



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Acupuncture

TITLE-SERIES: 32-03

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Applications For Licensure To Practice
Acupuncture

CITE STATUTORY AUTHORITY: §30-36-7

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) HB 4110

Section §64-9-2 Passed On 3/9/2024 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2024

This rule shall terminate and have no further force or effect from the following date:

August 01, 2034

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

Yes

Linda Lyter -- 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. -- April 30, 2024.

1.4. Effective Date. -- April 30, 2024.

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. CCAHM -- The Council of Colleges of Acupuncture and 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. NCCAOM -- The National Certification Commission for Acupuncture and Oriental Medicine or its successor organization.

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

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

5.2. An applicant for licensure shall demonstrate 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.

5.3. An applicant for licensure shall demonstrate their competence to perform acupuncture to the Board by providing documentation of training, apprenticeship, qualifying test scores, or licensure in another jurisdiction by submitting with their application:

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

5.3.2. An official transcript from the supervising tutor of acupuncture or oriental medicine apprenticeship;

5.3.3. An official transcript from the NCCAOM of their qualifying test scores; or

5.3.4. An official copy of the applicant's license from the licensing Board of another jurisdiction documenting previous licensure.

5.4. Applicants shall attach a current signed passport-size photograph to the application.

5.5. The applicant shall demonstrate to the Board proficiency in spoken English by satisfying one of the following requirements: Submitting evidence satisfactory to the Board that the applicant, in seeking a designation from the NCCAOM as a diplomate of Oriental Medicine, diplomate of acupuncture, or diplomate of Chinese Herbology, has successfully completed in English the examination required for such designation by the NCCAOM or successor organization.

Should the applicant have received their acupuncture education or NCCAOM diplomate status in a language other than English, they must also have passed an English language proficiency examination, such as Test of English as a Foreign Language (TOEFL), or Test of Spoken English (TSE). An applicant must obtain a TOEFL score of 500 or more for the written TOEFL exam and 173 or more for the computer based TOEFL exam, or a TSE score of 200 or more prior to July 1995, and a score of 50 or more after July 1995. Applicants not meeting the requirements of this section are subject to an oral examination requirement from the Board.

§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 Procedure.

9.1. A new applicant shall submit their application for licensure on a form provided by the Board, and shall attach all required statements and documents.

9.2. A renewal applicant shall submit their application for renewal licensure on a form provided by the Board, and shall attach all required statements and documents.

§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 or if it is deficient and what specific information or documentation is required to complete the application.

10.2. For applicants who do not meet the requirements of Section 5.5. of this rule, and within a reasonable time after receipt of a completed application, the Board shall notify the applicant of the date, time and location of a required oral examination when applying for licensure under an apprenticeship.

10.3. Within a reasonable time after submission of the application and required documentation, the Board or Executive Director shall notify an applicant 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 CSR 4, issue their license.

§32-3-11. Educational Documentation.

11.1. The Board or Executive Director shall review each applicant's required documentation and the application form before it issues a license, pursuant to W. Va. Code §30-36-12.

11.2. For applicants who don't meet the requirements of Section 5.5. of this rule the Board shall give public notice of the times and locations of where the oral examination shall be held for an apprenticeship applicant.

11.3. Languages. -- If required, the Board shall administer the oral examination in English.

11.4. Content. -- The educational documentation will consist of a review of the required education and training documents. For applicants who don't meet the requirements of Section 5.5. of this rule the Board may conduct 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 in English 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 NCCAOM examination as part of their 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.

§32-3-13. Abandonment of Applications.

The Board may deny an application without prejudice when an applicant does not exercise due diligence in the completion of their 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 not meeting the requirements of Section 5.5. of this rule who is required an oral examination, who fails to appear for two (2) oral examinations without a written explanation which is satisfactory to the Board shall have their 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 their 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 their qualifications for licensure.

15.3. Nothing in this section shall be constructed to deprive an applicant of their 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 their 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 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 CSR 9. If the license has been inactive less than one (1) year, a minimum of 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.