



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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7/28/2023 2:12:06 PM

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: Acupuncture TITLE-SERIES: 32-03
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 32-03 Applications for Licensure to Practice Acupuncture

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: § 30-36-7

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/28/2023

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/28/2023

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING:

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

REMOVES NCCA DEFINITION, CHANGES GOOD CHARACTER TO NATIONAL NEXUS, REQUIRES TRANSCRIPT FROM AN ACCREDITED SCHOOL OR COLLEGE, CHANGES APPLICATION DEADLINES, SETS EDUCATIONAL DOCUMENTATION & DISMISSES TELEHEALTH.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

UPDATES OUTDATED INFORMATION AND SETS STANDARDS TO PROTECT THE PUBLIC.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

NO FISCAL IMPACT ON BUDGET

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Grady M Bowyer -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 32
LEGISLATIVE RULE
BOARD OF ACUPUNCTURE

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. -- ~~May 21, 1999.~~

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

1.5. Sunset Provision. - This rule shall terminate and have no further force or effect upon the expiration from August 1, 2034.

§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.~~ CCAHM -- The Council of Colleges of Acupuncture and ~~Oriental~~ Herbal Medicine.

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.~~ NCCAOM -- The National ~~Accreditation~~ Certification Commission for ~~Schools and Colleges of Acupuncture and Oriental Medicine~~ or its successor organization.

~~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 to the Board Examination of Credentials and~~ 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;~~ free of a felony conviction bearing a rational nexus to the profession pursuant to §30-1-24 of the code;

5.1.2. Be at least eighteen (18) years of age; and

5.1.3. ~~Demonstrate competence in performing acupuncture as an apprentice or submit required educational and apprenticeship training documentation.~~

5.2. An applicant shall demonstrate ~~his or her~~ their 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~~ their 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~~ their application:

5.4.1. An official transcript from ~~his or her~~ an accredited school or college of acupuncture or oriental medicine or an equivalent as determined by the Board;

5.4.2. An official transcript from ~~his or her~~ the supervising tutor of acupuncture or oriental medicine apprenticeship;

5.4.3. An official transcript from the NCCAOM of ~~his or her~~ their qualifying test scores; or

5.4.4. An official copy of the applicant's 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~~ their 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 hold an examination of credentials twice per calendar year.~~

9.2. A renewal applicant shall submit his or her their 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 Oral 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 or Executive Director shall inform the applicant whether the application is complete and accepted for licensure ~~the Board Examination of Credentials~~ or if it 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~~ their oral examination when applying for licensure under an apprenticeship.

10.3. Within a reasonable time after ~~completion~~ submission of the application and required documentation of the Board Examination of Credentials and oral examination, the Board or Executive Director shall notify ~~all an~~ an applicants of their eligibility for licensure and upon payment of the specified fee for licensure found in the Board's Rule, Fees of the Board of Acupuncture, 32 CRS CSR 4.

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

11.1. ~~Board Examination of Credentials.~~ -- The Board or Executive Director shall review each applicant's credential required 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 oral examination of credentials shall be held for an apprenticeship applicant.

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

11.4. Content. -- The ~~examination of credentials~~ educational documentation shall ~~may~~ consist of both a review of ~~credential~~ the required education and training documentation documents 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 or the Board may require the applicant to complete the NCCAOM examinations in acupuncture.

11.5. Additional Training. -- If the Board determines that an applicant has met the requirements for acupuncture licensure, it shall issue such license for a period of two years. The Board, at its discretion, has the right to make a license provisional and to stipulate additional training, clinical experience, or the NCCAOM examination as requirements for licensure.

§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~~ 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)~~ thirty (30) hours of approved continuing education within the two (2) years preceding application for return to active status, in compliance with the Board's Rule, Continuing Education Requirements, 32 CRS 9. If the license has been inactive less than one (1) year, a minimum of ~~twenty-four (24)~~ fifteen (15) 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.

§32-3-17. Relating to the Practice of Telehealth

17.1. The Board will not issue a license for the practice of telehealth due to the practice of acupuncture being an in person office visit and hands on profession.