

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

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**BOARD OF ACUPUNCTURE LICENSING  
PUBLIC MINUTES OF DECEMBER 13, 2019, MEETING**

The December 13, 2019, meeting of the Board of Acupuncture Licensing (the “Board”) convened at 10:03 a.m. at the Office of Professional Licensing and Certification, 121 South Fruit Street, Concord, New Hampshire with the following members present and eligible to vote:

Cindy Theroux-Jette (CTJ), Deborah Meuse (DM), Diane Chase (DC), and Amy Goldstein (AG).

Others in Attendance:

Lindsey Courtney, OPLC Director, Division of Health Professions (LBC)

Vicki Irwin, new member (VI)

Tom Broderick, Rules Attorney (TB)

CTJ noted the Board should address with LBC how they would like to access information in advance of the board meeting. A discussion ensued regarding using the FTP site as opposed to receiving paper copies. VI noted she could adapt to either method. DM stated she would prefer to receive paper copies. CTJ would like to try to use the FTP site only. AG noted that she uses a “workaround” as it is difficult to access the FTP site in the building. Accordingly, she opens everything up on her computer at home prior to coming to a board meeting. LBC noted that, with other boards, they like to have a phone conference call with the board chair, board counsel, and board administrator one week and one day prior to a scheduled meeting. During that meeting, an agenda is finalized. One week prior to the meeting, everything should be uploaded to the FTP site and/or sent out to the board for review. Discussion ensued regarding this process. The Board agreed to proceed in this manner. DM will receive a paper copy. The remaining board members will use FTP for now.

The Board and others in attendance introduced themselves.

1. **Approve Public Minutes of the October 11, 2019, Board Meeting.** CTJ stated had a few amendments to the minutes. The Board agreed with the proposed amendments. Upon

motion by CTJ, with a second by DM, the Board voted unanimously to accept the minutes as amended by CTJ.

The Board recessed at 10:23 a.m. and reconvened at 10:26 a.m.

2. **2020 Meeting Schedule.** CTJ stated she wanted to amend the agenda to discuss the Board's 2020 meeting schedule. A discussion ensued regarding the Board's meeting schedule. CTJ stated the Board did not need to meet on January 10, 2020. CTJ explained the process for approving applications in between meetings. Generally, if applications come in in between meetings, the prior board administrator would call CTJ and DM separately, the board administrator would discuss the applications with them, approve them as needed, and those actions would be ratified at the following board meeting. Discussion ensued regarding the legislative process and whether a meeting on January 10, 2020 was required. The Board agreed that there was no need to meet on January 10, 2020, as the legislative session does not begin until January 13, 2020. LBC noted the Board could convene a meeting with 24 hours' notice except in the event of an emergency. CTJ moved to cancel the January meeting, which was seconded by AG. The Board voted unanimously to approve the motion.
3. **Rules Review, Tom Broderick (10:30).** TB introduced himself to the Board. TB stated the Board was in the middle of the rulemaking process. The Board held the public hearing on October 11, 2019. The next step is to approve the final proposal, incorporating any changes from public comment and any changes the Board wanted to make. TB stated that, from his conversations with the board administrator, there was only one change the Board wanted to make. After TB files the Board's final proposal, it will go to JLCAR for approval. OLS attorneys sent comments to TB regarding the proposal, most of which were minor. TB proposed reviewing those comments with the Board, which the Board agreed to do. CTJ noted that the only change the Board wanted to make was to permit service on a professional board concerning oriental medicine to qualify for PDA points (continuing education).

TB reviewed the proposed changes with the Board. The first page contained a change regarding formatting, as did a proposed change on page 2. JLCAR inquired whether the Board really intended to require applicants to file an original diploma. A discussion ensued regarding whether the Board should be asking for original diplomas. DM noted that applicants were not required to send an original diploma; rather, they had the option to do so. DM noted the Board used to mail original diplomas back to the applicant. CTJ stated a copy of a diploma is sufficient. The Board does not need an original as there is too much risk. CTJ noted if they have concerns that a diploma is fake they have the ability to do further research, ask the school. TB noted that another Board had to deal with an issue involving schools that closed. CTJ moved to change the wording to "copy of diploma," which was seconded by DM. The Board voted unanimously in favor of the motion.

The Board discussed further editorial changes, which the Board agreed to make. The Board discussed the comment by JLCAR to include the link to the website address in the rule. Discussion ensued regarding whether to approve the suggestion by JLCAR attorneys. TB noted that the comment was an editorial comment, so the Board could keep the rule as-is. There were no further changes proposed on page 3.

TB noted that, on page 4, there were editorial changes. CTJ noted the changes made sense. Discussion ensued regarding fees. TB explained that there may be a push to take the language setting fees out of board statutes and give rulemaking authority to the OPLC Executive Director, to ensure that all boards are assessing fees at approximately 125% of costs. TB noted OPLC is charged with making sure boards are within 125%, which it cannot do if there is a fee in statute.

The Board next discussed the change the Board wanted to make concerning continuing education. CTJ noted that the Board had agreed to permit a licensee to receive 5 PDA points for each year of service on a professional board concerning acupuncture or oriental medicine. The Board discussed whether professional board service was limited to the Board of Acupuncture Licensing. The Board agreed that professional board service should include all organizations that relate to acupuncture or oriental medicine. AG noted the purpose is to give credit to those licensees who are giving back to their professional community. AG stated that “each year of service on a professional or other organizational board that relates specifically to acupuncture and oriental medicine shall equal 5 PDA points.” CTJ moved to adopt that language. TB asked whether there were organizations that concerned oriental medicine but not acupuncture. Discussion ensued regarding the requirement that an organization concern both acupuncture and oriental medicine. CTJ proposed to change the language to oriental medicine only. Discussion ensued regarding proposed language. CTJ moved that the language should be: “each year of service on a professional board that relates specifically to oriental medicine shall equal 5 PDA points.” DC seconded. The Board voted unanimously in favor of the motion.

On page 6, the Board discussed the requirement that attendance at CEU courses be officially verified. CTJ noted it was a valid question. Discussion ensued regarding attendance verification. CTJ moved to strike this requirement entirely. AG seconded. The Board voted unanimously in favor of the motion.

TB stated the Board needed to vote on the draft as a final proposal with all changes. CTJ moved to adopt the final draft proposal of rules, as amended, which was seconded by DM. The Board voted unanimously in favor of the motion.

TB noted the next step would be to file it with OLS. The rules would be on the JLCAR agenda for the third week of January. TB stated people are always welcome to come, but he did not believe board members needed to be there. He would attend the Board’s next meeting so it could adopt the rules.

**4. 2020 Legislation.**

A. HB 1314.

B. LSR 2020-2263. CTJ questioned 2020-2263 and the purpose. LBC noted it looked like the LSR was duplicative of HB 1314.

**5. Correspondence.** CTJ stated that, before the Board considers application, she wanted to discuss a question from a proposed applicant in Hawaii. This applicant, Ms. Reed, wrote to

Janet on December 2, 2019, asking for clarification on requirements for licensure. She lives in Hawaii and is applying for an undergraduate waiver. She has an associate's degree (64 credits). CTJ looked at the statute that states that as long as the state has requirements that meet or exceed New Hampshire's requirement, Ms. Reed would be all set. CTJ did not consider whether Hawaii was comparable in licensure. Discussion ensued regarding Hawaii's licensure. VI noted the requirements were pretty close.

The Board discussed that Ms. Reed would have to have a license from another jurisdiction before applying to New Hampshire. AG asked whether she could finish her degree and apply directly to New Hampshire for initial licensure. CTJ stated she could, as long as she holds a license from a jurisdiction that has requirements equal to or greater than New Hampshire's.

DM stated the issue is that she needs a waiver of not having received a bachelor's degree. CTJ stated that New Hampshire's waiver requirements state that a person must already hold a license in a state that is equal to or exceeds her requirements. LBC will put together a draft email for the applicant, which will be reviewed by CTJ.

VI asked whether the undergraduate requirement had to be a bachelor's degree. CTJ noted that New Hampshire requires a bachelor's degree or a waiver.

AG stated that, if New Hampshire requires a jurisdiction's licensing requirements to meet or exceed New Hampshire's requirements, and if that jurisdiction does not require a bachelor's degree, it necessarily does not meet or exceed New Hampshire's requirements. CTJ noted the Board retains discretion to issue the waiver. Discussion ensued regarding New Hampshire's requirement that applicants for licensure have a bachelor's degree, and whether the requirement is outdated.

CTJ stated there was one more thing to discuss that was not on the agenda. CTJ stated that the Board had discussed changing ACP 302.02(c) to accept applicants approved by NCCAOM. The Board would like to know if they can take disciplinary action when a licensee has had the NCCAOM certification revoked or has otherwise been disciplined by the credentialing body. The Board reviewed the statute.

The Board recessed for a meeting with legal counsel at 11:28 a.m. for the purpose of obtaining legal advice and reconvened into public session at 11:39 a.m.

DM asked whether the Board should adjust the rules to ensure that someone who does have an associates or less than a bachelor's does not require a waiver. CTJ stated the Board should discuss at the next meeting. LBC will add to the next agenda.

6. **Applications.** The non-public agenda included a review of applications. Upon motion by CTJ, with a second by DM, the Board voted unanimously to move the Board's review of applications to public session.

LBC inquired whether the applications were approved and simply needed to be ratified. CTJ noted there is a subcommittee to review applications. Generally, if another meeting is not

scheduled within thirty (30) days of a meeting, the Board Administrator will consult with the subcommittee. The subcommittee will advise as to whether the application may be approved and, if so, the decision is considered at the next board meeting. CTJ noted this process was outlined in a board vote from a year prior; LBC will review the minutes.

- A. Therese Byrne.** The Board reviewed Ms. Byrne's application. DC noted she did not have a moral character statement from a licensed acupuncturist. CTJ stated she needed one moral character statement from a licensee. CTJ moved that the Board conditionally approve the application provided Ms. Byrne sends in a third moral character statement from a licensed acupuncturist. AG seconded the motion.

CTJ reviewed the rules with the Board. Discussion ensued regarding whether the candidate met the hours' requirement.

DC left the meeting at 12:00 p.m.

The Board voted unanimously to approve the motion. (DC did not participate).

- B. Kimberly Dowling.** CTJ noted that Ms. Dowling admitted to performing acupuncture for PTSD protocol and currently does not have a license. CTJ stated that a person needs to be licensed as an acupuncturist or certified as ADS. Ms. Dowling has been practicing without a license. Her application does not include a picture, moral character references, or transcript. The Board discussed that Ms. Dowling should be notified she cannot practice without a license.

CTJ noted that Ms. Dowling probably needs another initial application as opposed to a renewal application. DM stated the board administrator probably told her to send in a complete application. CTJ stated that the applicant technically expired, so she needs a letter that notifies her she must submit a complete initial application for licensure as an acupuncturist, and she cannot practice acupuncture or as an ADS until her initial application is approved or she is certified as an ADS. The Board discussed that there should be two letters. The first letter is to notify her that she requires a complete application for licensure. The second is a cease and desist.

VI noted that the applicant states she has NCCAOM but did not provide an expiration date.

DM asked a question regarding Ms. Byrne and whether Ohio's licensure requirements were similar to New Hampshire's licensing requirements. CTJ noted the Board had not discussed that issue. CTJ asked whether Ohio was equivalent. The Board reviewed Ohio's requirements for licensure. Ohio requires NCCAOM but does not specifically require a bachelor's degree. CTJ noted the Board had previously opined on this issue (on December 7, 2018). The Board agreed that if the applicant had greater than a bachelor's degree, they can

receive the waiver. AG asked whether they should remove the waiver section from the application.

DM stated this question should be on next agenda. The Board discussed whether to remove the waiver section from the application. The Board reviewed the statute and discussed RSA 3280-G:9 requirements.

The Board recessed at 12:30 p.m. and reconvened at 12:40 p.m.

**C. Christopher Jones.** The Board reviewed Mr. Jones's application and discussed the licensing requirements in Rhode Island. AG noted she thought the applicant had satisfied all requirements. The Board discussed that Rhode Island exceeded New Hampshire's requirements for licensure, except for reciprocity. AG moved to approve Mr. Jones's application, which was seconded by CTJ. The Board voted unanimously to approve Mr. Jones's application.

**D. Tracy Schreiter.** The Board discussed that she needs to file an initial application. CTJ stated the registry did not have her listed as having an active certification. This applicant is not ready for a decision because the paperwork is not in. AG inquired whether this person should wait until March for a decision. CTJ stated that the minutes should reflect that she requires an active certification from NCCAOM. She is also missing 3 moral character statements. She has a transcript, but does not have her Vermont license verification. DM asked whether this application requires verification of VT licensure if it is a new application for licensure and CTJ noted it did. CTJ checked the NCCAOM registration again, and verified that the applicant is certified. Needs to file initial application. Cindy: registry does not have her listed as active. Need active certification. Not ready for a decision. Paperwork not in. AG: is this someone we won't wait until March. Minutes: make note that she does have. She is missing certification from NCCAOM. Missing 3 moral character statements. Has transcript from Suffolk. Does not have Vermont license verification. Deb-If brand new initial application, does she need verification? Cindy-yes. Recheck under NCCAOM, Cindy verifies that she is certified. Shows her as having active certification in acupuncture. They are listing her as actively certified with an expiration date of December 31, 2023. CTJ moved to conditionally approve the license upon receipt of 3 moral character statements (1 from a licensed acupuncturist) and a Vermont license verification. The motion was seconded by AG. The Board voted unanimously in favor of the motion.

**E. Anna Stuart.** Upon motion by AG, with a second by CTJ, the Board voted unanimously to approve the application.

7. **Non-Public**—authorized by RSA 91-A:3, II(c), and the Board's executive and deliberative privileges. CTJ asked whether there was anything else to discuss in public. At 1:08 p.m.,

pursuant to RSA 91-A:3, upon motion by CTJ, with a second by DM, the Board voted to conduct a non-public session because public disclosure may render a proposed action ineffective or adversely affect the reputation of a person other than a Board member.

At 1:36 p.m., CTJ moved to go out of non-public session and into public session, with a second by AG. The Board voted unanimously in favor of the motion.

The Board confirmed the meeting dates. Next meeting is at March 13, 2019, at 10:00 a.m.

DM moved to adjourn the meeting, with a second by AG. The Board voted unanimously to adjourn the meeting at 1:40 p.m.