotations omitted), unless otherwise provided in an applicable statute and/or rule.
3. Paragraph 2 herein is not intended to limit the authority and responsibilities delegated to the Hearings Examiner under Paragraph 1.

So ordered this 10th Day of August 2022.



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³ *See, i.e.*, Plc 207.01; Plc 208 et seq.; Plc 307 et seq.; Plc 602 et seq.; Plc 605.08 et seq.