

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION  
STATE OF NEW HAMPSHIRE  
DIVISION OF HEALTH PROFESSIONS  
BOARD OF ACUPUNCTURE LICENSING

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**NH BOARD OF ACUPUNCTURE LICENSING  
PUBLIC MINUTES OF JUNE 8<sup>TH</sup>, 2018 MEETING  
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Members present: Cindy Theroux-Jette (CTJ), Alice Meattey (AM), Jeanne Ann Whittington (JAW), Deborah Meuse (DM) and Amy Goldstein (AG).

Meeting called to order at 10:28 am.

Upon the motion of JAW and the second of AG, the Board voted to approve the minutes from the May 11, 2018 meeting. AIF

**CORRESPONDENCE:**

The Board reviewed the Appendix II-C Rulemaking Notice Form Notice Number 2018-61 with comments from the Office of Legislative Services. Many of the comments were editorial, which will be corrected. There were several comments where staff had noted "unclear". The Board addressed each substantive comment and made changes as necessary.

The Board reviewed each comment submitted regarding Acupuncture Detoxification rules in proposal 2018-61. The Board read and considered each individual comment.

Each comment and response is detailed below:

- Elizabeth Ropp, Celia Howard, Nikki Casey, and Jazmin Miranda all provided comment that not being able to sell products was discriminatory in reference to 705.07 (a) Trainers and training programs shall not engage in any behavior that gives rise to conflicts of interest, nor shall they engage in any activity that gives the appearance of impropriety, including but not limited to: (2) Selling products at a training in order to receive a personal payback, discount, or other benefit;

The Board voted to remove 705.07 (a) (2) and renumber accordingly.

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- Elizabeth Ropp and Celia Howard provided comment stating (8) was limiting and in conflict with the law in reference to Acp 704.01 Discipline of Acupuncture Detoxification Specialists. The board shall, after notice and opportunity to be heard in accordance with Acp 200, impose disciplinary sanctions upon an ADS if he or she:  
Fails to follow the NADA ethics pledge, or an equivalent ethics pledge issued by other board-approved training programs, by engaging in any of the following behaviors, including but not limited to:  
(8) Not using acu-detox in conjunction with appropriate counseling and supportive services;

The Board clarified this requirement was taken from the NADA training manual, specifically the ethics pledge and would refer inquires to NADA for clarification on supportive services. The NADA protocol is referred to by statute: **328-G:2 Definitions.** – XII. "NADA training" means the standardized auricular acupuncture protocol developed by NADA that is in effect on July 1, 2017. The Board clarified that the manual shall be referred to in the rules to meet the statutory requirement as to what specific protocol is in effect as of July 1, 2017. The Board shall emulate requirements set by the NADA manual.

- Ryan Fowler provided comment regarding the term “substance abuse treatment facility”. The concern is that individuals would be limited to a treatment facility only. Mr. Fowler did not cite the specific rule, so the Board presumed the reference was to Acp 701.01 Definitions (f) “Board-approved other professional” means social workers, emergency service workers, police officers, firefighters, guidance counselors, and substance abuse workers within a treatment facility.

The Board clarified that the term was broad and would include sober living homes and would not limit individuals to any specific treatment facility.

- Elizabeth Ropp, Jazmin Miranda, Amy Vlacich, NADA, and Ryan Fowler provided comment that “at all times” is burdensome regarding Acp 701.01 Definitions. (i) “General Supervision” means supervision provided by a New Hampshire licensed acupuncturist who shall be available by phone or other electronic means at all times during business hours and who conducts at least two site visits per year as defined in RSA 328-G:9-a, II(a).

The Board voted to remove “at all times” from 701.01 (i).

- Elizabeth Ropp provided comment stating the rules for clean needle technique are redundant in reference to Acp 702.01 Acupuncture Detoxification Specialist Application. (a) Each applicant for certification as an acupuncture detoxification specialist shall complete and submit to the board an “Application for Certification as an ADS”, effective [EFFECTIVE DATE] and available on the board’s website, which shall include the following information: (21) An indication as to whether the applicant has successfully completed clean needle technique training as outlined in the NADA manual in effect on July 1, 2017.

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The Board clarified that the language in (21) is required by NADA and part of the NADA training manual, but shall remain part of the proposed rules as well. The Board also voted to add “other equivalent training” to 702.01 (21) as a means to clarify that an applicant who has completed other equivalent training is also required to provide an indication as to whether he or she has successfully completed clean needle technique training.

- Elizabeth Ropp, Laura Cooley, Celia Howard provided comment stating the fee is too high regarding Acp 702.01 Acupuncture Detoxification Specialist Application (12) Application fee of \$110.00.

Licensure fees assessed by the Office of Professional Licensure and Certification (“OPLC”) are currently defined in statute. The Acupuncture Board cannot set licensure fees for OPLC per **RSA 310-A:1-e Fees.** –

I. (a) The executive director of the office of professional licensure and certification shall assess an annual license and renewal fee of either \$55 or \$150, or a biennial license and renewal fee of \$110 or \$300, for each professional regulatory board, council, or commission listed in subparagraph (b). The prescribed fees shall not apply to the board of dental examiners under RSA 317-A; the office of licensed allied health professionals under RSA 328-F; the board of mental health practice under RSA 330-A; or any other board, council, or commission subject to this chapter that has an established license or renewal fee set in statute as of the effective date of this section.

- Elizabeth Ropp provided comment stating the entire section of the NADA manual that is in the rules is unnecessary.

The NADA protocol is referred to by statute: **328-G:2 Definitions.** – XII. "NADA training" means the standardized auricular acupuncture protocol developed by NADA that is in effect on July 1, 2017. The Board clarified that the manual shall be referred to in the rules to meet the statutory requirement as to what specific protocol is in effect as of July 1, 2017.

- Laura Cooley and NADA provided comment on the incorporation and reference to the NADA Manual in effect as of July 1, 2017. NADA states the content of the manual changes over time and requests removing references to the manual.

The NADA protocol is referred to by statute: **328-G:2 Definitions.** – XII. "NADA training" means the standardized auricular acupuncture protocol developed by NADA that is in effect on July 1, 2017. The Board clarified that the manual shall be referred to in the rules to meet the statutory requirement as to what specific protocol is in effect as of July 1, 2017.

- Laura Cooley, Jazmin Miranda, NADA and Amy Vlacich provided comment stating charting client status is burdensome in reference to Acp 704.01 Discipline of Acupuncture Detoxification Specialists. The board shall, after notice and opportunity to be heard in accordance with Acp 200, impose disciplinary sanctions upon an ADS if he or she: (b) Fails to follow the NADA standards of competency by:

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- (1) Not being able to perform at least 20 treatments during a 4 hour period with good point location and technique;
  - (2) Not being able to explain the uses and limits of the treatment;
  - (3) Not being able to demonstrate sensitivity, compassion, and respect for clients;
  - (4) Not being able to understand the communal treatment effect and maintain an appropriate atmosphere;
  - (5) Not being able to demonstrate clean needle technique;
  - (6) Not being able to demonstrate understanding of and compliance with the limited scope of practice and other ethical principles;
  - (7) Not being able to demonstrate understanding of the implications of auricular acupuncture for addictions and behavioral health in the larger treatment context;
  - (8) Not being able to write chart notes of client status, treatment given, and client response;
  - (9) Not being able to demonstrate the understanding of the adjunctive nature of acu-detox and the importance of collaboration and communication with the treatment team;
  - (10) Not being able to demonstrate recognition of the psycho-spiritual nature of recovery and respect and support the client's internal process;
  - (11) Not being able to modify treatment appropriately and to respond to adverse clinical situations; and
  - (12) Not being able to demonstrate understanding of addictions and the NADA protocol from the perspective of basic concepts of Oriental medicine;
- (c) Fails to maintain current ADS certification while engaged in the practice of acu-detox; or
- (d) Has a professional license or certification in a field other than acupuncture detoxification revoked, suspended, or otherwise terminated on disciplinary grounds;
- NADA also voiced concerns that supervisors may charge a fee and an ADS may not be able to afford it.

The Board clarified that the rule only requires that an ADS be able to document information. The NADA manual requires chart notes as part of the standards of competency for an ADS; therefore the manual should be referred to for further clarification. The Board cannot control if an acupuncturist chooses to charge a fee for supervision or not.

- Judith Kloc provided comment stating there is a lack of supervision for an ADS in reference to Acp 703.01 General Supervision. (a) New Hampshire licensed acupuncturists who agree to supervise an acupuncture detoxification specialist shall: (1) Conduct at least two site visits per year, which shall include: (a) Review of sanitary conditions of the site, including compliance with clean needling technique standards; and (b) Review of documentation required by NADA training, including but not limited to verification of treatment consent agreements; and

The Board clarified that they have met statutory requirements according to **328-G:9-a Certified Acupuncture Detoxification Specialist**. – (b) "General supervision" includes, but is not limited to, being available by phone or other electronic means during business hours, with at least 2 site visits by a licensed acupuncturist a year.

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- Amanda Sutter-Francis provided comment stating her concern that an ADS may practice outside the scope of their practice and may advertise in a way that is misleading. Ms. Sutter Francis provided photos from an individual who was advertising “Free ear acupuncture clinic may 20 1-4 at \*Hands\* Ste 400” and “Stressed\*In pain\* trouble sleeping try acu-wellness free 5/20 1-4”.

The Board shared concern for misleading advertising. The Board voted to add to the rules the following: “An ADS may not hold himself or herself out to be anything other than an “acupuncture detoxification specialist”, “ADS”, or “acu-detox specialist” or practicing anything other than acupuncture detoxification, NADA protocol, or acu-detox.

The Board reviewed a letter from Jodie Lemery with questions relative to acu-detox.

### **NON-PUBLIC SESSION**

**Upon the motion of Cindy Theroux-Jette and the second of Deborah Meuse, The Board, by roll call vote, resolved to conduct a non-public session for the purpose of discussing alleged licensee misconduct and licensees’ criminal convictions. Non-public session is authorized by RSA 91-A:3 II (c), and the Board’s executive and deliberative privileges. The Board voted as follows: Cindy Theroux-Jette, Deborah Meuse, Jeanne Ann Whittington, Amy Goldstein and Alice Meattley all voted yes. The Non-Public session began at 1:45 pm and ended at 1:50 pm.**

**Upon the motion of Cindy Theroux-Jette and the second of Deborah Meuse, the Board, by roll call vote, resolved to withhold the minutes of the preceding non-public session from public disclosure pursuant to RSA 91-A:3, III on the grounds that public disclosure would be likely to affect adversely the reputation of a person other than a board member and to render the proposed action ineffective. The Board voted as follows: Cindy Theroux-Jette, Deborah Meuse, Jeanne Ann Whittington, Amy Goldstein, and Alice Meattley all voted yes.**

Meeting adjourned at 1:50 pm.