

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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AUG 3 1 21 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 X

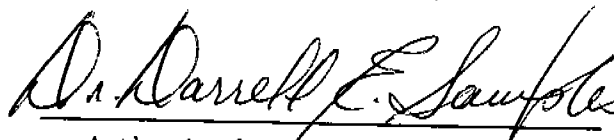
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 32 CRS 12

TITLE OF RULE BEING PROPOSED: Tutorial Education
Requirements

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.


Authorized Signature

\$5.20

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 31, 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: Tutorial Education
Requirements

1. Authorizing statute(s) citation W Va Code §
30-36-7

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

July 1, 1998

b. What other notice, including advertising, did you give of the hearing?

Copies to state acupuncture association
and other state boards and
to the Governor

c. Date of Public Hearing(s) or Public Comment Period ended:

July 31, 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 1, 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)

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

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JUL 1 9 36 AM '98

OFFICE OF 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 § 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: 32 CRS 12

RECEIVED TITLE OF RULE BEING PROPOSED: TUTORIAL EDUCATION
REQUIREMENTS

JUL 01 1998

Legislative Rule-Making
Review Committee

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 July 31, 1998 AT 12:00 PM

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

DR. D. E. SAMPLES
BOARD OF ACUPUNCTURE
P.O. Box 252
HUNTINGTON, WV 25707-0252
(304) 529-4558 (voice MAIL)
529-9355 office

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

Dr. Darrell E. Samples
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: TUTORIAL EDUCATION REQUIREMENTS
 Type of Rule: Legislative Interpretive Procedural
 Agency: BOARD OF ACUPUNCTURE
 Address: P.O. Box 252
HUNTINGTON WV 25707-0252

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 THE TUTORIAL AND APPRENTISHIP REQUIREMENTS FOR LICENSURE.

Rule Title: TUTORIAL EDUCATION REQUIREMENTS

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: JUNE 30, 1998

Signature of Agency Head or Authorized Representative

Mr. Darrell E. Samples

32 CRS 12

This rule establishes the tutorial and apprenticeship educational requirements for applying for licensure to practice acupuncture in West Virginia.

This rule is being promulgated pursuant to requirements of Legislative intent found in the Code § 30-36-1 et seq.

FILED

32 CRS 12

AUG 3 1 21 PM '98

**Title 32
Legislative Rule
Board of Acupuncture**

OFFICE OF THE CLERK OF THE VIRGINIA
SECRETARY OF STATE

**Series 12 DRAFT
Tutorial Education Requirements**

32-12-1. General.

1.1. Scope. --This section establishes the educational requirements for licensed acupuncture applicants completing a tutorial or apprenticeship program.

1.2. Authority. -- W. Va. Code § 30-36-7.

1.3. Filing date. --

1.4. Effective date. --

32-12-2. Application.

This legislative rule applies to applicants for licensure and applicants for tutorial programs.

32-12-3. Definitions.

3.1. Acupuncture tutorial. --An acupuncture apprenticeship program which is approved by the Board pursuant to the Code which when successfully completed meets the requirements of W.Va. Code § 30-35-10 (3) for licensure as an acupuncturist.

3.2. Supervising acupuncturist. --A licensed or certified acupuncturist who is approved by the Board to provide an acupuncture tutorial to a trainee who is registered with the Board.

3.3. Trainee. --A person who is registered with the Board in order to participate in an acupuncture tutorial under a supervising acupuncturist.

32-12-4. Prior Approval to Practice as an Acupuncture Trainee.

No person shall practice acupuncture in tutorial within the State of West Virginia without the prior approval of the Board.

32-7-5. Prior Approval to Supervise an Acupuncture Trainee.

No acupuncturist shall supervise any person in an acupuncture tutorial without the prior approval of the Board.

32-12-6. Filing of Applications: Credit for Prior Training.

6.1. Applications for approval as an acupuncture trainee shall be filed on a form provided by the Board and accompanied by the application fee required.

6.1. Applications for approval to supervise an acupuncture trainee shall be filed on a form provided by the Board at its Huntington office and accompanied by any necessary documents, including the training agreement and the application fee required.

6.2. Any prior training and experience already obtained by the trainee outside West Virginia or in West Virginia which meets the standards of the Board may be considered when developing a training plan between a supervisor and trainee, and specifically the required hours of theoretical and clinical training may be reduced on account of such prior training and experience. Evidence of such prior training and experience should be submitted to the Board for its review with the applications for registration of the supervising acupuncturist and trainee.

32-12-7. Requirements for Approval of an Acupuncture Tutorial.

7.1. An acupuncture tutorial should provide a trainee with a structured learning experience in all the basic skills and knowledge necessary for the independent practice of acupuncture and should prepare the trainee for the Board's examination for acupuncture licensure.

7.2. An acupuncture tutorial which is in the nature of on-the-job training may be a full-time or part time employment relationship, however, the training plan and proposed supervision shall be contained in a written agreement between the supervisor and trainee.

7.3. An acupuncture tutorial shall provide formal clinical training with supplemental theoretical and didactic instruction. That training required in W.Va. Code § 30-35-10 from an

approved acupuncture school or another post secondary educational institution which is accredited or approved under or is accredited by a regional accrediting agency authorized by the U.S. Department of Education.

7.4. The clinical training shall consist of a minimum of 300 hours in the following areas:

- 7.4.1. Practice observation;
- 7.4.2. History and physical examination;
- 7.4.3. Therapeutic treatment planning;
- 7.4.4. Preparation of the patient;
- 7.4.5. Sterilization, use and maintenance of sterilization equipment;
- 7.4.6. Moxibustion;
- 7.4.7. Electroacupuncture (AC and DC voltages);
- 7.4.8. Body and auricular acupuncture;
- 7.4.9. Treatment of emergencies, including cardiopulmonary resuscitation;
- 7.4.10. Pre- and post-treatment instruction to the patient; and
- 7.4.11. Contraindications and precautions.

7.5. The theoretical and didactic training for tutorials shall consist of a minimum of 2700 hours (approximately 270 semester units) in the following areas:

- 7.5.1. Traditional Oriental Medicine - a survey of the theory and practice of traditional diagnostic and therapeutic procedures.
- 7.5.2. Acupuncture anatomy and physiology - fundamentals of acupuncture, including the meridian system special and extra loci, and auriculotherapy.
- 7.5.3. Acupuncture techniques - instruction in the use of needling techniques, moxibustion, electroacupuncture, including precautions (e.g., sterilization of needles), contraindications and complications.
- 7.5.4. Clinical medicine - a survey of the clinical practice of medicine, osteopathy, dentistry, psychology, nursing, chiropractic, podiatry and homeopathy to familiarize acupuncture practitioners with the practices of other health care practitioners.
- 7.5.5. History of Medicine - a survey of medical history, including transcultural healing practices.
- 7.5.6. Medical terminology - fundamentals of English language medical terminology.
- 7.5.7. General sciences - a survey of general biology, chemistry, and physics.
- 7.5.8. Anatomy - a survey of microscopic and gross anatomy and neuroanatomy.
- 7.5.9. Physiology - a survey of basic physiology, including neurophysiology, endocrinology, and neurochemistry.
- 7.5.10. Pathology - a survey of the nature of disease and illness, including microbiology, immunology, psychopathology, and epidemiology.
- 7.5.11. Clinical sciences - a review of internal medicine, pharmacology, neurology, surgery, obstetrics/gynecology, urology, radiology, nutrition and public health. The

600 hours of theoretical and didactic training shall consist of a minimum of 400 hours overall in the subject areas specified in subdivisions

7.6. The tutorial trainee shall be at least 18 years of age.

7.7. The acupuncture services provided by the tutorial trainee shall be done so in a manner which does not endanger the health and welfare of patients receiving such services. No tutorial trainee shall render acupuncture services to any patient unless the patient has been informed that such services will be rendered by that trainee. The patient on each occasion of treatment shall be informed of the procedure to be performed by the tutorial trainee under the supervision of the supervising acupuncturist and have consented in writing prior to performance to permit such rendering of the acupuncture procedure by the tutorial trainee. The foregoing requirements shall also be applied to those instances wherein the trainee is to assist the supervisor in the rendering of acupuncture services.

7.8. The acupuncture tutorial training program shall be set forth in a written agreement signed by the supervisor and trainee which sets forth, but is not limited to, the training plan, length of training time, the method for providing the theoretical and didactic training and guidelines for supervision of the acupuncture services rendered by the trainee. A copy of such written agreement shall be submitted with the application for approval.

7.9. Acupuncture trainees shall have successfully completed an approved high school course of study or have passed a standard equivalency test.

7.10. An acupuncture tutorial shall be made available regardless of sex, race, religion, creed, color or physical handicap.

32-12-8. Supervising Acupuncturist's Responsibilities.

Each supervising acupuncturist shall have the following duties and responsibilities:

8.1. A supervisor shall at all times be responsible for and provide supervision of the work performed by the trainee as required in these regulations.

8.2. The supervisor shall only assign those patient treatments which can be safely and effectively performed by the trainee. The supervisor shall provide continuous direction and immediate supervision of the trainee when patient services are provided and in close proximity during needle insertion and extraction.

8.3. The supervisor shall insure that patient informed consent is obtained when necessary.

8.4. The supervisor shall insure that the objectives of the training plan submitted are provided and met by the trainee, and that the required theoretical training is obtained in accordance with the Boards rules.

8.5. The supervisor shall insure that the trainee complies with the standards of practice in Series 5 of the Boards Rules.

8.6. The supervisor shall file quarterly with the Board a progress report on a form provided by the Board which sets forth the schedules for theoretic and didactic training and for clinical training of the trainee.

8.7. The supervisor shall insure that when rendering services or otherwise engaging in professional activity the tutorial trainee always identifies himself or herself as an "acupuncture trainee"; and wears at such times an identification badge stating his or her trainee status.

8.8. There shall be no separate billing by the tutorial trainee.

8.9. The supervisor shall comply with the provisions of the acupuncture practice act, the Acupuncture Regulations and applicable laws and regulations governing wages and compensation paid to employees or apprentices, maximum hours and working conditions. Any overtime worked by the trainee shall not interfere with or impair the training program and shall not be detrimental to the health and safety of the trainee or patients.

32-12-9. Trainee's Responsibilities.

9.1. The tutorial trainee shall not provide acupuncture services without the required supervision or autonomously, and shall not provide any services for which he or she is not trained or competent to perform.

9.2. The tutorial trainee shall satisfactorily meet the objectives of the training plan submitted to the division. including the necessary theoretical training.

9.3. The tutorial trainee shall comply with the standards of practice in Series 5 of the Boards Rules.

9.4. The tutorial trainee shall always identify himself or herself as an acupuncture trainee when rendering services or otherwise engaging in professional activity and shall wear at such times an identification badge on an outer garment and in plain view which states the trainee's name and the title "Acupuncture Trainee."

9.5. The tutorial trainee shall report to the Board any delay, interruption or termination

of the acupuncture tutorial not reported by the supervisor.

32-12-10. Termination or Modification of Tutorial.

10.1. The Board shall be notified in writing within ten (10) days of the termination of any acupuncture tutorial for any reason. At the time of such notification the registration of both the supervisor and trainee shall be canceled. If the supervisor or trainee subsequently participate in an acupuncture tutorial, a new application for registration shall be filed with the Board.

10.2. If the training plan of the acupuncture tutorial is substantially modified then a report of such modifications shall be filed with the Board. There shall be no charge for filing such a report.

10.3. If the supervisor is unable to complete the training, the Board at its discretion, may define steps where by the tutorial trainee may complete the course of training.

32-12-11. Application for Examination of Credentials and Oral Examination.

At the completion of the tutorial the trainee may file an application for licensure.

32-12-12. Denial, Suspension or Revocation of Registration as a Supervisor.

The Board may deny, issue subject to terms and conditions, suspend, revoke or place on probation a registration to supervise a trainee in an acupuncture tutorial for the following causes:

- (a) Failure to comply with the provisions of the Code or the Acupuncture Tutorial Regulations for approval of an acupuncture tutorial;
- (b) Violation of the Acupuncture Practice Act or the Acupuncture Regulations;
- (c) The supervisor is the subject of a successful disciplinary action or has had charges in a disciplinary action filed against him or her;
- (d) The registration was obtained by fraud or misrepresentation or false or misleading information was presented to the division with respect to an acupuncture tutorial;
- (e) Failure of the supervisor or the trainee to comply with the regulations relating to supervision, patient care or informed consent; or
- (f) The trainee has rendered acupuncture services in violation of this act within the setting of the

acupuncture tutorial regardless of whether the supervising acupuncturist has knowledge of the acts performed.

32-12-13. Denial, Suspension or Revocation of Registration as a Trainee.

The Board may deny, issue, subject to terms and conditions, suspend revoke or place on probation a registration as a trainee in an acupuncture tutorial for the following causes:

- (a) Failure to comply with the Acupuncture Tutorial Regulations for approval and registration as a trainee;
- (b) Violation of the Acupuncture Practice Act or the Acupuncture Regulations;
- (c) The registration was obtained by fraud or misrepresentation or false or misleading information was presented to the division with respect to the acupuncture tutorial;
- (d) Failure to comply with the regulations relating to supervision. patient care or informed consent;
- (e) The rendering of acupuncture services outside the approved acupuncture tutorial;
- (f) Failure to identify oneself as an acupuncture trainee or failure to wear an appropriate identification badge when rendering acupuncture services; or
- (g) Rendering acupuncture services under a supervising acupuncturist who is not approved as a supervisor by the Board or whose registration as a supervisor has been suspended.

32-12-14. Proceedings.

Any proceedings to suspend or revoke the registration of a supervising acupuncturist or trainee or to deny such registration on grounds of unprofessional conduct shall be conducted pursuant to the Boards Rules on Hearings and Due Process Series 7.