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FP 2022-2, Plc 1100 Reflexologists, Structural Integrators, and Asian Bodywork Therapists
Summary of Comments on Initial Proposal with OPLC Responses
April 27, 2022

Background

The Office of Professional Licensure and Certification (OPLC) is proposing to adopt Plc 1100 relative to reflexologists, structural integrators, and Asian bodywork therapists. These professions were previously regulated by the Department of Health and Human Services (DHHS) under RSA 328-H and He-P 1400. Authority to regulate the profession was transferred to the Executive Director of the Office of Professional Licensure and Certification (OPLC) pursuant to Laws of 2015, Ch. 276, eff. July 1, 2015. The OPLC previously initiated the drafting of new rules but was unable to complete the process due to unexpected staff turnovers. The OPLC is now proposing to adopt Plc 1100 to establish the rules required by RSA 328-H:5, VIII. Details of the proposal are listed in the Rulemaking Notice published in the January 13, 2022 *NH Rulemaking Register*.

One licensee attended the public hearing held on March 3, 2022. After learning that licensees had not been directly notified, the OPLC extended the deadline for submitting written comment to April 15, 2022 and sent emails to all licensees of record. Written comments were received from licensees and are addressed below in numerical order. Comments were also received from OLS /Administrative Rules; those comments and responses thereto follow the public comments.

The OPLC made the following revisions on its own initiative:

Plc 1102.14: added a definition of “working day”.

Plc 1104.01: in (a), added “in accordance with this section” at the end of the paragraph; in (b) intro, changed the date of the application form from October 2021 to April 2022; in (b)(4), inserted “and 42 U.S.C. 666(a)(13)” to the requirement to provide the applicant’s social security number; added new (b)(9) to require information on the business at which the applicant works or intends to work, if known; in renumbered (11), added language re: signature, date to accommodate on-line filing; in (c)(1), added a reference to Plc 1107.02.

Plc 1104.03: in (a)(4), changed “The specify therapy” to “The specific therapy”.

Plc 1104.04: in (a), added telephone number to contact information that must be kept updated and changed the time period in which changes to contact information must be submitted from 30 days to 10 working days; in (b), changed the time period in which notice of disciplinary actions in other jurisdictions must be reported from 10 days to 10 working days and clarified that actions that are in progress and that have been taken must be reported.

Plc 1105.01: corrected the inadvertent changes to the number of days in (a) that occurred when “60” was replaced with “110” to change the chapter number from 600 to 1100 in the draft rules and replaced the telephone number with the customer service email address; in (c)(5), inserted “and 42 U.S.C. 666(a)(13)” to the requirement to provide the renewal applicant’s social security number; added a new (c)(9) to require contact information for the applicant’s business; renumbered subparagraphs (9) and (11) as (10) and (12); in renumbered (12), inserted “to” between “attest” and “full compliance” and replaced “regulations” with “rules”; in (d)(1), added a reference to Plc 1107.02.

Plc 1105.04: in (a), added telephone number to contact information that must be kept updated and changed the time period in which changes to contact information must be submitted from 30 days to 10 working days; in (b), changed the time period in which notice of disciplinary actions in other jurisdictions must be reported from 10 days to 10 working days.

Plc 1106.03: in (d)(3), clarified that the fine is for practicing or advertising without having an active NH license and changed the fine from \$2,000 (flat fine) to \$1,000 per month or portion thereof the practice or advertising occurs so the fines can reflect the severity of the offense; in (d)(6), changed the fine from \$2,000 (flat fine) to \$1,000 per month or portion thereof the practice occurs so the fines can reflect the severity of the offense; added a fine as (d)(7) for failing to notify the Executive Director within 10 working days of the expiration, suspension, or revocation of the licensee’s national certification (\$250 per month or portion thereof the notification is late); added a fine as (d)(8) for failing to notify the Executive Director within 10 working days when a change of home or business address or change in personal telephone number or email address occurs (\$25 per month or portion thereof the notification is late, so there is incentive to provide the information even if late); and added a fine as (d)(9) for failing to notify the Executive Director within 10 working days of any disciplinary action taken against the licensee by another jurisdiction (\$250 per month or portion thereof the notification is late).

Plc 1107.03: in (c)(1), inserted a time period (10 working days) within which a licensee must notify the executive director of the expiration, suspension, or revocation of the licensee’s national certification.

Plc 1108.02: redesignated paragraphs (b)-(d) as (c)-(e) due to insertion of new (b) in response to a comment; in ~~(b)~~(2), inserted “at least” before “every 6 months” to clarify that records may be updated more frequently; in ~~(d)~~(e), inserted “client information and” before “treatment” to clarify that all client records are to be kept confidential.

Responses to Comments

Plc 1104.01 re: application information

Comment: The application requires the applicant to list other similar licensing in other states, including massage and cosmetology. I recommend broadening this to include all professional licenses of all kinds. I was on the Rolf Institute Ethics committee for many years. During this service I participated in cases where a person’s history with another kind of licensing board weighed importantly in our decision making. For example, some SI practitioners also have mental health licenses, a few have Law licenses. It is important to consider the nature and disposition of previous or concurrent licensing, possible complaints, and how a licensee responded to any such complaints.

Response: The OPLC has revised Plc 1104.01(b)(8) and added a new (c)(2) and new (d)(2) to require information on any professional license held by the applicant, and has added a requirement to Plc 1105.01 as new (c)(10) to update the information when a renewal application is submitted

and as (d)(2) to provide information about any disciplinary actions taken against other professional licenses and renumbered (2) and (3) as (3) and (4).

Plc 1107.01 re: required certification

Comment 1: In addition to all of the 22 Structural integration schools being acceptable criteria for NH Structural Integration licensing I would recommend also having IASI membership be an acceptable path for this purpose. Some of the schools recognized by IASI are smaller and may not maintain active membership of graduates.

*Comment 2: Making IASI membership or certification alone to be the licensing criteria for NH would not be good as a majority of graduates of IASI recognized schools are not IASI members. Only **eligibility** for IASI membership, by virtue of graduating from an IASI recognized school, should count.*

Response: The definition of “practitioner” in RSA 328-H:2, VII requires that an individual has “a **current certification** from an entity approved by the executive director as a reflexologist, structural integrator, or Asian bodywork therapist.” (Emphasis added.) According to the IASI website, there are two categories of membership that do not require certification of any kind. The OPLC thus has included IASI membership “at a level that requires a diploma or certificate from an IASI-recognized teaching institution” as acceptable.

Plc 1107.02 re: approved certifying organizations

Comment 1: There are numerous schools of structural integration in the country; the Rolf Institute and the Guild for Structural integration are only two.

Comment 2: Plc 1107.02 currently lists The Dr. Ida Rolf Institute and the Guild for Structural Integration as the approved organizations. The language should be: “Certification from IASI recognized SI training programs.” IASI (International Association of Structural Integrators) encompasses all of the SI schools including DIRI and the Guild. Listing only those two schools unintentionally leaves several NH licensees out.

Comment 3: For structural integrators, the only two certifying bodies proposed to be recognized by NH are the Rolf Institute (DIRI) and the Guild for Structural Integration (GSI). DIRI and GSI are two of the 22 Structural Integration schools currently recognized by the International Association of Structural Integrators (IASI). All of these 22 schools should be included, otherwise a majority of Structural Integration practitioners will be ineligible for NH structural integration licensing.

Comment 4: A few of the schools on the IASI recognized list are defunct, but their graduates are still qualified and practicing.

Response: The OPLC has revised the rule to require certification from a program that is recognized by the International Association of Structural Integration (IASI) as compliant with IASI’s current educational standards, as listed on the IASI website at <https://www.theiasi.net> or directly at <https://www.theiasi.net/si-training-programs>, and has included language to accept membership in the IASI “at a level that requires a diploma or certificate from an IASI-recognized teaching institution” as acceptable.

Plc 1108.02 re: recordkeeping

Comment 1: The national certifying organizations already have requirements for client records that we have to comply with, so the rules should not contain any recordkeeping requirements.

Comment 2: *In general, I take no exception to the proposed changes except the state dictating our client note-taking practices. For each of our professions, our national certifying bodies regulate the requirement to keep notes on clients.*

It seems best for our professional certification organizations to be trusted for each of their authority on appropriate and adequate session notes and record keeping. Therefore, I hope the state will not set this as part of the state licensing rules, given that others on the board are not necessarily familiar with the nuance and intricacies of each of our professions, but rather the general scope of practice.

Response: The OPLC does not believe it is appropriate to remove all recordkeeping requirements from the rules. Instead, the rule has been revised to require compliance with any client recordkeeping standards established by a licensee's certifying organization that are equivalent to or more detailed than the information specified in the rule, which is the very least information that should be collected.

OLS Comments

Plc 1104.01(b) re: initial license application form

Comment: “[language in (b) re: name, date of form is] **Unclear**. *It is unclear whether the form has been updated outside of the rulemaking process since it has a 10/2021 edition date. Also, please submit all forms (screen shots are sufficient) with the final proposal for OLS review.*” (**Bold** in original.)

Response: The Initial Proposal contained a date because a date is required; it was not intended to suggest that there is an actual form with that date. The date is being updated in the Final Proposal to reflect the month and year the FP -- and hence the form -- is finalized. A draft of the revised application, which will not be in use until after the rules are adopted, is being submitted.

Plc 1104.01(c) re: application processing fee

Comment: “**Unclear/Legis. Intent**. *Pursuant to RSA 310-A:1-e, I. (a) the Executive Director of the OPLC has authority to assess licensing, certification, renewal fees, and any necessary administrative fees associated with licensing or certifications. RSA 310-A:1-e, I requires the OPLC to set its fees at a rate that would provide for 125% of its operating costs.*

Here the rules cite to an application processing fee that doesn't yet exist in the cited rule. Chapter Plc 1000 as a whole is a mix of regular, interim, and emergency rules. Recent board proposals have cited to fees not listed in Plc 1000 or 1002, and the OPLC has engaged [in] rulemaking on a piecemeal basis to deal with the issue.” (**Bold** in original.)

Response: The OPLC shares this frustration with the state of the fee rules, but has been prevented by circumstances beyond its control from adopting a comprehensive set of rules for application fees in Plc 1002. A rulemaking to adopt a limited number of fees in Plc 1002 has been initiated; the Initial Proposal includes the fees that are cross-referenced in Plc 1100.

Note that Plc 1001 relative to more general fees and Plc 1003 relative to per diems and reimbursable expenses for board members are both adopted regular rules, although amendments to both Parts are currently in rulemaking to address issues that were not brought to the Executive Director's attention when the original rulemakings were in progress.

Plc 1105.01 re: application for license renewal

Comment 1: “[the telephone number in (b) is] *Unclear. Is “1-603” meant?*”

Response 1: The area code was inadvertently changed from “603” to “1103” in a draft of the rules when the chapter number was changed from 600 to 1100, and the error was not found prior to filing the rules. In any event, the telephone number has been replaced with the customer support email address, which provides a better record of an inquiry being made.

Comment 2: “**Note to agency.** *Please provide mockups or screen shots of the online form.*” (**Bold** in original.)

Response 2: Screen shots of the existing online form are being provided, however the form will be updated to match what is required by the rules prior to being used after the rules are adopted.

Plc 1107.05 re: approval of other certifying organizations

Comment: “[in (a), the reference to Plc 1107.05 is] *Unclear. Is previous section, Plc 1107.04, meant?*”

Response: Yes. The cross-reference has been corrected.

Edits made: Plc 1106.03(e)