

WEST VIRGINIA  
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In this Box

FILED

AUG 3 1 19 PM '98

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: BOARD OF ACUPUNCTURE TITLE NUMBER: 32

CITE AUTHORITY WVa Code § 30-36-7

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 32 CRS 3

TITLE OF RULE BEING PROPOSED: APPLICATIONS FOR  
LICENSURE TO PRACTICE ACUPUNCTURE

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Darrell E. Samples, NP, OMD  
Authorized Signature

\$5.00

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 28, 1998

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) W. Va Board of Acupuncture  
P.O. Box 252  
HUNTINGTON WV 25707-0252

LEGISLATIVE RULE TITLE: APPLICATIONS FOR LICENSURE  
TO PRACTICE ACUPUNCTURE

1. Authorizing statute(s) citation WVa Code  
§ 30-36-7
  
2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
APRIL 15, 1998
  
- b. What other notice, including advertising, did you give of the hearing?  
copies sent to state acupuncture  
association and to other state  
boards
  
- c. Date of Public Hearing(s) or Public Comment Period ended:  
May 20, 1998

- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached \_\_\_\_\_ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:  
(be exact)

July 30, 1998

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

DR. DARRELL E. SAMPLES, ND, OMD  
SECRETARY, BOARD OF ACUPUNCTURE  
P.O. Box 252  
HUNTINGTON W/V 25707-0252

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a

hearing for the taking of evidence and a general description of the issues to be decided.

---

---

---

---

b. Date of hearing or comment period:

---

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

---

d. Attach findings and determinations and reasons:

Attached 

---

WEST VIRGINIA  
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: BOARD OF ACUPUNCTURE TITLE NUMBER: 32

RULE TYPE: LEGISLATIVE; CITE AUTHORITY: CODE § 30-36-7

AMENDMENT TO AN EXISTING RULE: YES \_\_\_ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: SERIES 3

TITLE OF RULE BEING PROPOSED: APPLICATIONS FOR LICENSURE  
to PRACTICE ACUPUNCTURE

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON MAY 20, 1998 AT 12:00 NOON

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

W.V. BOARD OF ACUPUNCTURE  
P.O. Box 252  
HUNTINGTON WV  
25907-0252

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Darrell E. Samples ND OMD  
Authorized Signature

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Application for Licensure to Practice Acupuncture  
 Type of Rule: Legislative  Interpretive  Procedural  
 Agency: W.Va Board of Acupuncture  
 Address: P.O. Box 252  
HUNTINGTON WV 25907-0252

1. Effect of Proposed Rule NA

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

NA

3. Objectives of these rules: to establish the application process for the practice of acupuncture.

Rule Title: Application for Licensure to Practice  
Acupuncture

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NA

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

NA

C. Economic Impact on Citizens/Public at Large.

NA

Date: April 15, 1998

Signature of Agency Head or Authorized Representative

Darrell E. Sampson, ND OMD  
Secretary

32 CRS 3

This rule establishes the procedure for applying for licensure to practice acupuncture in West Virginia.

---

32 CRS 5

This rule is being promulgated pursuant to requirements of Legislative intent requiring acupuncturists to be licensed.

FILED

32 CRS 3

AUG 3 1 19 PM '98

**Title 32  
Legislative Rule  
Board of Acupuncture**

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**Series 3  
Applications for Licensure to Practice Acupuncture**

**32-3-1. General**

- 1.1. Scope. -- This rule governs the application process for acupuncture licensure.
- 1.2. Authority. -- W. Va. Code § 30-36-7.
- 1.3. Filing Date. --
- 1.4. Effective Date. --

**32-3-2. Application**

This legislative rule applies to applicants for licensure by the Board.

**32-3-3. Definitions.**

- 3.1. Application. -- A form, approved by the Board, which documents the applicants education, background and qualifications for licensure.
- 3.2. Applicant. -- An individual who has filed an application for licensure to practice acupuncture in the state of West Virginia with the Board.
- 3.3. NACSCAOM. -- The National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine or its successor organization.
- 3.4. NCCA. -- The National Commission for the Certification of Acupuncture or its successor organization the National Commission for the Certification of Acupuncture and Oriental Medicine.
- 3.5. CCAOM. -- The Council of Colleges of Acupuncture and Oriental Medicine or its successor organization.

3.6. Apprenticeship. -- A supervised course of study or tutorial program between one student and one instructor which is approved by the Board which and when successfully completed enables the applicant to meet the requirements of W. Va. Code § 30-36-10 for licensure as an acupuncturist.

3.7. Course of training. -- A systematic course of study in acupuncture at a school or college of acupuncture or oriental medicine which leads to a degree or diploma in acupuncture or oriental medicine.

**32-3-4. Board approval for licensure.**

The Board shall approve, by a majority vote, in a regular meeting an applicant who has submitted the required application form and supporting documentation for credential review before it issues license to practice acupuncture if the applicant meets the requirements of W. Va. Code § 30-36-1 et seq. and Board rules promulgated under the Code.

**32-3-5. Licensure qualifications.**

5.1. An applicant for licensure shall:

5.1.1. Be of good moral character;

5.1.2. Be at least eighteen (18) years of age; and

5.1.3. Demonstrate competence in performing acupuncture.

5.2. An applicant shall demonstrate his or her good moral character by providing the Board with three character references, each of whom can attest to the applicant's reputation for honesty and credibility. The character references shall include:

5.2.1 Two references, who are not related to the applicant, and who have known the applicant for the five year period directly preceding application; and

5.2.2. One reference who is a licensed acupuncturist or oriental medical doctor, who is not related to the applicant, and who has known the applicant for the three year period directly preceding application.

5.3. An applicant for licensure shall demonstrate his or her age to the Board by providing a certified copy of an official governmental document, passport or birth certificate which indicates the applicant's date of birth.

- 5.4. An applicant for licensure shall demonstrate his or her competence to perform acupuncture to the Board by providing documentation of training, apprenticeship, qualifying test scores, or licensure in another jurisdiction by submitting with his or her application:
  - 5.4.1. An official transcript from his or her school or college of acupuncture or oriental medicine;
  - 5.4.2. An official transcript from his or her supervising tutor of acupuncture or oriental medicine;
  - 5.4.3. An official transcript from the NCCAOM of his or her qualifying test scores;
  - 5.4.4. An official copy of the applicants license from the licensing Board of another jurisdiction documenting previous licensure.
  - 5.5.5. Applicants shall attach a current signed passport-size photograph to the application.

**32-3-6. Certification of Documentation.**

Documentation submitted by or on behalf of the applicant shall be certified by the appropriate official or by governmental seal of authority, in cases of foreign trained applicants. The Board at its discretion may waive this requirement when it is determined that it cannot be obtained through the exercise of due diligence.

**32-3-7. Verification.**

All statements submitted by or on behalf of an applicant shall be made under penalty of false swearing. An applicant or license holder who makes a false statement is subject to disciplinary action including, but not limited to, immediate revocation or suspension of the license.

**32-3-8. Translation Required.**

All application documentation submitted in a language other than English shall be accompanied by a translation into English, certified by a translator other than the applicant, who shall attest to the accuracy of the translation under penalty of false swearing.

**32-3-9 Application Deadline.**

9.1. A new applicant shall submit his or her application for licensure examination on a form provided by the Board, and shall attach all required statements and documents. All applications must be received in the Board's office at least 30 days prior to the date of the Board Examination of Credentials for which the application is made. The Board will meet a minimum of twice per calendar year to examine applications for licensure.

9.2. A renewal applicant shall submit his or her application for renewal licensure on a form provided by the Board, and shall attach all required statements and documents. All applications must be received in the Board's office at least 30 days prior to the date of Board Examination of Credentials for which the renewal application is made.

9.3. All transcripts and supporting documents from qualifying education institutions and tutorial supervisors must be received in the Board's office at least 30 days prior to the date of the Board Examination of Credentials.

9.4. The Board, at its own discretion may waive the foregoing filing dates, if there are difficulties with the administration of the Board Examination of Credentials or other circumstances warrant the waiver.

**32-3-10. Board Examinations of Credentials and Demonstration of Competency**

10.1. The Board shall review each applicant's credential documentation and application form before it issues a license, pursuant to W. Va. Code § 30-36-12.

10.2. Location. --The Board shall give public notice of the times and locations where examinations of credentials shall be held .

10.3. Languages. --The Board shall administer examinations of credentials in English.

10.4. Examination of Credentials Content. --The examination for licensure shall consist of both a review of credential documentation and an oral examination. The oral examination shall test and review the applicant's knowledge and competency in the practice of oriental medicine through acupuncture.

10.5. If the Board determines that an applicant has met the requirements for acupuncture licensure, it shall issue to the applicant a license that is valid for a period of two years. The Board, at its discretion, may make a license provisional and may stipulate additional training, clinical experience, or the NCCAOM examination as requirements for licensure.

**32-3-11. Documentation of Training.**

11.1. Each applicant shall have completed the minimum educational or tutorial requirements set forth in the W. Va. Code § 30-36-10, as documented by the registrar of each school which the applicant attended or from the applicant's tutor, in the case of a tutorial or apprenticeship program.

11.2. All applicants who are graduates of an approved educational program who take the NCCA or its successor, examination as part of his or her licensure requirements shall have completed the course work and training set forth in W. Va. Code § 30-36-10.

11.3. All applicants applying for licensure shall meet the minimum educational or tutorial requirements set forth in W. Va. Code § 30-36-1 et seq. by the date of the Board Examination of Credentials for which the application has been made.

**32-3-12. Equivalent Training and Clinical Experience Qualifying for Licensure.**

In order for documented educational training and clinical experience to qualify for licensure, the applicant shall document that the education and experience meets the requirements of W. Va. Code § 30-36-10.

**32-3-13. Abandonment of Applications.**

The Board may deny an application without prejudice when an applicant does not exercise due diligence in the completion of his or her application, in furnishing additional information or documents required, or in the payment of any required fees.

**32-3-14. Failure to Appear for Oral Examination-Withdrawal of Application.**

An applicant for Board oral examination, who fails to appear for two interviews without a written explanation which is satisfactory to the Board shall have his or her application withdrawn by the Board. If the applicant subsequently decide to appear before the Board for an oral examination, he or she shall file a new application and pay the full application fee.

**32-3-15. Review and Processing of Applications.**

15.1. Within a reasonable time after receipt of an application, the Board shall inform the applicant whether the application is complete and accepted for the Board Examination

of Credentials or is deficient and what specific information or documentation is required to complete the application.

15.2. Within a reasonable time after receipt of a completed application the Board shall notify the applicant of the date, time and location of his or her oral examination.

15.3. Within a reasonable time after completion of the Board Examination of Credentials and oral examination, the Board shall notify all applicants of their eligibility for licensure and upon payment of the specified fee.

**32-3-16. Denial of Applications.**

16.1. Any applicant whose application is denied, may submit within thirty (30) calendar days from the date of rejection, a written request that his or her application be presented to the Board for further evaluation at the Board's next regular meeting.

16.2. As part of this evaluation procedure, the Board may, in its discretion, request that the applicant be orally interviewed with respect to his or her qualifications for licensure.

16.3. Nothing in this section shall be constructed to deprive an applicant of his or her rights of appeal as afforded by other provisions of law.

**32-3-17. Inactive License.**

15.1. Any acupuncturist who is not actively engaged in the practice of acupuncture desiring an inactive license or to restore an inactive license to active status shall submit an application to the Board on a form provided by it. (Active/Inactive License Application). The applicant need not submit his or her license or a copy of the license to the Board with the application.

15.2. In order to restore an inactive license to active status, the licensee shall have completed a minimum of forty-eight (48) hours of approved continuing education within the last two (2) years in compliance with the rule on continuing education promulgated by the Board. In the event a license has been inactive less than one (1) year, a minimum of twenty-four (24) hours of continuing education is required.

15.3. The inactive status of any licensee shall not deprive the Board of its authority to institute or continue a disciplinary proceeding against a licensee upon any ground provided by law or to enter an order suspending or revoking a license or otherwise holding disciplinary action against the licensee on that ground.