

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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DEC 16 10 05 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 W.Va. CODE §§ 30-36-7 and 30-36-14

AMENDMENT TO AN EXISTING RULE: YES NO

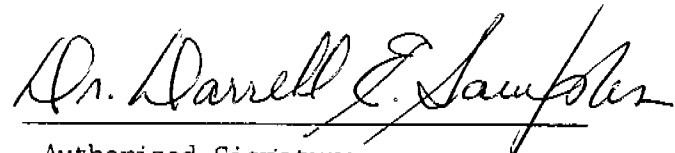
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 32 CRS 9

TITLE OF RULE BEING PROPOSED: CONTINUING EDUCATION
REQUIREMENTS

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

\$3.80

FILED

32 CRS 9
Title 32
Legislative Rule
Board of Acupuncture

DEC 16 10 05 AM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Series 9
Continuing Education Requirements

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. --
- 1.4. Effective date. --

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. Board Approval for Providers.

- 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);

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

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

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

5.1.6. The National Acupuncture Teachers Association;

5.1.7. The National Acupuncture Detoxification Association; and

5.1.8. Accredited schools or colleges.

5.2. The Board shall issue 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 course given;
- 5.3.2 The record of time and places of each course given;
- 5.3.3. Course instructor curriculum vitae or resumes;
- 5.3.4 The attendance record for each 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 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 the date of an approved course prior to the date for which the course was approved.

- 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 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 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.

7.1. In order to renew his or her license a licensee shall have a minimum of twenty-four hours of instruction in the area of acupuncture or oriental medicine from an approved provider.

7.2. In order to renew his or her license 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.

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.

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

32-9-8. Application for Course Approval.

8.1. 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:

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

8.1.2. The course title, date, location, and number of continuing education hours;

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

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

8.1.5. 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.

8.2. 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.

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

32-9-9. Instructors.

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

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

9.2.1. 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:

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

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

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

9.2.2. A non-acupuncturist instructor shall:

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

9.2.2.2. 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

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

32-9-10. Advertisements.

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

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

10.1.2. The date and location of the course;

10.1.3. The provider's name and telephone number;

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

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

10.2. 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 approval by the Board.

32-9-11. Denial, Withdrawal and Appeal of Approval.

11.1. 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:

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

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

11.2. 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.

11.3. 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.

11.4. If the Board denies approval of a provider or a course, 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.

32-9-12. Reporting Continuing Education Requirements to the Board.

12.1. Each acupuncturist at the time of license renewal shall sign a statement under penalty of false swearing that he or she has complied with the continuing education requirements. The licensee shall submit photocopies of the documentation when requested along with the approved renewal application form from the Board.

12.2. 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.

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

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

12.5. 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.

12.6. 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.



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WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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SECRETARY OF STATE

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November 12, 1998

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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: **Continuing Education Requirements, 32CSR9**

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: Continuing Education Requirements, 32CSR9

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 LEGISLATIVE SERVICES
SECRETARY OF STATE
SEP 15 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 renewal licensees and instructors of continuing education courses.

Section 3 defines terms.

Section 4 requires a continuing education provider to apply to the Board to be an approved provider. Approvals are for 1 year.

Section 5 sets forth specific providers whose programs are considered approved. It requires an approved provider to maintain certain specified records for a period of 4 years. It also allows the Board to audit a provider.

Section 6 sets forth criteria for continuing education programs. It requires that participants evaluate each course based on certain specified criteria.

Section 7 requires 24 hours of continuing education during the 2 year period preceding licensure renewal. No more than 12 hours may be in professional management responsibilities.

Section 10 requires approved providers to obtain approval for each course and specifies the information which must be submitted to the Board.

Section 11 sets forth minimum qualifications for instructors.

Section 12 sets forth information which an approved provider must provide in any advertisement of a course.

Section 13 allows the Board to deny or withdraw approval of a course or of a provider.

Section 14 provides for audit of a licensee's continuing education and requires a licensee to maintain records for 4 years. It allows an instructor to receive a maximum of two hours credit per year for teaching an approved course.

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.