

**WEST VIRGINIA  
SECRETARY OF STATE  
BETTY IRELAND  
ADMINISTRATIVE LAW DIVISION**

Form #2

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FILED

2007 MAY -2 AM 10: 32

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: Board of Acupuncture TITLE NUMBER: 32

RULE TYPE: Legislative CITE AUTHORITY: WV Code 30-36-7(a) and 30-36-14(c)

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 32CRS9

TITLE OF RULE BEING AMENDED: Continuing Education Requirements

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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 June 12, 2007 AT 12:00 (noon) ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Dr. Darrell E. Samples, Secretary

Board of Acupuncture

P O Box 252

Huntington, WV 25707-0252

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

  
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

**Joe Manchin III,  
Governor**

**Michelle DeStefano, LAc**  
Shepherdstown  
**Marian Hollinger**  
Morgantown  
**Brian Stephen Love, MD**  
Morgantown



**P O Box 252**  
**Huntington, WV 25707-0252**  
**(304) 529-4558 Voice Mail**

**C. P. Negri, OMD, NMD**  
Fairmont  
**Darrell E. Samples, ND, OMD**  
Huntington

~State of West Virginia~

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**Board of Acupuncture**

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April 30, 2007

Title 32  
Legislative Rule  
Series 9

**Continuing Education Requirements Summary**

The purpose of this rule is to comply with W. Va. Code §§ 30-36-1 et seq., 30-1-1 et seq.

The proposed legislative rule changes are for the purpose of:

1. Changes in the names of the national acupuncture and oriental medical associations, §§ 32-9-5.1.2 and 32-9-5.1.3.
2. Clarification of Board requirements for licensure renewals, § 32-9-7.

The proposed legislative rule clearly establishes professional requirements for renewal of licensure in West Virginia.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Continuing Education Requirements (32CRS9)

Type of Rule:  Legislative  Interpretive  Procedural

Agency: Board of Acupuncture

Address: P O Box 252  
Huntington, WV 25707  
Attn: Dr. Darrell E. Samples, Secretary

Phone Number: 304 529-9355 Email: docsamples@verizon.net

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

None

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
<b>2. Estimated Total Revenues</b>	0.00	0.00	0.00

Rule Title: \_\_\_\_\_

Rule Title: Continuing Education Requirements (32CRS9)

- 3. Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

There are no costs associated with this rule.

### MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

Date: April 30, 2007

Signature of Agency Head or Authorized Representative

Dr. Donald J. Sawyer

**TITLE 32  
LEGISLATIVE RULE  
BOARD OF ACUPUNCTURE**

FILED

2007 MAY -2 AM 10: 32

**SERIES 9  
CONTINUING EDUCATION REQUIREMENTS**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§32-9-1. General.**

1.1. Scope. -- This establishes continuing education requirements for renewal of licensure pursuant to W. Va. Code §30-36-14(d).

1.2. Authority. -- W. Va. Code §§30-36-7(a) and 30-36-14(c).

1.3. Filing Date. -- May 21, 1999.

1.4. Effective Date. -- May 21, 1999.

**§32-9-2. Application.**

This legislative rule applies to renewal licensees and instructors of continuing education courses.

**§32-9-3. Definitions.**

3.1. Approved Provider. -- Those persons or organizations offering continuing education in West Virginia, who are approved by the Board.

3.2. Course. -- A systematic learning experience, at least one hour in length, which deals with and is designed for the acquisition of knowledge, skills and information relevant to the practice of acupuncture.

3.3. Hour. -- A period of time spent in a course, lasting at least fifty (50) minutes, where participation in an organized learning experience occurs.

**§32-9-4. Criteria for Provider Approval.**

4.1. In order to be an approved provider, a provider shall submit to the Board an application on a form provided by the Board accompanied by the fee required by Board of Acupuncture rules, Fees of the Board of Acupuncture 32 CSR 4 . All provider applications and documentation submitted to the Board shall be typewritten and in English.

4.2. The approval of the provider expires one (1) year after it is issued by the Board and may be renewed upon the filing of the required application and fee.

4.3. Acupuncture schools and colleges which have been approved by the Board, pursuant to the W. Va. Code §30-36-10, are approved continuing education providers .

**§32-9-5. Approved Providers.**

5.1. For the purpose of this rule a provider may only use the title "approved provider" when the person or organization has submitted a provider application form, remitted the appropriate fee and has been issued a provider number. Programs offered by the following organizations will be considered "approved":

5.1.1. The West Virginia Association of Oriental Medicine (WVAOM);

5.1.2. ~~The National Acupuncture and Oriental Medicine Alliance (NAOMA);~~ The American Association of Acupuncture and Oriental Medicine (AAAOM);

~~5.1.3. The American Association of Oriental Medicine (AAOM);~~

~~5.1.4.~~ 5.1.3. The Council of Colleges of Acupuncture and Oriental Medicine (CCAOM);

~~5.1.5.~~ 5.1.4 The American Academy of Medical Acupuncturists (AAMA);

~~5.1.6.~~ 5.1.5. The National Acupuncture Teachers Association; or

~~5.1.7.~~ 5.1.6. The National Acupuncture Detoxification Association.

~~5.1.8.~~ 5.1.7. Accredited schools or colleges.

5.2. The Board shall only one provider number to a person or organization. When two or more approved providers co-sponsor a course, the course shall be identified by only one provider number and that provider shall assume responsibility for record keeping, advertising, issuance of certificates and instructor qualifications.

5.3. An approved provider shall keep the following records for a period of four years in one identified location:

5.3.1. Course outlines of each approved course given;

5.3.2. The record of time and places of each approved course given;

5.3.3. Course instructor curriculum vitae or resumes;

5.3.4. The attendance record for each approved course which shows the name, signature and license number of acupuncturists taking the course and a record of any certificates issued to them; and

5.3.5. Participant evaluation forms for each approved course given.

5.4. Within ten (10) days of completion of an approved course, the provider shall submit to the Board the following:

5.4.1. A copy of the attendance record showing the name, signature and license number of any licensed acupuncturists who attended the approved course; and

5.4.2. The participant evaluation forms of the approved course.

5.5. Approved providers shall issue, within 60 days of the conclusion of an approved course, to each participant who has completed the course a certificate of completion which contains the following information:

5.5.1. The provider's name and number;

5.5.2. The course title;

5.5.3. The participant's name and, if applicable, his or her acupuncture license number;

5.5.4. The date and location of the course;

5.5.5. The number of continuing education hours completed; and

5.5.6. A statement directing the acupuncturist to retain the certificate for at least four (4) years from the date of completion of the course.

5.6. An approved provider shall notify the Board of any changes to the date or location of an approved course. An approved provider shall not change to the date of an approved course prior to the date for which the course was approved if the new date would occur less than 45 days from receipt of the course request.

5.7. Any changes in the content of or instructor for an approved course requires prior approval of the Board. A request to change the content of or instructor(s) for an approved course shall be received by the Board at least ten (10) days before the course begins.

5.8. An approved provider shall notify the Board within 30 days of any changes in its' organizational structure or the person responsible for the provider's continuing education course, including name, address, or telephone number changes.

5.9. Provider approval is non-transferable.

5.10. The Board may audit during reasonable business hours records, courses, instructors and related activities of an approved provider.

#### **§32-9-6. Approval Of Continuing Education Courses.**

6.1. Only an approved provider may offer continuing education courses.

6.2. The content of all courses of continuing education shall be relevant to the practice of acupuncture and shall:

6.2.1. Be related to the knowledge and/or technical skills required to practice acupuncture; or

6.2.2. Be related to direct and/or indirect patient care. Courses in acupuncture practice management or medical ethics are also acceptable.

6.3. Each course shall include a method by which the course participants evaluate the following:

6.3.1. The extent to which the course met its stated objectives;.

- 6.3.2. The adequacy of the instructor's knowledge of the course subject;
- 6.3.3. The utilization of appropriate teaching methods;
- 6.3.4. The applicability or usefulness of the course information; and
- 6.3.5. Other relevant comments.

**§32-9-7. Content of Courses Applicable for Continuing Education Credits.**

License renewal requires a minimum of forty-eight hours of continuing education units or continuing medical education units from the following categories;

7.1. For each renewal period of two years, a licensee shall have a minimum of twenty-four hours of instruction in the area of acupuncture or oriental medicine from an approved provider, and;

7.2. For each renewal period of two years, a licensee may have up to twenty-four hours of instruction in western clinical sciences, medical practices, medical ethics, or medical research which are sponsored or accredited by, but not limited to, the following organizations, or their successor organizations:

- 7.2.1. The World Health Organization (WHO);
- 7.2.2. The National Institutes of Health (NIH);
- 7.2.3. The American Medical Association (AMA);
- 7.2.4. The American Osteopathic Association (AOA);
- 7.2.5. The American Nurses Association (ANA);
- 7.2.6. Local hospitals; or
- 7.2.7. Local colleges, and;

7.3. For each renewal period, a licensee may have no more than twelve (12) hours of training in accredited programs which will assist the licensee to carry out his or her professional management responsibilities, including, but not limited to:

- 7.3.1. Office, hospital, or administrative management;
- 7.3.2. Language training, such as Chinese or English as a foreign language; or
- 7.3.3. Education methodology, and;

7.4. An acupuncturist may obtain credit for any other programs which are pre-approved by the Board, at the Board's discretion.

**§32-9-10. Application for Course Approval.**

10.1. In order to obtain approval for a course, an approved provider shall submit to the Board a request for course approval, in English, on a form provided by the Board or in a similar format which contains the following information:

10.1.1. The provider's name, provider number, address, telephone number and contact person;

10.1.2. Course title, date, location, and number of continuing education hours;

10.1.3. The type and method of instruction and educational objectives to be met;

10.1.4. A course outline, course description, and instructor information and qualifications; and

10.1.5. All proposed public advertisements which are intended to be used by the approved provider to advertise the course. Where the provider uses a public advertisement which is developed after the course has been approved and which was not provided to the Board with the course request, the provider shall mail a copy of that advertisement to the Board within ten (10) days after its publication.

10.2. An approved provider shall obtain Board approval for every course that is offered for continuing education credit. Where a previously approved course is to be repeated, the provider shall apply to the Board for approval of each subsequent administration of the course.

10.3. An approved provider shall submit all requests for course approval to the Board at least 45 days before the course is first offered.

#### **§32-9-11. Instructors.**

11.1. It is the responsibility of each approved provider to use qualified instructors.

11.2. Instructors teaching approved continuing education courses shall have the following minimum qualifications:

11.2.1. An acupuncturist instructor, shall (A) hold a current valid license to practice acupuncture or be otherwise authorized to act as a guest acupuncturist in accordance with W. Va. Code §30-36-9(b) and be free of any disciplinary order or probation imposed by the Board, and (B) be knowledgeable, current and skillful in the subject matter of the course as evidenced through:

1. holding a baccalaureate or higher degree from a college or university and written documentation of experience in the subject matter;

2. experience in teaching similar subject matter content within the two years preceding the course;

3. have at least one year's experience within the last two years in the specialized area in which he or she is teaching.

11.2.2. A non-acupuncturist instructor shall:

A. be currently licensed or certified in his or her area of expertise if appropriate;

B. show written evidence of specialized training, which may include, but not be limited to, a certificate of training or an advanced degree in the given subject area; and

C. have at least one year's teaching experience within the last two years in the specialized area in which he or she teaches.

**§32-9-12. Advertisements.**

12.1. Information disseminated by approved providers publicizing continuing education shall be true and not misleading and shall include the following:

12.1.1. A clear, concise description of the course content and/or objectives;

12.1.2. The date and location of the course;

12.1.3. The provider's name and telephone number;

12.1.4. The statement "This course has been approved by the West Virginia Board of Acupuncture, Provider Number \_\_\_\_\_, for \_\_\_\_\_ hours of continuing education"; and

12.1.5. The provider's policy on refunds for cases of non-attendance or cancellations.

12.2. A provider shall not describe a course as being Board approved until written confirmation of approval by the Board has been received by the provider. Where a provider is waiting for a determination by the Board on its request for course approval, the provider may advertise that the course is "pending" approval. A provider which advertises that its course is pending approval shall assume all responsibility if a course is subsequently denied by the Board.

**§32-9-13. Denial, Withdrawal and Appeal of Approval.**

13.1. The Board may withdraw its approval of a provider or deny a provider application for causes which include, but are not limited to, the following:

13.1.1. Conviction of crime substantially related to the activities of a provider; or

13.1.2. Failure to comply with any provision of the W. Va. Code §30-36-1 et seq..

13.2. Any material misrepresentation of fact by a provider or applicant in any information required to be submitted to the Board is grounds for withdrawal of approval or denial of an application.

13.3. The Board may withdraw its approval of a provider or a course after giving the provider written notice setting forth its reasons for withdrawal and after giving the provider a reasonable opportunity to be heard by the Board or its designee.

13.4. Should the Board deny approval of a provider or a course request, the applicant may appeal the action by filing a letter stating the reason with the Board: The letter-of appeal shall be filed with the Board within twenty (20) days of the mailing of the applicant's notification of the Board's denial. The appeal shall be considered by the Board or its designee. In the event that the Board or its designee considers the appeal after the date of the course for which the appeal is being made, a retroactive approval may be granted.

**§32-9-14. Sanctions for Noncompliance.**

14.1. Each acupuncturist at the time of license renewal shall sign a statement under penalty of false swearing that he or she has or has not complied with the continuing education requirements. The licensee shall submit photocopies of the documentation along with the approved renewal application form from the Board.

14.2. The Board may audit once each year a random sample of acupuncturists who have reported compliance with the continuing education requirement. No acupuncturist shall be subject to audit more than once every two (2) years.

14.3. It constitutes unprofessional conduct for any acupuncturist to misrepresent completion of the required continuing education.

14.4. Any acupuncturist selected for audit shall submit original documentation or records of continuing education course work he or she has taken and completed.

14.5. Each acupuncturist shall retain for a minimum of four (4) years records of all continuing education programs attended which indicate the provider's name, title of the course or program, date and location of course and the number of continuing education credits awarded.

14.6. Instructors of approved continuing education courses may receive a maximum of two (2) hours of continuing education credit per year. An instructor may claim credit only where the individual acts as an instructor of an approved course. In addition, one hour of credit shall be accrued for each classroom hour completed as an instructor of a Board approved continuing education course. Participation as a member of a panel presentation for an approved course shall not entitle the participant to earn continuing education credit as an instructor.