

243 CMR: BOARD OF REGISTRATION IN MEDICINE

243 CMR 4.00: DISCIPLINARY PROCEEDINGS FOR ACUPUNCTURISTS

Section

- 4.01: Scope and Construction of Rules
- 4.02: General Provisions
- 4.03: Disposition of Complaints
- 4.04: Adjudicatory Hearing
- 4.05: Final Decision and Order, Miscellaneous Provisions

4.01: Scope and Construction of Rules

(1) Procedure Governed. 243 CMR 4.00 governs the disposition of matters relating to the practice of acupuncture by any person holding or having held a license issued by the Board of Registration in Medicine's Committee on Acupuncture under M.G.L. c. 112, §§ 148 through 162, and the conduct of adjudicatory hearings by the Committee. 243 CMR 4.00 is based on the principle of fundamental fairness to acupuncturists and patients and shall be construed to secure a speedy and just disposition. The Board and Committee may issue standing orders consistent with 243 CMR 4.00 and 801 CMR 1.00: *Standard Adjudicatory Rules*.

(2) Definitions. For the purposes of 243 CMR 4.00 and 5.00, the terms below have the following meanings:

Adjudicatory Hearing: a formal administrative hearing conducted pursuant to M.G.L. c. 30A.

Administrative Magistrate: a Hearing Officer from the Division of Administrative Law Appeals, conducting an adjudicatory hearing on behalf of the Committee, pursuant to M.G.L. c. 30A and 801 CMR 1.00.

Board: the Board of Registration in Medicine, including, but not limited to, its Acupuncture Unit, Data Repository Unit, Enforcement Unit, Patient Care Assessment Unit, Legal Unit, Licensing Unit, and its agents and employees.

Committee: the Committee on Acupuncture of the Board of Registration in Medicine, established under the provisions of M.G.L. c. 112, § 149.

Complaint: a communication filed with the Board or Committee which charges an acupuncturist with misconduct.

Informal: not subject to strict procedural or evidentiary rules.

Licensee: a person holding or having held any type of license issued pursuant to M.G.L. c. 112, §§ 148 through 162.

Party: a respondent, a complaint counsel representing the Enforcement Unit, or an intervenor in an adjudicatory proceeding pursuant to 801 CMR 1.01(9).

243 CMR: BOARD OF REGISTRATION IN MEDICINE

Respondent: the licensee named in a Statement of Allegations.

Statement of Allegations: a paper served by the Committee upon a licensee ordering the licensee to appear before the Committee for an adjudicatory proceeding and to show cause why the licensee should not be disciplined; a "Statement of Allegations" is an "Order to Show Cause" within the meaning of 801 CMR 1.01(6)(d).

4.02: General Provisions

(1) Communications. All written correspondence should be addressed to and filed with the Board of Registration in Medicine, Committee on Acupuncture, at its official mailing address, 200 Harvard Mill Square, Suite 330, Wakefield, Massachusetts 01880.

4.02: continued

- (2) (a) Service. The Committee shall provide notice of its actions in accordance with 801 CMR 1.01(4)(b) and (5)(f), or otherwise with reasonable attempts at in-hand service, unless the Respondent otherwise has actual notice of the committee's action. 243 CMR 4.00 provides that the Committee must notify parties, service may be made by first class mail. A notice of appearance on behalf of a Respondent shall be deemed an agreement to accept service of any document on behalf of the Respondent, including a Final Decision and Order of the Committee. When an Administrative Magistrate has jurisdiction over an adjudicatory proceeding, proper service by the Respondent includes filing copies of all papers and exhibits with:
1. the Committee, care of the Director of the Acupuncture Unit;
 2. the Administrative Magistrate assigned to the adjudicatory proceeding; and
 3. the Complaint Counsel assigned to the adjudicatory proceeding. All papers served must be accompanied by a certificate of service.
- (b) Notice to Committee Members. A Respondent (or his/her representative) and other persons shall not engage in *ex parte* communications with individual Committee members regarding a disciplinary proceeding. Communications to Committee members regarding disciplinary proceedings shall be in writing and directed to Committee members as follows: Eight copies to the Executive Director of the Board of Registration in Medicine, one copy to the Director of the Acupuncture Unit, and one copy to the Director of the Enforcement Unit.
- (3) Date of Receipt. Communications are deemed received on the date of actual receipt by the Committee.
- (4) Computation of Time. The Committee shall compute time in accordance with 801 CMR 1.01(4)(c).
- (5) Extension of Time. The Committee in its discretion may extend any time limit prescribed or allowed by 243 CMR 4.00.
- (6) Identification and Signature; Paper Size. All papers filed with the Committee in the course of a disciplinary proceeding must contain the name, address, and telephone number of the party making the filing, and must be signed by either the party or an authorized representative. Paper size shall be 8 ½ inches by 11 inches.
- (7) Decisions by the Committee; Quorum. Unless 243 CMR 4.00 provides otherwise, a majority of members present and voting at a Committee meeting shall make all decisions and the Committee shall record its decisions in the minutes of its meetings. A quorum is a majority of the Committee, excluding vacancies.
- (8) Availability of Committee Records to the Public.
- (a) The availability of the Committee's records to the public is governed by the provisions of the Public Records Law, M.G.L. c. 66, § 10, and M.G.L. c. 4, § 7, clause 26, as limited by the confidentiality provisions of the Committee's regulations. A file or some portion of it is not a public record if the Committee determines that disclosure may constitute an

unwarranted invasion of personal privacy, prejudice the effectiveness of law enforcement efforts (if the records were necessarily compiled out of public view), violate any provision of state or federal law, or if the records are otherwise legally exempt from disclosure.

(b) Before the Committee issues a Statement of Allegations, dismisses a complaint, or takes other final action, the Committee's records concerning a disciplinary matter are confidential.

(c) The Committee's records of disciplinary matters, as limited by 243 CMR 4.02(8)(a) and (b), include the following:

1. Closed complaint files, which contain the complaint and other information, are public records. The name of a complainant or patient and relevant acupuncture records shall be disclosed to the Respondent, but this information is otherwise confidential. The names of reviewers and the contents of complaint reviews shall be confidential.

4.02: continued

2. Enforcement Unit files, which contain portions of complaint files (and related confidential files) as well as papers related to adjudicatory proceedings and attorney work product, are not public records and are confidential.
 3. The Committee's files, which contain each paper filed with the Committee in connection with an adjudicatory proceeding, are public records, unless otherwise impounded or placed under seal by the Administrative Magistrate or the Committee.
 4. Records of the review and investigation of statutory reports are not public records and are confidential.
 5. Closed anonymous complaints, which are determined to be frivolous or lacking in either legal merit or factual basis, consistent with 243 CMR 4.03(3)(a) are not public records and are confidential.
 6. Letters of Agreement and related materials; except that, if the Committee suspends the license of an acupuncturist for violation of the terms of a Letter of Agreement, the fact that the acupuncturist had entered a Letter of Agreement shall become public, and a general description of Letters of Agreement will be provided, but the Letter of Agreement itself and the related materials shall remain confidential.
 7. Social security numbers.
 8. National Provider Identifier (NPI) numbers and personal information collected during the NPI application process shall be confidential, except to the extent that federal or state law, or the Rules and Advisory Statements of the Centers for Medicare and Medicaid Services (CMS) or the National Plan and Provider Enumeration System (NPES) require the information be disclosed or made public.
- (9) Public Nature of Committee Meetings.
- (a) All meetings of the Committee are open to the public to the extent required by M.G.L. c. 30A, § 11A.
 - (b) As provided by M.G.L. c. 30A, § 11A, a Committee meeting held for the purpose of making a decision required in an adjudicatory proceeding is not open to the public. Evidentiary hearings before individual hearing officers are generally open to the public, but the Committee may carry out its functions under these rules in closed session if these functions affect an individual licensee or patient, the licensee or patient requests that the Committee function in closed session, and the Committee or hearing officer determines that functioning in closed session would be consistent with law and in the public interest.
- (10) Conditional Privilege of Communications with the Committee. All communications with the Committee charging misconduct, or reporting or providing information to the Committee pursuant to M.G.L. c. 112, § 158, or assisting the Committee in any manner in discharging its duties and functions, are privileged, and a person making a communication is privileged from liability based upon the communication unless the person makes the communication in bad faith or for a malicious reason.
- (11) State or Federal Agencies, Boards or Institutions Designated to Receive Investigative Records or Confidential Information. The Committee is authorized by the Board to review written requests for the Committee's investigative records or other confidential information from

243 CMR: BOARD OF REGISTRATION IN MEDICINE

the following agencies which are hereby designated to receive, upon Committee approval, such information consistent with the Fair Information Practices Act (FIPA), M.G.L. c. 66A:

- (a) Massachusetts Department of the Attorney General;
- (b) Offices of the Massachusetts District Attorneys;
- (c) Massachusetts Municipal Police Departments;
- (d) Massachusetts State Police;
- (e) Federal Trade Commission;
- (f) Office of the United States Attorney;
- (g) U.S. Postal Inspector;
- (h) U.S. Department of Justice, Drug Enforcement Administration, and Federal Bureau of Investigation;
- (i) Divisions of Professional Licensure and Health Professions Licensure;
- (j) all other state Medical and Acupuncture Boards;
- (k) Division of Insurance and the Insurance Rating Bureau;

4.02: continued

- (l) Massachusetts Health Data Consortium, Inc.;
- (m) Department of Public Health;
- (n) Massachusetts Department of Revenue;
- (o) U.S. Internal Revenue Service;
- (p) National Certification Commission for Acupuncture and Oriental Medicine.

All recipients of confidential information designated by 243 CMR 4.00 shall preserve the confidentiality of such data and make it available to the data subject, to the extent such access is required by FIPA.

4.03: Disposition of Complaints

(1) Initiation. Any person, organization, or member of the Committee may make a complaint to the Committee which charges a licensee with misconduct. A complaint may be filed in any form. The Committee, in its discretion, may investigate anonymous complaints.

(2) Complaint Subcommittee. The Committee may establish a subcommittee known as the Complaint Subcommittee to review complaints charging a licensee with misconduct. If the Subcommittee or a Board or Committee Investigator determines that a communication does not relate to any of the matters set forth in 243 CMR 4.03(5), the Subcommittee or the investigator may refer the communication to the proper authority or regulatory agency.

(3) Investigation.

(a) A Board or Committee Investigator shall conduct such preliminary investigation, including a request for an answer from the licensee, as is necessary to allow the Complaint Subcommittee to determine whether a complaint is frivolous or lacking in either legal merit or factual basis. If, after a preliminary investigation of an anonymous complaint, the investigator determines that the anonymous complaint is frivolous or lacking in either legal merit or factual basis, the anonymous complaint shall not be docketed, shall be filed in a general correspondence file, and shall remain confidential.

(b) After receipt and review of a complaint, if the Complaint Subcommittee determines that the complaint is frivolous or lacking in either legal merit or factual basis, it may close the complaint. The Subcommittee shall notify the person who made the communication of its determination and the reasons for it. As to other complaints, the Subcommittee shall conduct, or cause to be conducted, any reasonable inquiry or investigation it deems necessary to determine the truth and validity of the allegations set forth in the complaint.

(4) Conference. To facilitate disposition, the Committee or the Complaint Subcommittee may request any person to attend a conference at any time prior to the commencement of an adjudicatory proceeding. The Committee or Subcommittee shall give timely notice of the conference, and this notice must include either a reference to the complaint or a statement of the nature of the issues to be discussed.

(5) Grounds for Complaint.

(a) Specific Grounds for Complaints Against Acupuncturists. A complaint against an

acupuncturist must allege that a licensee is practicing acupuncture in violation of law, regulations, or good and accepted acupuncture practice, and may be founded on any of the following:

1. Fraudulent procurement of his/her license or its renewal;
2. Violation of any provision of the laws of the Commonwealth relating to the practice of medicine or acupuncture, or any rule or regulation adopted thereunder;
3. Conduct which places into question the acupuncturist's competence to practice acupuncture including, but not limited to, gross misconduct in the practice of acupuncture, or practicing acupuncture fraudulently, or beyond its authorized scope, or with gross incompetence, or with gross negligence on a particular occasion or negligence on repeated occasions;
4. Practicing acupuncture while the ability to practice is impaired by alcohol, drugs, chemicals, or any other type of substance, or by reason of illness, or as a result of any physical or mental condition;

4.03: continued

5. Engaging in the abuse or illegal use of alcohol, prescription drugs, or controlled substances;
 6. Knowingly permitting, aiding or abetting an unlicensed person to perform activities requiring a license;
 7. Conviction of any crime;
 8. Continuing to practice while his/her license is lapsed, suspended, or revoked;
 9. Practicing acupuncture in a manner which is professionally unethical according to the ethical standards of the profession.
 10. Violation of any rule or regulation of the Board or Committee;
 11. Having been disciplined in another jurisdiction in any way by the proper licensing authority for reasons substantially the same as those set forth in M.G.L. c. 112, § 158 or 243 CMR 4.03(5);
 12. Cheating on or attempting to compromise the integrity of any acupuncture licensing examination;
 13. Failure to report to the Committee, as required by law or regulation, any disciplinary action taken against the licensee by another licensing jurisdiction (United States or foreign), by any health care institution, by any professional or acupuncture society or association, by any governmental agency, by any law enforcement agency, or by any court for acts or conduct substantially the same as acts or conduct which would constitute grounds for complaint as defined in 243 CMR 4.03;
 14. Failure to respond to a subpoena or to furnish the Committee, its investigators or representatives, documents, information or testimony to which the Committee is legally entitled;
 15. Malpractice within the meaning of M.G.L. c. 112, § 61;
 16. Misconduct in the practice of acupuncture.
- (b) Other Grounds for Complaints Against Acupuncturists. Nothing in 243 CMR 4.03(5) shall limit the Committee's adoption of policies and grounds for discipline through adjudication as well as through rule-making.

(6) Docket. The Committee shall assign a docket number to all complaints and shall mark the complaint with this number and the date filed. All subsequent papers relating to the particular complaint shall be marked with the same docket number and shall be placed in a file (the docket) with all other papers bearing the same number.

(7) Order for Answering and Answer. The Complaint Subcommittee may order that the licensee complained of answering the complaint within 30 days. The Subcommittee shall attach a copy of the complaint to the order for answering or shall describe the acts alleged in the complaint. A licensee shall respond to an order for answering either personally or through his/her attorney, in compliance with 243 CMR 4.02(6). An answer must address the substantive allegations set forth in the complaint or order.

(8) Complaint Subcommittee. Upon receipt of a licensee's answer or at any point during the course of investigation or inquiry into a complaint, the Subcommittee may determine that there is not and will not be sufficient evidence to warrant further proceedings or that the complaint

fails to allege misconduct for which a licensee may be sanctioned by the Committee. In such event, the Subcommittee shall close the complaint. The Subcommittee shall retain a file of all complaints. The Complaint Subcommittee may resolve matters with non-disciplinary action by closing complaints under the terms and conditions it deems appropriate and by approving a Letter of Agreement.

(9) Committee Action Required. If a licensee fails to answer within the 30-day period or if the Complaint Subcommittee determines that there is reason to believe that the acts alleged occurred and constitute a violation for which a licensee may be sanctioned by the Committee, the Subcommittee may recommend to the Committee that it issue a Statement of Allegations.

4.03: continued

(10) Disposition by the Committee. The Committee shall review each recommendation which the Subcommittee forwards to it within a reasonable time and shall require an adjudicatory hearing if it determines that there is reason to believe that the acts alleged occurred and constitute a violation of any provision of 243 CMR 4.03(5) or M.G.L. c. 112, § 158. The Committee may take such informal action as it deems a complaint warrants. If the Committee requires an adjudicatory hearing, it may refer the matter to an administrative magistrate.

(11) Suspension Prior to Hearing. The Committee may suspend or refuse to renew a license pending a hearing on the question of revocation if the health, safety or welfare of the public necessitates such summary action. The procedure for summary suspension is as follows:

(a) Immediate and Serious Threat. If, based upon affidavits or other documentary evidence, the Committee determines that a licensee is an immediate and serious threat to the public health, safety or welfare, the Committee may suspend or refuse to renew a license, pending a final hearing on the merits of the Statement of Allegations. The Committee must provide a hearing on the necessity for the summary action within seven days after the suspension.

(b) Serious Threat. If, based upon affidavits or other documentary evidence, the Committee determines that a licensee may be a serious threat to the public health, safety or welfare, the Committee may order the licensee to file opposing affidavits or other evidence within three business days. Based upon the evidence before it, the Committee may then suspend or refuse to renew the license, pending a final hearing on the merits of the Statement of Allegations. The Committee must provide a hearing on the necessity for the summary action within seven days after the suspension.

(12) Assurance of Discontinuance.

(a) 243 CMR 4.03(12) shall apply to minor violations of 243 CMR 4.03(5), and, unless there is an allegation of patient harm, or allegations of drug or alcohol impairment, as determined within the discretion of the Complaint Subcommittee and the Committee.

(b) At the time that the Complaint Subcommittee determines that a recommendation for a Statement of Allegations is warranted, it may either forward such recommendation to the Committee or refer the matter to a conference including a Hearing Officer, a representative of the Enforcement Unit, and the Respondent. At the conference, the representative of the Enforcement Unit and the Respondent may submit to the Hearing Officer a proposed Assurance of Discontinuance, which shall include:

1. Recitation of circumstances giving rise to the Assurance of Discontinuance,
2. The Respondent's assurance of discontinuance,
3. A sanction and/or the Respondent's agreement to pay the Commonwealth's costs of the investigation, and
4. The Respondent's agreement that violation of the Assurance of Discontinuance shall be *prima facie* evidence of violation of the applicable law, regulations or standards of good and accepted acupuncture practice referenced in the Assurance of Discontinuance.

(c) If the Hearing Officer approves the Assurance of Discontinuance, it shall be forwarded to the Committee for final approval.

(d) If the Hearing Officer and the Committee do not approve an Assurance of Discontinuance within 60 days of referral of the matter to the Hearing Officer for

conference, or if the Hearing Officer refers the matter back to the Complaint Subcommittee, the Complaint Subcommittee shall forward its recommendation regarding issuance of the Statement of Allegations to the Committee.

(e) The Respondent may request that the Committee not process his/her case pursuant to 243 CMR 4.03, in which event the Complaint Subcommittee shall forward its recommendation regarding issuance of a Statement of Allegations to the Committee.

(13) Letter of Agreement. A Letter of Agreement is a non-disciplinary monitoring agreement between the complaint subcommittee and an acupuncturist. Letters of Agreement are limited to licensees who meet the following criteria:

- (a) The licensee has disclosed a medical condition that could interfere with the practice of acupuncture; and
- (b) There has been no patient harm or imminent risk of patient harm as a result of the condition; and

4.03: continued

- (c) The complaint subcommittee determines that disciplinary proceedings against the licensee are not warranted.

4.04: Adjudicatory Hearing

- (1) Rules for Conducting Hearings. After the Committee issues a Statement of Allegations, the Committee shall conduct all hearings in accordance with 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*.

4.05: Final Decision and Order, and Miscellaneous Provisions

- (1) In General. Every Final Decision and Order of the Committee requires the concurrence of at least four members, or of a majority of the Committee if it has more than one vacancy. If the Hearing Officer is a member of the Committee, his/her vote counts in the event the Committee is not otherwise able to reach a final decision.
- (2) Sanctions. In disposition of disciplinary charges brought by the Committee, the Committee may revoke, suspend, or cancel the license, or reprimand or censure the acupuncturist, or require a course of education or training or otherwise discipline or limit the practice of the acupuncturist. A reprimand is a severe censure. The Committee may also condition the stay or other cessation of a sanction upon reasonable conditions consistent with the public health, safety and welfare. A Probation Agreement may be required by the Committee as a condition of the stay of an indefinite suspension. Failure to comply with the terms of a Probation Agreement may result in the immediate suspension of the acupuncturist's license to practice acupuncture.
- (3) Nature and Effect, Generally. Any order of the Committee which imposes a sanction as a result of a disciplinary action is effective immediately, unless the Committee orders otherwise.
 - (a) Suspension. A licensee whose license is suspended for a period of time is automatically reinstated upon expiration of the suspension period.
 - (b) Revocation. The cancellation or revocation of a license is effective for at least five years, unless the Committee orders otherwise. Reinstatement thereafter may be granted or denied in the Committee's discretion. A cancellation or revocation is lifted only through a petition for reinstatement.
- (4) Reinstatement. A person previously licensed by the Committee may apply for reinstatement of his/her license no sooner than five years after revocation, unless the Committee orders otherwise. An application for reinstatement is addressed to the Committee's discretion, must be made in the form the Committee prescribes, must be filed in the original with ten copies, and will be granted only if the Committee determines that doing so would advance the public interest. If the Committee denies a petition for reinstatement, the Respondent shall not re-petition for reinstatement until at least two years after the date of denial, unless the Committee orders otherwise.
- (5) Resignation.

243 CMR: BOARD OF REGISTRATION IN MEDICINE

(a) A licensee who is named in a complaint or who is subject to an investigation by the Committee or who is the respondent in a disciplinary action may submit his/her resignation by delivering to the Committee a writing stating that: he/she desires to resign; his/her resignation is tendered voluntarily; he/she realizes that resignation is a public disciplinary action reportable to national data reporting systems; the resignation is a final act which deprives a person of all privileges of licensure and is not subject to reconsideration or judicial review; and that the licensee is not currently licensed to practice in any other state or jurisdiction, will make no attempt to gain licensure elsewhere, or will resign any other licenses contemporaneously with his/her resignation in the Commonwealth.

(b) If a complaint, investigation, or Statement of Allegations arises solely out of a disciplinary action in another jurisdiction, within the meaning of 243 CMR 4.03(5)(a)12., then the licensee may submit a resignation pursuant to 243 CMR 4.05(5)(a), but need not make any representation regarding licensure status in other jurisdictions, is permitted to gain licensure elsewhere, and need not resign any other licenses contemporaneously with the resignation.

243 CMR: BOARD OF REGISTRATION IN MEDICINE

4.05: continued

(c) The acceptance of a resignation is within the discretion of the Committee.

(6) Unauthorized Acupuncture Practice. The Committee shall refer to the appropriate District Attorney or other appropriate law enforcement agency any incidents of unauthorized acupuncture practice which come to its attention.

(7) Imposition of Restrictions. Consistent with 243 CMR 4.00 and M.G.L. c. 30A or otherwise by agreement with the licensee, the Board may impose restrictions to prohibit a licensee from performing certain acupuncture procedures, or from performing certain acupuncture procedures except under certain conditions, if the Board determines that:

- (a) the licensee has engaged in a pattern or practice which calls into question his/her competence to perform such procedures, or
- (b) the restrictions are otherwise warranted by the public health, safety and welfare.

REGULATORY AUTHORITY

243 CMR 4.00: M.G.L. c. 13, § 10; c. 112, §§ 2 through 9B, and 148 through 162.

243 CMR: BOARD OF REGISTRATION IN MEDICINE

243 CMR 5.00: THE PRACTICE OF ACUPUNCTURE

Section

- 5.01: Introductory Provisions
- 5.02: Licensure Provisions
- 5.03: Educational Requirements for Full Licensure
- 5.04: Committee Approval of Acupuncture Schools and Clinical Programs
- 5.05: Application Provisions
- 5.06: Fees
- 5.07: Renewal Provisions
- 5.08: Safe Practice Provisions
- 5.09: Miscellaneous Provisions
- 5.10: Mandatory Continuing Acupuncture Education

5.01: Introductory Provisions

(1) Purpose. 243 CMR 5.00 is the judgment of the Board of Registration in Medicine and its Committee on Acupuncture concerning the practice of acupuncture. Its purpose is to prescribe substantive standards governing the practice of acupuncture which will promote the public health, safety and welfare, and inform acupuncturists of the Board's and Committee's expectations and requirements. The Board and Committee presume that every acupuncturist in the Commonwealth has notice of 243 CMR 5.00 and will practice acupuncture in accordance with it.

(2) Definitions. For the purposes of 243 CMR 4.00 and 5.00, the terms below have the following meanings:

AACRAO: the American Association of Collegiate Registrars and Admissions Officers.

ACAOM: the Accreditation Commission for Acupuncture and Oriental Medicine.

Acupuncture Assistant: a person who is employed by a licensed acupuncturist and registered with the Committee pursuant to 243 CMR 5.09(5).

Acupuncture Regulations: the regulations contained in 243 CMR 4.00 and 5.00.

Acupuncture School: any legally chartered school which grants diplomas, certificates or graduate degrees in acupuncture, or any department or program within a college or university that grants diplomas, certificates or graduate degrees in acupuncture.

Acupuncture Statutes: M.G.L. c. 112, §§ 148 through 162.

Acupuncture Student: a student enrolled in a legally chartered acupuncture school.

243 CMR: BOARD OF REGISTRATION IN MEDICINE

Acupuncturist: a person licensed under the provisions of M.G.L. c. 112, §§ 149 through 162, to practice acupuncture.

Acupuncture Intern: an acupuncture student engaged in practical training including needle insertion on human subjects in an acupuncture internship program approved by the committee.

CCAOM: the Council of Colleges of Acupuncture and Oriental Medicine.

CNT Course: the Clean Needle Technique Course administered by the CCAOM.

Continuing Acupuncture Education: a formal course or program relevant to the study or practice of acupuncture that directly contributes to the professional competence of the license.

Disciplinary Action: an action adversely affecting an acupuncturist which simultaneously meets the descriptions in 243 CMR 5.01(2)(a), (b) and (c), and which is limited as described in 243 CMR 5.01(2)(d) and (e):

5.01: continued

- (a) An action of an entity, including, but not limited to, a governmental authority, a health care facility, an employer, or a professional acupuncture association (international, national or local).
- (b) An action that is:
 - 1. formal or informal; and
 - 2. oral or written.
- (c) Any of the following actions or their substantial equivalents, whether voluntary or involuntary:
 - 1. Revocation of a right or privilege.
 - 2. Suspension of a right or privilege.
 - 3. Censure.
 - 4. Written reprimand or admonition.
 - 5. Restriction of a right or privilege.
 - 6. Non-renewal of a right or privilege.
 - 7. Fine.
 - 8. A required performance of public service.
 - 9. A course of education, training, counseling, or monitoring, only if such course arose out of the filing of a complaint or the filing of any other formal charges reflecting upon the licensee's competence to practice acupuncture.
 - 10. Denial of a right or privilege.
 - 11. Resignation.
 - 12. Leave of absence.
 - 13. Withdrawal of an application.
 - 14. Termination or non-renewal of a contract with an acupuncturist.
- (d) 243 CMR 5.01(2)(c)10. through 14. are "disciplinary actions" only if they relate directly or indirectly to:
 - 1. the licensee's competence to practice acupuncture; or
 - 2. a complaint or allegation regarding any violation of law or regulation (including, but not limited to, the regulations of the Board and Committee) or bylaws of a health care facility, substance abuse outpatient service program, group practice, or professional acupuncture association, whether or not the complaint or allegation specifically cites violation of a specific law, regulation, or bylaw.
- (e) If based upon a failure to complete acupuncture records in a timely fashion or failure to perform minor administrative functions, a first or second written reprimand or admonition, or a first or second suspension or restriction of a right or privilege (if less than ten working days in any month), is not a "disciplinary action" for the purposes of mandatory reporting to the Committee.

Internship Program: a clinical program in acupuncture which provides clinical training.

License: an acupuncture license that the Committee issues to a person pursuant to the requirements of M.G.L. c. 112, §§ 148 through 162 and the acupuncture regulations, which authorizes the person to practice acupuncture.

243 CMR: BOARD OF REGISTRATION IN MEDICINE

Licensure Examination: the examination required by the Committee pursuant to M.G.L. c. 112, § 154. As of January 1, 2009, this examination will be the NCCAOM examination.

NCCAOM: the National Certification Commission for Acupuncture and Oriental Medicine.

The Practice of Acupuncture: the practice of medicine based upon traditional oriental medical theories; primarily the insertion of metal needles through the skin at certain points on the body, with or without the use of herbs, with or without the application of electric current, and with or without the application of heat to the needles, skin, or both, in an attempt to relieve pain or improve bodily function. Electroacupuncture, whether utilizing electrodes on the surface of the skin or current applied to inserted needles, and laser acupuncture are considered the practice of acupuncture.

5.01: continued

- (a) Acupuncture shall include, but not be limited to:
 - 1. Auricular, hand, nose, face, foot and/or scalp acupuncture therapy;
 - 2. Stimulation to acupuncture points and channels by use of any of the following:
 - a. Needles, moxibustion, cupping, thermal methods, magnets, gwua-sha, scraping techniques, acupatches, herbal poultices, ion cord linking acupuncture devices with wires, hot and cold packs, TDP (electromagnetic wave therapy) and lasers.
 - b. Manual stimulation, including stimulation by an instrument or mechanical device that does not pierce the skin, massage, acupressure, reflexology, shiatsu and tui na.
 - c. Electrical stimulation including electro-acupuncture, percutaneous and transcutaneous electrical nerve stimulation.
- (b) Acupuncture diagnostic technique shall include but not be limited to the use of observation, listening, smelling, inquiring, palpation, pulses, tongue, physiognomy, five element correspondences, ryodoraku, akabani, German electro-acupuncture, Kirlian photography and thermography.
- (c) The needles used in acupuncture shall be solid filiform instruments which shall include but not be limited to: dermal needles, plum blossom needles, press needles, prismatic needles and disposal lancets. The use of staples in the practice of acupuncture shall be prohibited.
- (d) Adjunctive therapies shall include but not be limited to:
 - 1. oriental nutritional counseling, herbology, and the recommendation of nonprescription substances which meet the Food and Drug Administration labeling requirements as dietary supplements to promote health.
 - 2. recommendation of breathing techniques and therapeutic exercises; and
 - 3. lifestyle, behavioral, supportive, educational and stress counseling.

TOEFL: Test of English as a Foreign Language, administered by the Educational Testing Service.

TOEIC: Test of English for International Communication, administered by the Educational Testing Service.

TSE: Test of Spoken English, administered by the Educational Testing Service.

(3) Submission of Papers. The Committee's official mailing address is: Board of Registration in Medicine, Committee on Acupuncture, 200 Harvard Mill Square, Suite 330, Wakefield, MA 01880. Persons wishing to file papers with the Committee may mail them or hand deliver them to the above address, unless the Committee orders otherwise.

(4) Standing Orders. The Committee may issue standing orders consistent with 243 CMR 5.00 and 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*.

(5) Change of Address. Whenever a licensee changes his/her mailing, home or principal business address, he/she shall notify the Committee of his/her new address, on the form the

Committee prescribes, within 30 days of such change.

(6) Notice of Appearance. A notice of appearance on behalf of a Respondent shall be deemed an agreement between the Respondent and the person appearing on the Respondent's behalf that such person shall accept service of any document on behalf of the Respondent.

5.02: Licensure Provisions

(1) Types of Licenses. Two types of licenses are issued by the Committee: full licenses and temporary licenses. A full licensee may practice acupuncture in Massachusetts in accordance with M.G.L. c. 112, §§ 148 through 162 and 243 CMR 4.00 and 5.00.

(2) Temporary License. A temporary licensee shall only practice acupuncture on an individual or patient in the course of:

5.02: continued

- (a) supervising interns in a Committee approved internship program; or
- (b) demonstrating acupuncture techniques as part of an acupuncture educational seminar or program; or
- (c) participating in a postgraduate clinical training program; or
- (d) participating in a continuing education course that includes the insertion of needles; and
- (e) when a temporary licensee is participating in a postgraduate clinical training program or a continuing acupuncture education program, he/she must be supervised by an active full licensee. The supervisor must be approved by the Committee or its licensing subcommittee prior to the issuance of the temporary license.

(3) Qualifications Required of Each Applicant. Each applicant for full and temporary licensure shall possess the following qualifications listed in M.G.L. c. 112, §§ 152(a), 152(b), and 152(c):

- (a) An applicant shall be at least 18 years of age; and
- (b) An applicant shall be of good moral character; and
- (c) An applicant shall demonstrate sufficient knowledge of the English language to understand and be understood by patients, physicians, and Board and Committee personnel, by submitting to the Committee proof of achieving the passing score on the TOEFL examination, or by certifying that he/she will employ the services of an interpreter at his/her own expense; and
- (d) An applicant must fulfill one of the criteria set forth in M.G.L. c. 112, § 152(d). As of December 31, 2010, the apprenticeship route will no longer be an acceptable substitute for meeting the formal education requirements.
- (e) NCCAOM Certification Required. As of January 1, 2009, an applicant for initial licensure must be nationally board certified in either Acupuncture, Oriental Medicine, or Chinese Herbology or be licensed in another state or foreign nation with which Massachusetts has a reciprocal licensing agreement.

(4) Licensure Examination in Massachusetts.

- (a) The licensure examination consists of the following components:
 - 1. the NCCAOM examination in Acupuncture; and
 - 2. the NCCAOM examination in Foundations of Oriental Medicine; and
 - 3. the NCCAOM examination in Point Location; and
 - 4. the NCCAOM examination in Biomedicine, as of January 1, 2007; and
 - 5. the CNT Course approved by NCCAOM; and
 - 6. any Massachusetts oral and/or practical examination that the Committee may, at its discretion, require of applicants until such time as the NCCAOM institutes an oral and/or practical component to its examination that is satisfactory to the Committee.
- (b) At the first meeting of the Committee in each calendar year, the Committee shall decide by majority vote whether to hold a Massachusetts oral and/or practical examination in a given calendar year, which decision shall be binding upon all applicants who take the licensure examination within that calendar year. The Committee may determine the rules governing any state examination. Whenever a Massachusetts examination is required, the Committee shall send written notification of the examination results to the applicant.
- (c) An applicant must pass each of the examination components to pass the licensure

examination. The passing score for the examination component shall be set by the testing entity and the passing scores shall not be known prior to the exam. An applicant for initial licensure must take all examinations in the English language.

(d) Passing the NCCAOM examination and the CNT course are prerequisites for taking any Massachusetts oral and/or practical examination that may be required by the Committee.

(5) Committee Procedure for Evaluating Applications.

(a) If an application for full licensure by examination is complete and filed on time, the Committee will make a preliminary evaluation of the applicant's credentials and decide whether to allow the applicant to take the examination. The Committee will inform the applicant of its decision 30 days prior to the date of the licensure examination, when such notice is possible.

(b) Passing the licensure examination does not of itself entitle an applicant to be licensed. Upon receipt of an applicant's passing scores, the Committee shall review the applicant's application, and shall inform the applicant of its decision on licensure.

5.02: continued

(c) At any stage during the review of an application, the Committee or its Licensing Subcommittee may require an applicant to provide additional information, or appear personally before the Committee, the Licensing Subcommittee, or their designated representative for the purpose of answering questions pertaining to the application.

(d) The Committee may, at its discretion, require an applicant to hire a credentials evaluation service approved by the Committee to evaluate the applicant's credentials of an applicant. The applicant shall pay for the evaluation.

(6) Committee Denial of Applications. The Committee will inform an applicant in writing of the reasons his/her application was denied. If the Committee denies an application for reasons other than an applicant's failing the licensure examination, the applicant may submit a written request within 60 days from the date of denial that the application be reconsidered by the Committee, stating the reasons why the Committee should reverse its decision. An applicant may submit a request for reconsideration only once, unless the applicant states additional facts or circumstances that the applicant was unaware of at the time he/she made his/her first request and that are relevant to the Committee's decision.

(7) Re-examination for Licensure.

(a) An applicant who fails any of the components of the licensure examination may reapply to take the failed components. An applicant must submit an application for re-examination, and the application and examination fees, no later than 90 days prior to the date of the examination.

(b) The Committee may require an applicant who fails the licensure examination or any of its components on two or more occasions to have further education or training which, in the judgment of the Committee, addresses the areas of deficiency.

(8) Endorsement of Examination Results.

(a) The Committee shall endorse the results of the NCCAOM examination or the CNT Course taken in another jurisdiction provided that the format or level of difficulty of a previous examination component is substantially the same as that of the current examination component, and provided also that the previous examination component was not administered in such a way as to compromise the integrity of the examination component.

(b) An applicant whose examination results have been endorsed by the Committee must comply with all other requirements for being licensed by examination in order to be licensed in Massachusetts.

(9) Licensure in Another State. An applicant for full licensure who holds a license to practice acupuncture in another state or foreign nation shall not be excused from any of the application requirements in M.G.L. c. 112 and 243 CMR 4.00 and 5.00 unless the Committee has entered into a reciprocal licensing agreement with that state, or unless the Committee has specifically exempted that applicant from a particular requirement.

(10) Temporary Licensure.

(a) The following individuals shall have a full or temporary license to practice acupuncture:

243 CMR: BOARD OF REGISTRATION IN MEDICINE

1. an instructor in a Committee approved internship program offered by a Committee approved school;
 2. an instructor in an acupuncture educational seminar or program who demonstrates acupuncture techniques on patients;
 3. a participant in a postgraduate clinical training program; or
 4. a participant in a Committee approved continuing acupuncture education course that includes the insertion of needles, in which case the temporary license shall be valid for three months.
- (b) To qualify for a temporary license as an instructor in a Committee approved internship program, an applicant shall have a temporary faculty appointment in a Committee approved school of acupuncture and shall have:
1. credentials equivalent to those necessary for full licensure; or
 2. training and experience which, in the judgment of the Committee, are sufficient for an instructor in an internship program.

5.02: continued

- (c) To qualify for a temporary license as an instructor in an acupuncture educational seminar or program, an applicant shall have:
 - 1. credentials equivalent to those necessary for full licensure; or
 - 2. training and experience which, in the judgment of the Committee, are sufficient for an instructor of the acupuncture techniques to be demonstrated in the educational seminar or program.
- (d) To qualify for a temporary license as a participant in a postgraduate clinical training program in acupuncture, an applicant shall be a graduate of a Committee approved acupuncture school, shall have been accepted into a postgraduate clinical training program, and shall have the undergraduate educational requirements specified in 243 CMR 5.10(1).
- (e) To qualify for a temporary license as a participant in a continuing acupuncture education course, an applicant shall be a graduate of a Committee approved acupuncture school, shall have been accepted into a Committee approved continuing acupuncture education course, shall have the undergraduate educational requirements specified in 243 CMR 5.03(1), and shall be supervised by an active licensed acupuncturist who is in good standing with the Committee.
- (f) Application for temporary licensure shall be made through the dean's office of the acupuncture school hiring the temporary licensee, through the organization sponsoring the acupuncture educational seminar or program, through the institution sponsoring the postgraduate clinical training program or by the applicant on an application form provided by the Committee. Temporary licensure is for one year with renewal yearly for a maximum of two years, with the exception of a temporary license granted under 5.02(2)(d), which shall be for three months with renewal for a maximum of one year. Completed applications must be submitted 60 days prior to the start of the internship program, educational seminar or program or postgraduate clinical training program.

5.03: Educational Requirements for Full Licensure

- (1) Undergraduate Education.
 - (a) An applicant for full licensure shall successfully complete two full academic years (a minimum total of 60 semester accredited hours or 90 quarter accredited hours, or the equivalent) of undergraduate education at:
 - 1. an accredited college or university;
 - 2. an institution approved by the Massachusetts Department of Education; or
 - 3. a foreign university or college that the Committee deems equivalent to an accredited college or university.
 - (b) An applicant's undergraduate or other postsecondary education must include the following:
 - 1. three semester hours of general biology; and
 - 2. three semester hours of human anatomy; and
 - 3. three semester hours of human physiology.
 - 4. For applicants entering acupuncture school after June 30, 2009, at least one of the science courses in 243 CMR 5.03(1)(b) must have a laboratory course requirement.
 - 5. In extraordinary circumstances, the Committee may determine a particular course

243 CMR: BOARD OF REGISTRATION IN MEDICINE

- qualifies as an equivalent for one or more of the requirements in 243 CMR 5.03(1)(b)1. through 4. The applicant shall request an equivalency determination from the Committee. The applicant shall provide all documentation necessary for the Committee to evaluate whether the course qualifies as an equivalent.
- (c) The postsecondary education shall have been completed at:
1. an accredited college or university;
 2. a school which was/is approved by the state department of education; or
 3. a foreign university or college that the Committee deems equivalent to an accredited college or university.
- (d) Foreign applicants whose post-secondary education combined acupuncture training with college level education must have a minimum of five full academic years of study, of which three full academic years must consist of acupuncture training in a Committee approved school.

5.03: continued

(2) Acupuncture Educational Requirements. An applicant applying for licensure on the basis of successful completion of training in one or more acupuncture schools shall have:

- (a) graduated from a Committee approved acupuncture school, and
- (b) shall have received a minimum of 1,905 hours of clinical/didactic instruction in acupuncture related courses, of which a minimum of 100 hours must be in the supervised diagnosis and treatment of patients for whom the applicant was solely responsible. Courses in anatomy, physiology and other basic sciences do not count towards the 1,905 hour requirement.
- (c) As of January 1, 2009, the minimum number of hours of clinical/didactic instruction in acupuncture related courses shall be the minimum number of hours set by the ACAOM, provided however, that the minimum number of hours required shall not be less than 1,905 hours of clinical/didactic instruction in acupuncture related courses. The Committee, in its discretion, may grant a waiver of this requirement for applicants who are licensed acupuncturists in another state. The Committee's minimum number of hours of clinical/didactic instruction in acupuncture related courses shall adjust upwards automatically as of the date that the ACAOM increases its minimum standards.
- (d) Foreign applicants whose post-secondary education combined acupuncture training with college level education must have a minimum total of five full academic years of study, of which three full academic years must consist of acupuncture training in a Committee approved school.
- (e) An applicant applying for licensure shall have received a minimum of 30 hours of herbal medicine training from a Committee approved school or a Committee approved program.
- (f) Licensees who obtained licensure prior to September 1, 1995, and employ herbal therapy, including patent or raw herbs, and who submitted evidence of completion of 150 hours of herbal training by January 1, 1998 may continue to employ herbal therapy provided they meet the continuing education in herbal therapy requirement.
- (g) A licensee who is licensed on or after September 1, 1995, and who completed an ACAOM accredited or candidate status oriental medicine program or herbal medicine program or completed an herbal medicine program that the Committee determined was substantially equivalent or exceeded the ACAOM curriculum requirements regarding herbal medicine, may continue to employ herbal therapy, including patent or raw herbs, during the course of treatment if such licensee has obtained Committee approval to employ herbal therapy prior to January 1, 2009, provided the licensee meets the continuing education in herbal therapy requirements.
- (h) Approval for Use of Herbal Therapy. A licensee who is licensed on or after January 1, 2009, may obtain Committee approval to employ herbal therapy, including patent or raw herbs, by submitting evidence of one of the following:
 - 1. completion of an ACAOM accredited or candidate status oriental medicine program with a minimum of 1,905 hours of clinical/didactic training, of which at least 660 hours were training hours in herbs and at least 210 of those were clinical hours in acupuncture and herbs; and
 - 2. certification by NCCAOM in Chinese Herbology.

(i) Continuing Education Requirements. All licensees approved by the Committee to use herbal therapy in their practice of acupuncture must have at least ten hours of training directly related to Herbology as part of their 30 hours of continuing education credits. In addition, the licensee must have at least 15 hours of continuing acupuncture education credits directly related to acupuncture. In no event shall the applicant use herbal therapy in his/her acupuncture practice unless the applicant has at least 30 hours of continuing acupuncture education biennially, of which five hours may be indirectly related to acupuncture or herbology.

5.04: Committee Approval of Acupuncture Schools and Clinical Programs

Pursuant to M.G.L. c. 112, § 152, to be eligible for licensure, an applicant must graduate from a committee approved course of academic training in acupuncture and complete a committee approved acupuncture internship.

5.04: continued

(1) Committee Approval of Acupuncture Schools.

- (a) The Committee may approve an acupuncture school, if the school:
 - 1. is accredited by ACAOM, or by a federally approved accrediting agency that the Committee deems an appropriate agency for accrediting graduate schools in acupuncture; or
 - 2. has candidacy status with ACAOM, or with a federally approved accrediting agency that the Committee deems an appropriate agency for granting candidacy status to graduate schools in acupuncture.
 - 3. An acupuncture school must be a Committee approved school on the date the applicant graduates (*i.e.* the school must have ACAOM accreditation or candidacy status). Upon request, the Committee may waive this requirement for good cause.
- (b) The Committee may, notwithstanding 243 CMR 5.04(1)(a)2., specify that accreditation be the sole criterion for school approval if the Committee determines that having candidacy status does not guarantee that a school meets the educational standards of the Committee.
- (c) An acupuncture school located within the United States, Puerto Rico, the District of Columbia, or territory of the United States shall not be approved by the Committee unless it is accredited or has candidacy status in accordance with 243 CMR 5.04(1)(a).
- (d) A school approved under 243 CMR 5.04(1)(a) shall apprise the Committee of any change in its accreditation or candidacy status within 14 days after the school receives notification that its status has changed, and shall verify reaccreditation when granted at the end of each accreditation period. A school approved under 243 CMR 5.04(1)(a) shall send new catalogues, bulletins, and application materials when published, and shall respond promptly to any requests for information from the Committee. The Committee may withdraw approval from a school approved under 243 CMR 5.04(1)(a) which fails to provide information to the Committee that the Committee needs to evaluate the applications for licensure of graduates of the school.

(2) Acupuncture Schools Outside of the U.S. As of January 1, 2009, educational institutions outside the United States, Puerto Rico, the District of Columbia, and the territories of the United States will be approved by the Committee on a case by case basis, according to the standards set by the AACRAO. The applicant for licensure shall submit a Foreign Education Review Application directly to the AACRAO, along with all educational documents requested by AACRAO. The applicant must receive a credentials review report from AACRAO, indicating that the school is recognized by a foreign governmental agency and that the courses taken by this applicant were equivalent to the ACAOM curricular requirements. The applicant shall submit the complete AACRAO credentials review report to the Committee, and the Committee will determine whether to approve the acupuncture school on the basis of such report, and any other additional information it may deem necessary.

(3) Committee Approval of Internship Programs.

- (a) The Committee shall approve internship programs of Committee approved acupuncture schools. To be approved by the Committee, the internship program shall provide a minimum of 600 hours of clinical training in acupuncture, as defined in 243 CMR 5.04(3), and shall meet the requirements for internship programs listed in 243 CMR 5.04(3)(c) and 5.04(4)(a).

- (b) Clinical training in acupuncture is defined as:
 - 1. observation and discussion of acupuncture diagnoses and treatments performed on patients;
 - 2. needle insertion and other acupuncture techniques on individual under the direct observation of instructors, and the practice of sterile technique in the clinic;
 - 3. diagnosis and treatment of patients under the direct supervision of a clinical instructor who is a faculty member of the school, culminating in each individual student conducting complete evaluations, designing treatment plans, and carrying out treatments on individual patients for whose care the student is solely responsible.
- (c) The following are the requirements for Committee approval of an internship program:
 - 1. Of the total 600 hours of required clinical training, each student shall have spent a minimum of 100 hours in the supervised diagnosis and treatment of patients for whom the student is solely responsible.

5.04: continued

2. A clinical instructor shall have under his/her supervision at any one time no more than ten students who are fulfilling the 100 hour requirement in 243 CMR 5.04(3)(c)1.
 3. No more than one other student shall be present in a treatment room during the time that a student is fulfilling the 100 hour requirement in 243 CMR 5.04(3)(c)1., except for brief periods of time to observe conditions which a supervisor determines to be of educational value.
 4. A clinic affiliated with an acupuncture school shall have on its staff at least one school-appointed adjunct faculty member who directly supervises interns.
 5. A clinic affiliated with a school shall offer clinical instruction in accordance with a written set of criteria developed by the school, and clinical instructors and students shall be evaluated regularly by the school to ensure that the internship program operates in accordance with the criteria and consistently with other internship programs offered by the acupuncture school.
- (d) If the Committee decides that it has insufficient information or is otherwise unable to grant approval on the basis of written materials, the Committee may conduct an on-site visit pursuant to approving an internship program.
- (e) The Committee may periodically reapprove internship programs and may withdraw approval from a program if the Committee finds that the program no longer meets the requirements listed in 243 CMR 5.04(3) and 5.04(4). If the Committee withdraws approval from an internship program, the Committee shall inform the school in writing of the reasons for withdrawing approval. The school may submit a written request within 60 days from the date approval is withdrawn that the Committee reconsider its decision, stating the reasons for doing so. Acupuncture schools offering approved internship programs shall apprise the Committee annually of changes in the programs, such as changes in requirements or material covered.
- (4) Additional Requirements for Internship Programs Located in Massachusetts.
- (a) In addition to the requirements for internship programs listed in 243 CMR 5.04(3)(c), internship programs located in Massachusetts shall also meet the following requirements:
1. Clinical instructors shall be duly appointed faculty members of the acupuncture school, have full or temporary licenses, and be directly responsible for the actions of interns;
 2. Interns participating in supervised clinical training as defined by 243 CMR 5.04(3)(b)3. shall be currently enrolled in and shall have completed one full year of study in a Committee approved acupuncture school.
 3. Interns shall be under direct faculty supervision;
 4. Interns shall be identified as such to patients, and patients shall agree in writing to be treated by interns;
 5. The regulations governing safe practice, 243 CMR 5.08, and other applicable regulations and guidelines shall be observed in the clinic.
- (b) An intern in Massachusetts who participates in a internship program that is not located in a clinic operated on the premises of a Committee approved school shall be registered with the Committee by the school in which the intern is enrolled.

(c) If the Committee determines that an internship program is being operated in violation of applicable regulations and guidelines, the Committee shall inform the acupuncture school with which the internship program is affiliated of the nature of the violations and the time in which the violations must be corrected. If the violations are not corrected the Committee may order that the program be discontinued. The Committee may, if the Committee determines that the health, safety or welfare of the public is threatened, order that the program be discontinued until the Committee is satisfied that any violations have been corrected.

(5) Postgraduate Clinical Training Programs.

(a) The Committee may approve postgraduate clinical training programs in Massachusetts sponsored by Committee approved acupuncture schools, hospitals licensed by the Joint Commission for the Accreditation of Hospitals, and other organizations that the Committee, in its discretion, deems appropriate to sponsor postgraduate clinical training programs in acupuncture in Massachusetts.

5.04: continued

- (b) An individual participating in postgraduate clinical training shall:
 - 1. have a temporary license to practice acupuncture in Massachusetts;
 - 2. be a graduate of a Committee approved acupuncture school;
 - 3. be identified to patients orally and with a name tag as a postgraduate clinical trainee. The patient shall also be advised of the right to refuse treatment by a clinical trainee.
- (c) An institution which offers postgraduate clinical training shall:
 - 1. comply with all applicable regulations and guidelines governing the practice of acupuncture;
 - 2. provide the Committee with a detailed written description of the training program, and apprise the Committee of any changes that are made in the program;
 - 3. have clinical instructors who are licensed acupuncturists, whose credentials are sufficient to instruct and supervise postgraduate clinical trainees, and who are directly responsible for supervising the diagnosis, treatment and evaluation of every patient treated by the postgraduate clinical trainee;
- (d) The Committee may conduct an onsite visit to decide whether to approve a postgraduate training program, and to determine whether the institution is in compliance with 243 CMR 5.04(4)(b) and (c). The Committee may withdraw approval of a postgraduate clinical program if the Committee determines that the program is not in compliance.

(5) Reciprocal Approval Agreements. The Committee may enter into reciprocal agreements with other states to facilitate the approval of schools and clinical programs.

5.05: Application Provisions

- (1) Contents of the Application Form for a Full License. The Committee's application form for a full license will request the following information:
 - (a) the applicant's name; date and place of birth; and home address, mailing address and principal business address;
 - (b) the applicant's social security number;
 - (c) a photograph of the applicant adequate for positive identification;
 - (d) a written statement asserting that the applicant is of good moral character. This statement must be executed by someone who is unrelated to the applicant and who has known the applicant well and for a minimum of three years, preferably an acupuncturist licensed to practice in Massachusetts;
 - (e) a statement of the applicant's involvement in civil litigation related to the practice of acupuncture, and any criminal litigation;
 - (f) a statement of any disciplinary action taken against the applicant;
 - (g) a statement of the other jurisdictions in which the applicant is or has been licensed to practice acupuncture, including license numbers and issue dates;
 - (h) a statement of the results of any acupuncture licensure examination the applicant has taken;
 - (i) a statement of the applicant's physical and mental health, including an explanation of any dysfunction impairing him as a student or practitioner of acupuncture;
 - (j) a description of the applicant's clinical acupuncture training and experience;

243 CMR: BOARD OF REGISTRATION IN MEDICINE

- (k) a description of the applicant's acupuncture work experience and, where applicable, supporting documentation;
- (l) an official transcript sent directly from the applicant's undergraduate college or university;
- (m) an official transcript sent directly from the applicant's acupuncture school;
- (n) where applicable, proof of sufficiency in the English language or the applicant's signed agreement to use an interpreter, and the interpreter's credentials, name and address. The interpreter shall be approved by the Committee.

(2) Contents of the Application Form for Re-examination. The Committee's application form for re-examination in Massachusetts consists of the original application updated on a form provided by the Committee.

(3) Contents of the Application Form for License Renewal. The Committee's renewal application form will request the following information:

5.05: continued

- (a) the applicant's name, date of birth, and home address, mailing address and principal business address;
- (b) a statement of the applicant's acupuncture training, and any hospital or clinic affiliations;
- (c) a statement of any disciplinary action taken against the applicant since the last time the licensee submitted either a renewal application or an initial application for licensure;
- (d) a statement of any civil litigation related to the practice of acupuncture, or any criminal litigation commenced against the applicant since the last time the licensee submitted either a renewal application or an initial application for licensure;
- (e) a statement of other jurisdictions in which the applicant is licensed to practice;
- (f) a description of continuing acupuncture education courses taken by the applicant since the last time the licensee submitted either a renewal application or an initial application for licensure, and evidence of having registered for the courses, such as canceled checks.

(4) Contents of an Application Form for a Temporary License. The Committee's application form for a temporary license will request the following information:

- (a) the applicant's name, date of birth, and home address and mailing address;
- (b) a statement describing the applicant's training, work experience, and teaching experience, and an original copy of the applicant's credentials sent directly from the granting institution;
- (c) where applicable, a description of the applicant's apprenticeship training and supporting documentation;
- (d) a description of the clinical courses the applicant will teach or attend, or the acupuncture educational seminar or program the applicant will lead or attend;
- (e) If applicable, the signature of the dean of the acupuncture school hiring the applicant, and the school's seal;
- (f) If applicable, the signature of an active licensed acupuncturist who will supervise the applicant;
- (g) the applicant's social security number;
- (h) a photograph of the applicant adequate for positive identification;
- (i) a statement of the applicant's involvement in civil litigation related to the practice of acupuncture, and any criminal litigation;
- (j) a statement of any disciplinary action taken against the applicant;
- (k) a statement of the other jurisdictions in which the applicant is or has been licensed to practice acupuncture, including license numbers and issue dates;
- (l) a statement of the applicant's physical and mental health, including an explanation of any dysfunction impairing him as a practitioner of acupuncture.

(5) Applicants for Licensure or Renewal Who Have Changed Their Names. Each applicant for licensure or renewal who has been known by a name other than that used on his/her application shall complete the name change forms used by the Committee to verify name changes, and shall submit the completed forms along with the documentation required.

(6) Translations Required. All documentation submitted in a language other than English shall be accompanied by a translation into English prepared at the applicant's expense by a translation service approved by the Committee. The translator shall attest to the accuracy of the translation under penalty of perjury.

(7) Submission of Original Documents. Each applicant shall have original documents sent directly from the issuing institution. Under appropriate circumstances, the Committee may, at its discretion, allow individuals to submit an original document along with a photocopy, or an affidavit in *lieu* of an original document.

(8) Completed Application Forms.

(a) The Committee considers an application complete only if it meets the following requirements:

1. It is typewritten or written legibly;
2. All data, information and signatures requested are supplied as specified;
3. The proper fee is submitted;
4. The applicant has submitted any additional material the Committee has requested.

5.05: continued

(b) The Committee will return an incomplete application to the applicant, or notify the applicant of deficiencies. It is the applicant's responsibility to resubmit the application when it is complete.

(c) Any application which is not completed by the applicant within 12 months of initial receipt by the Committee shall be deemed lapsed. In such circumstances, an applicant must file a new application, inclusive of proper fee, in order to be considered for licensure.

5.06: Fees

(1) Payment of Fees. All examination fees must be in the form of a United States certified check or money order, made payable to the Commonwealth of Massachusetts in the amount required by the secretary of administration and finance under M.G.L. c. 7, § 3B. Other fees may be paid with a personal check.

(2) Forfeiture of Fees.

(a) If an applicant submits an application, the Committee processes it, and the applicant withdraws the application, the applicant forfeits the application and examination fees.

(b) If an applicant is denied permission to take the licensure examination, his/her fee will be returned minus the application fee.

(c) If an applicant submits an application which is deemed lapsed, the applicant forfeits the application and examination fees.

5.07: Renewal Provisions

(1) Requirements for Renewal of a Full License.

(a) Pursuant to M.G.L. c. 112, § 156, a full licensee must renew his/her license every two years. The renewal date is the licensee's birthday. The first renewal date is in the second year following the year in which the full license was granted, unless that date is within 15 months of the date the license was originally granted, in which case the first renewal date is in the third year following the year in which the license was granted.

(b) The following are the requirements for renewal of a full license:

1. A licensee must submit to the Committee a completed renewal application form and the proper fee prior to the renewal date;

2. A licensee must fulfill the continuing acupuncture education requirement as defined in 243 CMR 5.10, or obtain a waiver or extension from the Committee pursuant to 243 CMR 5.10(4).

(2) Time Periods and Extensions of Deadlines. The Committee shall mail a licensee a renewal application 90 days prior to the renewal date. If the Committee fails to mail the renewal application in a timely manner, the licensee shall have 90 days from the date the application is sent to renew his/her application.

(3) Requirements for Inactive Status.

243 CMR: BOARD OF REGISTRATION IN MEDICINE

(a) A full licensee may request inactive status at any time. A licensee must make his/her request in writing to the Committee and certify that he/she will not practice acupuncture in Massachusetts. An inactive licensee is exempt from the continuing acupuncture education requirements set forth in 243 CMR 5.10, but is subject to all other provisions of 243 CMR 4.00 and 5.00.

(b) An inactive licensee may request in writing at any time that the Committee permit him/her to return to active status. The Committee shall grant such a request, provided that the licensee:

1. renews his/her license if it has lapsed during the period of inactivity; and
2. satisfies any continuing acupuncture education requirements that the Committee deems appropriate.

5.07: continued

(4) Lapsed License.

(a) If an acupuncturist fails to renew his/her full license, the license automatically lapses pursuant to M.G.L. c. 112, § 156 and 243 CMR 4.00 and 5.00. A licensee may fail to renew his/her license within the meaning of 243 CMR 5.07 in a variety of ways including, but not limited to, the submission of an incomplete application. A license not renewed shall lapse at 11:59 P.M. on the license renewal date. An acupuncturist whose license has lapsed is prohibited from practicing acupuncture until he/she has completed the renewal requirements.

The Committee may, at its discretion, permit the acupuncturist to practice acupuncture pending completion of the renewal requirements. Continued practice of acupuncture following lapse, without the written permission of the Committee, shall be subject to discipline as set forth in 243 CMR 4.00.

(b) An acupuncturist whose license has lapsed may petition the Committee, upon submission of a lapsed license application and payment of the required fee, to revive his/her license. If the Committee has reason to believe that the applicant has committed a violation of the law, or the Committee's regulations, or has deviated from good and acceptable standards of practice, or has raised a concern regarding his/her competency to practice acupuncture, the Committee may review the matter and, if it deems necessary, docket and investigate the matter. The Committee may defer action on the lapsed license application pending completion of the investigation or 180 days after the Committee's receipt of a complete lapsed license application, whichever is shorter, or should the Committee bring charges against the acupuncturist, pending completion of the adjudicatory process by the Committee. The 180-day period allowed for investigation shall be extended by any period of time during which the acupuncturist is unavailable or fails to cooperate with the Committee.

(c) An acupuncturist whose license has lapsed for more than two years shall be required to submit an original application for full licensure. The Committee may, at its discretion, require as a condition for re-licensure that the licensee complete all or part of the continuing acupuncture education requirements that have accrued, or retake the licensure examination if the license has lapsed for more than ten years.

5.08: Safe Practice Provisions

(1) In General. 243 CMR 5.08 contains the Committee's requirements for acupuncturists, acupuncture interns, and acupuncture assistants concerning the safe practice of acupuncture. The Committee may, at its discretion, issue additional requirements or guidelines that shall be observed by acupuncturists, interns and assistants.

(2) Sterilization.

(a) All nondisposable needles, acupuncture equipment that comes into contact with the patient's blood or body fluids, or penetrates the skin, and equipment used to handle or store needles or other acupuncture equipment that comes into contact with the patient's blood or body fluids, or penetrates the skin shall be sterilized after each use. All equipment to be sterilized shall be thoroughly cleaned before sterilization with a disinfectant or cleansing solution. Disposable needles do not need to be sterilized after each use but must be properly discarded after each use.

(b) Sterilization equipment shall be used and maintained strictly in accordance with the guidelines of the manufacturer of the equipment. Use of one of the following methods of sterilization is required:

1. autoclaving with pressurized steam;
2. dry heat sterilization; or
3. ethylene oxide gas sterilization.

(c) The following methods of sterilization are unacceptable: boiling acupuncture equipment, soaking acupuncture equipment in alcohol or other antiseptic solution, or using a glass bead sterilizer.

(d) Sterilization equipment shall be monitored regularly in accordance with the manufacturer's guidelines to determine whether the equipment is functioning properly.

5.08: continued

- (e) Sterilized acupuncture equipment shall be clearly marked to distinguish it from unsterilized equipment. Sealed packages containing sterilized equipment shall be marked with an expiration date. Any equipment that is not used on the day the equipment was removed from a sterilization package shall be resterilized before use.
- (f) All nondisposable needles shall be sterilized before disposal. After sterilization the needles shall be placed in a rigid, puncture-proof sealed container for disposal. Disposal containers shall be labeled as such, and shall carry the warning "CONTAMINATED CONTENTS--USE PRECAUTIONS." Disposal containers shall be wiped with a suitable disinfectant if blood or other bodily fluids are spilled on the outside. Disposal containers shall be discarded appropriately.
- (g) The parts of a patient's body to be treated shall be swabbed with alcohol or an antiseptic agent prior to needle insertion or any procedure which breaks the skin.

(3) Use of Disposable Needles.

- (a) Before beginning the first treatment on a new patient, a licensee who normally uses nondisposable needles shall inform the patient that the patient has the right, if he/she so chooses and at his/her expense, to have acupuncture performed with disposable acupuncture needles.
- (b) If, in the course of treatment of a patient, a licensee learns that the patient has AIDS, hepatitis, or another blood-borne highly infectious disease, or has tested positive for the HTLV-III virus, then the licensee shall use disposable needles in treating the patient.

(4) Use of Lasers. Within the practice of acupuncture, lasers and other regulated devices must be used in accordance with F.D.A. regulations and any other relevant laws and regulations. Investigational devices shall be used exclusively in a research setting and for research purposes.

5.09: Miscellaneous Provisions

(1) Advertising and Professional Notices

- (a) Public Interest. A full licensee may advertise for patients by means that are in the public interest. Advertising that is not in the public interest includes the following:
 - 1. advertising that is false, deceptive, or misleading;
 - 2. advertising that has the effect of intimidating or exerting undue pressure;
 - 3. advertising that guarantees a cure;
 - 4. advertising that makes claims of professional superiority that an acupuncturist cannot substantiate.
- (b) Contents of Advertising. A full licensee may advertise fixed prices, or a stated range of prices, for a specified routine professional service, provided such advertisement clearly states whether additional charges may be incurred for related services which may be required in individual cases. A licensee shall use the title "Licensed Acupuncturist" alongside his/her name on any advertising or other materials visible to the public which pertain to the licensee's practice of acupuncture. A full licensee shall include in an advertisement or professional notice his/her name, business address and title. "Licensed Acupuncturist" may be abbreviated as "L.Ac." or "Lic. Ac."

(c) Advertising Records. A full licensee shall maintain a complete, accurate, and reproducible version of the audio and visual contents of any advertising for a period of three years. The licensee shall furnish the complete copy of this advertising to the Committee upon request. The cost of maintaining and providing this advertising copy shall be borne by the licensee.

(d) Other Degrees. A licensee may not represent that he/she holds a Ph.D., O.M.D., M.A. or other doctoral or masters degree in the field of acupuncture and/or oriental medicine unless the educational program which awarded the degree is:

1. approved by the ACAOM or another Committee approved national accrediting agency to grant doctoral or masters degrees, and is permitted to grant such a degree by a state board or other authority of higher education that the Committee deems appropriate to grant such permission; or
2. approved by the ministry of education of a foreign country to grant doctoral or masters degrees, and the Committee determines the degree to be equivalent to the same degree approved by the ACAOM or another Committee approved national accrediting agency.

5.09: continued

- (e) A licensee who has a Ph.D. or a Masters degree in a field other than acupuncture or oriental medicine may, in any advertising or other materials visible to the public pertaining to the licensee's acupuncture practice, include the degree, provided that the field in which the degree was awarded is specified without using an abbreviation (*e.g.*, Ph.D., Musicology).
- (f) A licensee who has a Ph.D. in a field other than acupuncture or oriental medicine may not, under any circumstances, use the title "doctor" in any advertising or other materials visible to the public pertaining to the licensee's acupuncture practice.
- (g) A licensee may not represent that he/she holds a degree from an acupuncture school other than that degree which appears on his/her application for licensure and has been verified in accordance with the Committee's requirements, unless the additional degree has been also verified in accordance with the Committee's requirements.

(2) Patient Records.

- (a) A licensee shall keep a complete and accurate acupuncture record of each patient the licensee treats. The record shall include: the name and address of the patient, the licensee's evaluation of the patient, the treatments given including the points needled, and the fee charged for the treatments. A licensee must maintain a patient's acupuncture record for a minimum period of seven years from the date of the last acupuncture treatment.
- (b) At a patient's request, a licensee shall provide the patient or another specifically authorized person with the following:
 - 1. a summary of the patient's record, including all data deemed necessary by the patient or the specifically authorized person;
 - 2. a copy of the entire acupuncture record; or
 - 3. a copy of any previously completed report required for third party reimbursement.
- (c) A licensee may charge a reasonable fee to cover the expense of providing the material listed in 243 CMR 5.09(2)(b); however, a licensee may not require payment for previously rendered acupuncture treatment as a condition for providing the material.
- (d) A licensee who moves away from Massachusetts or assumes inactive status must:
 - 1. retain patient records in accordance with 243 CMR 5.09(2), and notify the Committee as to any change in address for a period of seven years; or
 - 2. turn over to a successor or business partner patient records, which the successor or business partner agrees to retain in accordance with 243 CMR 5.09(2).
- (e) A licensee may, for purposes of seeking third party reimbursement, refer to a patient's diagnosis using western medicine terminology, either by reconfirming the diagnosis of a physician licensed in Massachusetts or by indicating a general clinical impression based on the patient's symptoms.

- (3) Requirement to Respond to the Committee. Unless otherwise ordered by the Committee, a licensee shall respond within 30 days to a written communication from the Board, Committee or designee of the Board or Committee, and shall provide the Board or Committee with any relevant records or other material with respect to an inquiry or complaint about the licensee's professional conduct. The 30 day period begins on the date the Board sends the communication by registered or certified mail with return receipt requested to the licensee's last known address.

243 CMR: BOARD OF REGISTRATION IN MEDICINE

(4) Display of License. A licensee is required to display conspicuously his/her license certificate in his/her office. A licensee who is approved by the Committee to employ herbs in his/her acupuncture practice shall display conspicuously his/her license certificate indicating he/she is currently approved to use herbal therapy in his/her practice.

(5) Acupuncture Assistants.

(a) A licensee may employ the services of unlicensed assistants in accordance with the following requirements:

1. A licensee is responsible for the performance of assistants;
2. A licensee may supervise no more than two assistants at any one time;
3. A licensee shall inform the Committee of the name of any assistant he/she employs, and shall forward proof to the Committee that the assistant has received training in accordance with 243 CMR 5.09(5);
4. An assistant shall be at least 18 years of age;

5.09: continued

5. An assistant whose native language is other than English may be required to demonstrate proficiency in English through an examination chosen by the Committee;
 6. An assistant shall not do any of the following procedures involving patients: diagnosis, point location, needle insertion, manipulation, electrical stimulation, render advice to patients, or perform any other procedure requiring a similar degree of judgment or skill;
 7. An assistant may only do the following procedures involving patients: cupping, moxibustion, needle removal, gwua-sha, and the massaging of points.
 8. An assistant shall wear a name tag that identifies him/her as an acupuncture assistant to patients.
 9. An assistant shall have successfully completed a course or other training approved by the Committee in sterilization procedures and techniques before beginning work as an assistant.
- (b) If the Committee determines that an assistant or licensee has not complied with 243 CMR 5.09(5)(a), or that the assistant has committed any offense listed in M.G.L. c. 112, § 158 or 243 CMR 4.03(5)(a), the Committee may do any or all of the following:
1. withdraw the assistant's permission to work as an acupuncture assistant;
 2. withdraw the licensee's permission to hire acupuncture assistants;
 3. discipline the licensee pursuant to 243 CMR 4.00 and M.G.L. c. 112, § 158.
- (6) Retirement from the Practice of Acupuncture.
- (a) A licensee shall notify the Committee of the date he/she plans to retire from the practice of acupuncture. If there are no outstanding complaints against the licensee, the licensee may retire on that date. A retired licensee may still be disciplined under 243 CMR 4.00 after the date of his/her retirement.
- (b) A retired licensee, his/her successor or his/her estate, must retain patient records for a minimum period of seven years, and must make them available to former patients and other individuals in accordance with 243 CMR 5.09(2).
- (7) Discrimination Against Recipients of Public Assistance Prohibited.
- (a) A licensee may not discriminate against a person seeking acupuncture services solely because the person is a recipient of public assistance. 243 CMR 5.09(7) prohibits a licensee from acting differently toward a recipient of public assistance in any material manner, and requires a licensee to provide acupuncture services of the same quality and in the same manner to a recipient of public assistance as he/she would to any other person in similar circumstances who is not a recipient of public assistance.
- (b) 243 CMR 5.09(7) does not prevent a licensee from limiting his/her practice to the treatment of certain types of physical problems or the use of certain procedures, so long as the limitations on the licensee's practice are made public, nor does this rule prevent a licensee from seeking reasonable evidence prior to providing acupuncture services that a person has the ability to pay for them.

5.10: Mandatory Continuing Acupuncture Education

243 CMR: BOARD OF REGISTRATION IN MEDICINE

(1) Condition of Renewal. A full licensee is required to complete 30 hours of continuing acupuncture education per renewal period as a condition of renewal of his/her license. The renewal period is each two year period that begins on the date that a license is issued or renewed by the Committee and ends on the following renewal date. At the time of renewal, each licensee will be required to submit a signed, notarized statement, on a form provided by the Committee, attesting to completion of the continuing education requirements set forth in 243 CMR 5.10. Failure to comply with the continuing education requirements of 243 CMR 5.10 will result in the non-renewal of the license.

(a) Herbal Therapy Distinction. A licensee seeking Committee approval to employ herbal therapy as part of his/her acupuncture practice must complete 30 hours of continuing education per renewal cycle, and at least ten hours of those 30 hours shall be directly related to Herbology. Pursuant to 243 CMR 5.10, the licensee must also have at least 15 hours of continuing education credits directly related to acupuncture, and at least five hours directly or indirectly related to acupuncture or herbology.

5.10: continued

(b) For licensees certified by the Committee to employ herbs in the practice of acupuncture, failure to comply with the continuing education requirement of 243 CMR 5.10(1)(a) regarding the study of herbal medicine will result in the non-renewal of the certification to employ herbology as a part of the license's acupuncture practice. An applicant failing to meet the herbology continuing education requirements may still have his/her license to practice acupuncture renewed, provided the licensee has otherwise complied with all other applicable provisions of 243 CMR 5.07 and 243 CMR 5.10. However, the license issued will no longer contain an herbology distinction.

(2) Quality of Education. The Committee anticipates that licensees will maintain the high standards of the profession in selecting quality educational programs to fulfill the continuing education requirement. All continuing education programs or courses must be formal learning programs relevant to the study or practice of acupuncture, which contribute directly to the professional competence of the licensee. Continuing education courses may include certain courses in Western medicine. However, at least 15 hours of the 30 hours of continuing acupuncture education shall be spent in courses directly related to acupuncture.

(a) The Committee may approve courses and programs to satisfy the continuing acupuncture education requirement. A continuing education course or program must meet all of the following requirements:

1. The course or program meets the standards established and recognized by the Committee;
2. The instructor(s) must have adequate credentials to teach the subject matter, as determined by the Committee;
3. A complete record of attendance is maintained on file by the sponsor of the course or program;
4. The content of the course or program is related to the practice of acupuncture, as defined in 243 CMR 5.00;
5. The course or program has clearly stated educational or professional objectives that can be realistically accomplished;
6. Any self-directed course, program or activity must require that the student pass a test demonstrating adequate mastery of the subject matter in order to obtain a certificate of completion.
7. A credit hour must be at least 50 consecutive minutes in length;
8. There must be a written outline, syllabus, text, bibliography or other written material and these materials shall be updated at least every four years by the sponsor or sponsoring entity.
9. If the program includes a clinical component, the instructor must be a licensee possessing the appropriate credentials to provide instruction.
10. A licensee shall not receive credit hours for taking the same course or program sponsored by the same instructor or entity during consecutive licensure/renewal periods, unless the course has been substantially revised or updated.

(b) A sponsor may request Committee approval of his/her continuing education course or program. Any such request shall be made in writing to the Committee, and the Committee shall be furnished with the curriculum vitae of the instructor(s), the outline, syllabus,

bibliography and other materials describing the course or program. The sponsor shall ensure that attendance will be taken per session and will provide certification of attendance, including the number of hours attended, to the Committee upon request. Sponsors of continuing education programs will be expected to maintain in their records the names of all continuing education attendees and the number of hours awarded for attendance at each program.

(3) Verification and Recordkeeping.

(a) A licensee is required to maintain records of his/her 30 hours of continuing acupuncture education per renewal period, for at least two renewal cycles. The Committee may require that a licensee provide verification of his/her continuing acupuncture education credits at any time. The Committee's inquiry shall not extend for a period exceeding two prior renewal periods. The Committee may randomly audit licensees' continuing education credits.

5.10: continued

(b) If a continuing education statement submitted by an applicant for biennial license renewal is not approved, the applicant shall be so notified and the applicant may be granted a period of time by the Committee in which to correct the deficiencies noted.

(c) The licensee shall retain a certificate of attendance or letter of attestation issued by a program sponsor for each CAE course or program. For each credit hour earned, the licensee must be able to document the following information:

1. the title of the program;
2. the number of hours spent in the program;
3. the name of the sponsor and/or the instructor of the program; and
4. the date(s) the program was given.

(4) Extension of Time to Complete Continuing Acupuncture Education Requirements.

(a) A licensee may apply to the Committee for an extension of time to complete the portion of the CAE requirements that he/she cannot meet. The licensee must submit the request to the Committee no later than 60 days prior to the license renewal date. The request shall be signed under the penalties of perjury and shall contain the following information:

1. An explanation of the licensee's failure to complete his/her continuing acupuncture education requirements;
2. A list of the continuing acupuncture education courses and hours that the licensee has completed; and
3. The licensee's plan for satisfying his/her continuing acupuncture education requirements.

(b) The Committee, in its sole discretion, may grant a waiver or extension of the CAE requirement. The grounds for waiver or extension include, but are not limited to:

1. Prolonged illness of the licensee; or
2. Inaccessibility or unavailability of CAE programs.

(c) Licensees granted an extension by the Committee will be given additional time to complete the Committee's CAE requirement. Licensees required to make up a deficiency in CAE credits may apply those credits only to the period in which the deficiency arose.

REGULATORY AUTHORITY

243 CMR 5.00: M.G.L. c. 112, §§ 148 through 162, 2 through 9B and 61 through 65.