

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

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DEC 16 10 04 AM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: BOARD OF ACUPUNCTURE TITLE NUMBER: 32

CITE AUTHORITY _____

AMENDMENT TO AN EXISTING RULE: YES ___ NO ___

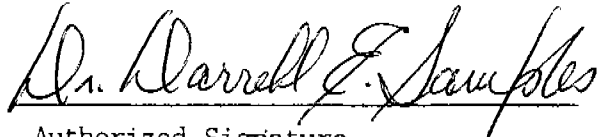
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 32 CRS3

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

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature

\$3.20

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32 CRS 3

DEC 16 10 04 AM '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. Apprenticeship. -- A supervised course of study or tutorial program between one student and one instructor which is approved by the Board and which when successfully completed enables the applicant to meet the requirements of W. Va. Code § 30-36-10 for licensure as an acupuncturist.
- 3.2. CCAOM. -- The Council of Colleges of Acupuncture and Oriental Medicine or its successor organization
- 3.3. 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.
- 3.4. NACSCAOM. -- The National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

3.5. NCCA. -- The National Commission for the Certification of Acupuncture or its successor organization the National Commission for the Certification of Acupuncture and Oriental Medicine.

32-3-4. Board approval for licensure.

- 4.1. The Board shall issue a license to practice acupuncture to an applicant who has submitted the required application form and supporting documentation for credential review if the applicant meets the requirements of W. Va. Code § 30-36-1 et seq. and rules promulgated by the Board.
- 4.2. 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.

32-3-5. 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 character references from three persons, each of whom can attest to the applicant's reputation for honesty and credibility. The character references shall include:
 - 5.2.1. Two persons, 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 person 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 and 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; or

5.4.4. An official copy of the applicants license from the licensing Board of another jurisdiction documenting previous licensure.

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 licensee 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 shall 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. Review and Processing of Applications.

10.1. 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.

10.2. 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.

10.3. 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 for licensure found in Fees of the Board of Acupuncture 32CRS4.

32-3-11. Board Examinations of Credentials and Demonstration of Competency

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

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

11.3. Languages. --The Board shall administer examination of credentials in English.

11.4. Board Examination of Credentials Content. --The examination of credentials 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.

32-3-12. Documentation of Training.

12.1. 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.

12.2. All applicants who are graduates of an approved educational program who take the NCCA or NCCAOM 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.

12.3. 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.

32-3-13. 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 oral examinations without a written explanation which is satisfactory to the Board shall have his or her application withdrawn by the Board. If the applicant subsequently decides to reapply for licensure, he or she shall file a new application and pay the full application fee.

32-3-15. Denial of Applications.

15.1. 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.

15.2. 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.

15.3. 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.

32-3-16. Inactive License.

16.1. Any acupuncturist who is not actively engaged in the practice of acupuncture desiring an inactive license, W. Va. Code § 30-36-16, 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.

16.2. In order to restore an inactive license to active status, the licensee shall complete a minimum of forty-eight (48) hours of approved continuing education within the two (2) years preceding application for return to active status, in compliance with the Board rule on continuing education requirements 32 CRS 9. If the license has been inactive less than one (1) year, a minimum of twenty-four (24) hours of continuing education is required.

16.3. 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.



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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

State Capitol - Room MB-49
Charleston, West Virginia 25305
Phone: (304) 347-4840
Fax: (304) 347-4919

email: tanders@mail.wvnet.edu
November 12, 1998

Senator Mike Ross, Co-Chairman
Delegate Mark Hunt, Co-Chairman
Debra A. Graham, Counsel

Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Teri Anderson, Administrative Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Dr. Darrell E. Samples
Board of Acupuncture
P.O. Box 252
Huntington, WV 25707

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Applications for Licensure to Practice Acupuncture, 32CSR3**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency _____
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: Board of Acupuncture

Subject: Applications for Licensure to Practice Acupuncture,
32CSR3

PERTINENT DATES

Filed for public comment: April 17, 1998
Public comment period ended: May 20, 1998
Filed following public comment period: August 3, 1998
Filed LRMRC: August 3, 1998
Filed as emergency:

Fiscal Impact: None

OFFICE OF SECRETARY OF STATE

SEP 10 10 31 AM '98

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ABSTRACT

The proposed rule is new. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 states that the proposed rule applies to applicants for licensure by the Board.

Section 3 defines terms.

Section 4 requires a majority of the Board to approve an applicant before a license is issued.

Section 5 sets forth the statutory requirements for licensure and sets forth the required documentation.

Section 6 requires documentation submitted by applicant's to be certified unless an exception is granted by the Board.

Section 7 provides that a applicant or licensee who makes a false statement may have his or her license suspended or revoked.

Section 8 requires that translations be provided for any application documentation which is not in English.

Section 9 sets forth application deadlines for application for licensure and licensure renewal.

Section 10 provides for the review of an applicant's credentials by the Board as well as an oral examination. It requires the Board to issue a license which is valid for 2 years to a qualified applicant. It allows the Board to issue a provisional license and to stipulate additional training.

Section 11 also relates to documentation of training and should be combined with Section 5.

Section 12 also relates to documentation of training and should be combined with Section 5.

Section 13 allows the Board to deny licensure when an application is not complete or the necessary fees are not paid.

Section 14 requires an applicant who twice fails to appear before the Board for the examination of credentials to reapply for licensure and pay the required fee.

Section 15 relates to Board notification to the applicant regarding his or her application and licensure.

Section 16 allows an applicant whose application has been denied to request a further evaluation by the Board.

Section 17 provides for an inactive license and sets forth the requirements for going from inactive status to active status.

AUTHORITY

Statutory authority: W.Va. Code, §30-36-7(a), which provides, in part, as follows:

(a) The board may propose for promulgation legislative rules to carry out the provisions of this article in accordance with the provisions of article three, chapter twenty-nine-a of this code.

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest.