

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 and 30-36-14(f)

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: 32 CRS 5

TITLE OF RULE BEING PROPOSED: ADVERTISING BY
LICENSED ACUPUNCTURISTS

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, MD, CMD
Authorized Signature

\$4.20

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.) BOARD OF ACUPUNCTURE

P.O. Box 252

HUNTINGTON WU 25707-0252

LEGISLATIVE RULE TITLE: ADVERTISING BY
LICENSED ACUPUNCTURISTS

1. Authorizing statute(s) citation WVa Code §§
30-36-7 and 30-36-14(f)

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
and to the Governor

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 WU 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
AMENDMENT TO AN EXISTING RULE: YES ___ NO X 30-36 H (A)
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: SERIES 5

TITLE OF RULE BEING PROPOSED: ADVERTISING by LICENSED ACUPUNCTURISTS

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.

WV BOARD OF ACUPUNCTURE
P.O. Box 252
HUNTINGTON WV
25707-0252

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

Darrell E. Sample, MD DMD
Authorized Signature

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: ADVERTISING BY Licensed Acupuncturists
 Type of Rule: Legislative Interpretive Procedural
 Agency: W.Va Board of Acupuncture
 Address: P.O. Box 252
Huntington, WV 25907-025

1. Effect of Proposed Rule N.A.

	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:

N.A.

3. Objectives of these rules: to establish rules for advertising.

Rule Title: _____

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

N.A.

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

N.A.

C. Economic Impact on Citizens/Public at Large.

N.A.

Date: *April 15, 1998*

Signature of Agency Head or Authorized Representative

Darrell E. Samfley, ND OMO
Secretary

This rule is establishes the standards of advertising for licensed acupuncturists.

This rule is being promulgated pursuant to requirements of Legislative intent found in the Code § 30-36-14 (f).

**Title 32
Legislative Rule
Board of Acupuncture**

**Series 5
Advertising By Licensed Acupuncturists**

FILED

AUG 3 1 20 PM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

32-5-1. General.

- 1.1. Scope. --This rule establishes standards for the advertising of acupuncture.
- 1.2. Authority. -- W. Va. Code §§ 30-36-7 and 30-36-14 (f).
- 1.3. Filing Date. --
- 1.4. Effective Date. --

32-5-2. Application and enforcement.

This legislative rules applies to all licensed acupuncturists, all student acupuncturists and all apprenticed acupuncturists. The enforcement of these rules is vested with the Board.

32-5-3. Recognized Titles.

Academic and professionally granted titles which may be used by acupuncturists practicing in W. Va. include, but are not limited to the following:

- 3.1. L.Ac. and Lic. Ac.-- Licensed Acupuncturist
- 3.2. O.M.D. -- Oriental Medical Doctorate
- 3.3. MSOMed. -- Master of Science in Oriental Medicine
- 3.4. D.Ac. -- Doctor of Acupuncture
- 3.5. C.A. -- Certified Acupuncturist
- 3.6. D.O.M. -- Doctorate of Oriental Medicine

32-5-4. Advertising.

4.1. A Board licensed acupuncturist may advertise the provision of any acupuncture services to the public, which are within the scope of practice, authorized by W.Va. Code § 30-36-2. The advertising may not promote the excessive or unnecessary use of the services.

4.2. An individual not licensed by the Board may not hold himself or herself out, advertise, distribute literature, or imply that he or she is an acupuncturist, oriental medical doctor or certified acupuncturist.

32-5-5 Use of the Title Doctor

5.1. An acupuncturist may use the title "Doctor" or the abbreviation "Dr." in connection with the practice of acupuncture when he or she possesses an earned doctorate degree from an accredited, approved or authorized educational institution which is in acupuncture, Oriental medicine, a biological science, or is otherwise related to the authorized practice of an acupuncturist. The use of the title "Doctor" or the abbreviation "Dr." by an acupuncturist as authorized in this subsection without further indication of the type of license, certificate or degree which authorizes that use, constitutes unprofessional conduct.

5.2. An acupuncture doctor shall clearly explain to his or her patients, in writing and verbally, that he or she is not a western medical physician, unless he or she has graduated from an accredited school of medicine.